

# Briefing on Access Rights

## *Part 1 of the Land Reform (Scotland) Bill*

Prepared by the Ramblers Association Scotland

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*The Land Reform (Scotland) Bill was passed by the Parliament on the 23<sup>rd</sup> January 2003 and will receive Royal Assent in March when it will pass into law and become an Act.*

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### **Aims/purposes**

The Bill establishes statutory rights of non motorised access (*e.g.* walking, cycling, horse riding, canoeing) to most areas of land and inland water for passage, recreation and commercial activities. Mountain guides and outdoor centres, photographers and university geology field trips are within access rights while large events like T in the Park (*music and dance festivals*) are outwith access rights. The statutory access rights established by the Bill do not diminish or displace any other rights of entry, way, passage or access. Similarly, the duty of care owed by a landowner to another person present on the land has not been reduced.

### **Responsibility**

Access rights are to be exercised responsibly with reciprocal obligations on land managers to use and manage the land in ways which are responsible to those exercising access rights. The Scottish Outdoor Access Code will give guidance on responsible conduct for both groups. It is the duty of Scottish Natural Heritage (SNH) to draw up the Access Code in consultation with other interested persons and bodies. Following Ministerial and Parliamentary approval SNH and local authorities must publicise and promote the Code.

### **Changes to the Bill**

There are various provisions for Ministers to change the detail of the Bill, for example to alter the land on which access rights are exercisable. However, this can only be done after wide consultation and with Parliamentary approval.

### **Land over, which access rights are not exercisable**

Various categories of land are outwith access rights. Privacy concerns are addressed by excluding the curtilage of buildings (*land immediately surrounding a building*) from access rights. Where problems arise with a route through a farmyard the Minister expressed an intent that an alternative route should be provided. Various provisions ensure that access rights do not interfere with other sporting activities while the Minister made it clear that these sections did not apply to areas like pheasant woods and grouse moors. Land on which crops are growing is outwith access rights, yet the Minister made it clear that access along tramlines, on field margins and between rows of vegetables would be within access rights. The list of land on which access rights are not exercisable can be extended through bye-laws.

### **Conduct excluded from access rights**

The list of activities excluded from access rights has been limited to being on land in breach of an interdict or other court order; hunting, shooting or fishing; having a dog out of control; removing things commercially from the land; and motorized access (apart from vehicles and vessels designed to increase the mobility of those with a disability).

### **Exempting land from access rights**

Local authorities have the power to exempt land from access rights. This is a relatively simple exercise for periods up to six days, which can be used for events such as village fetes (*festivals*). For longer periods than this the process becomes far more onerous, involving public consultation, Ministerial approval and potentially a public inquiry.

### **Local authority powers**

Local authorities have been given new powers within the Bill to assert rights. They have enhanced powers for ensuring that obstructions to access are removed and to take steps to advise the public of routes or to protect the public from danger. They must draw up a plan for a system of paths (core path network) sufficient to give the public reasonable access throughout their area and have enhanced powers to create this system of new paths. The local authority must set up a local access forum to assist the local authority with their powers and duties in the Act.

### **Further information**

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