

## Right to roam and Covid – 19

### Description

With lockdown in Scotland continuing for a while yet the opportunities for visiting our national parks will be limited for many people. So, as we focus more on local access, it is essential that everyone has a clear understanding of what those opportunities are, from front door and gate. Our “right to roam”, a term frequently used by outdoor enthusiasts, politicians and the media, is simply a popular description of Part 1 of the Land Reform (Scotland) Act 2003 which established public rights of access to most of our land and water. These rights, which reflected well known customs and traditions, secured a liberty or freedom to take access by clarifying the basis for public access to land and water and by laying duties on various public bodies to protect those rights. The Act requires those exercising access rights to do so “responsibly” and lays reciprocal obligations on land owners who have a duty to use and manage land in ways which respect access rights. The Act also provides for the production of a Scottish Outdoor Access Code, for approval by the Scottish Parliament, with comprehensive guidance on how to take access and how to manage access in ways which are responsible ([see here for full approved Code](#)).

In general access rights can be exercised over the first field, wood, golf course or other green space nearest to everyone’s home. Of course many people will chose to use local path networks to walk or cycle from home, but access rights will usually extend to much of the land on either side. This is very important during Covid – 19 restrictions. Taking physical exercise in the outdoors is essential to maintain health, enjoy the fresh air and sunshine, and experience our natural environment. For example, in a recent letter to the Herald newspaper, I explained the significance of field margins for public access and why the Scottish Parliament was determined to ensure that access rights applied to the margins of all fields in Scotland:

# Fine margins when it comes to walkers getting better access to the fields of Scotland

IT is good to see that one of your readers, R Russell Smith, has been enjoying our wildlife and fresh air, having “walked over fields and alongside the burn close to home, enjoying the sunshine and company of lambs gambolling” (Herald letters, May 5).

We should all be doing this, exercising our statutory rights of public access to walk through Scotland’s fields.

The Land Reform (Scotland) Act 2003 established public access rights around every field margin for non-motorised users, including walkers, runners, cyclists and horse riders, and any person with mobility constraints who requires an appropriate form of motorised assistance.

The Act also required the production of a Scottish Outdoor Access Code and its approval by the Scottish Parliament.

The records of the Scottish Parliament explain why MSPs decided that public access rights should apply to all field margins, even where these had been planted with a crop, as well as the “tramlines” or tractor tracks which traverse the fields, as well as any uncultivated ground



We should all be ‘exercising our statutory rights of public access’

between vegetable and fruit crops.

Seven pages of the Code explain how to take access in fields and how to manage that access.

Responsible behaviour by land managers is described as follows: “leaving uncultivated margins can help people to exercise rights responsibly and help to support wildlife so it makes sense, wherever possible, to do this”.

Fifteen years after the Act and Code came into effect, it is difficult to find evidence of any

farmer following this advice around all their field margins. The majority continue to plough and plant right up to the fence line or bottom of the hedge.

This situation will change in the near future. Professor Sir Ian Boyd, a university academic at St Andrews and a former UK Government Environmental Chief Scientific Adviser, has indicated that up to half of UK farmland will need to be converted into woodland or

natural habitat in the years to meet biodiversity climate change objectives (Herald, January 3).

The Chief Executive of Natural Heritage, Fiona Osowska, has reinforced this message by emphasising that we must have “to deliver natural solutions to the climate crisis” and, as we emerge from the horrors of Covid-19, we must make progress in our green spaces, to progress to a society that recognises the interdependence of social, economic and environmental resilience (Herald, May 4).

Scottish farmers must meet their obligations under the Act, first by meeting their obligations under the Act and secondly, by helping to design future public access support so that they can maintain field margins in the best possible state to meet biodiversity climate change objectives.

A plan to do this was presented at the place before Scotland COP 26 international climate change conference in Glasgow.

**Dave Morris,  
Kinross.**

Herald 7th May

Anyone who wants to study in more detail the reasons why MSPs legislated in this way can examine the records of the Scottish Parliament, starting with the Justice 2 Committee Report, 18 Sept 2002, columns 1738 to 1747 ([see here](#)). As illustrations of this:

*“There is a relatively successful co-existence in the countryside between agriculture in all its forms and the exercising of recreational access. For example, farmers regularly leave tractor tracks through crops as a result of spraying or other operations. Ramblers successfully use those tracks to walk through fields without damaging the crops.”*

(Stewart Stevenson (Banff and Buchan, SNP column 1738)

*“Access rights can be exercised on paths across fields, on tramlines and around field margins, irrespective of where crops are growing”.*

(Allan Wilson, Labour, Deputy Minister for Environment and Rural Development column 1742)

Then, after further consideration, in the final Scottish Parliament Stage 3 debate, 22 Jan 2003 (columns 14225 to 14237) ([see here](#)), Ross Finnie (Lib Dem) speaking on behalf of the Scottish Government, succinctly expressed what became the position of the overwhelming majority of the Scottish Parliament:

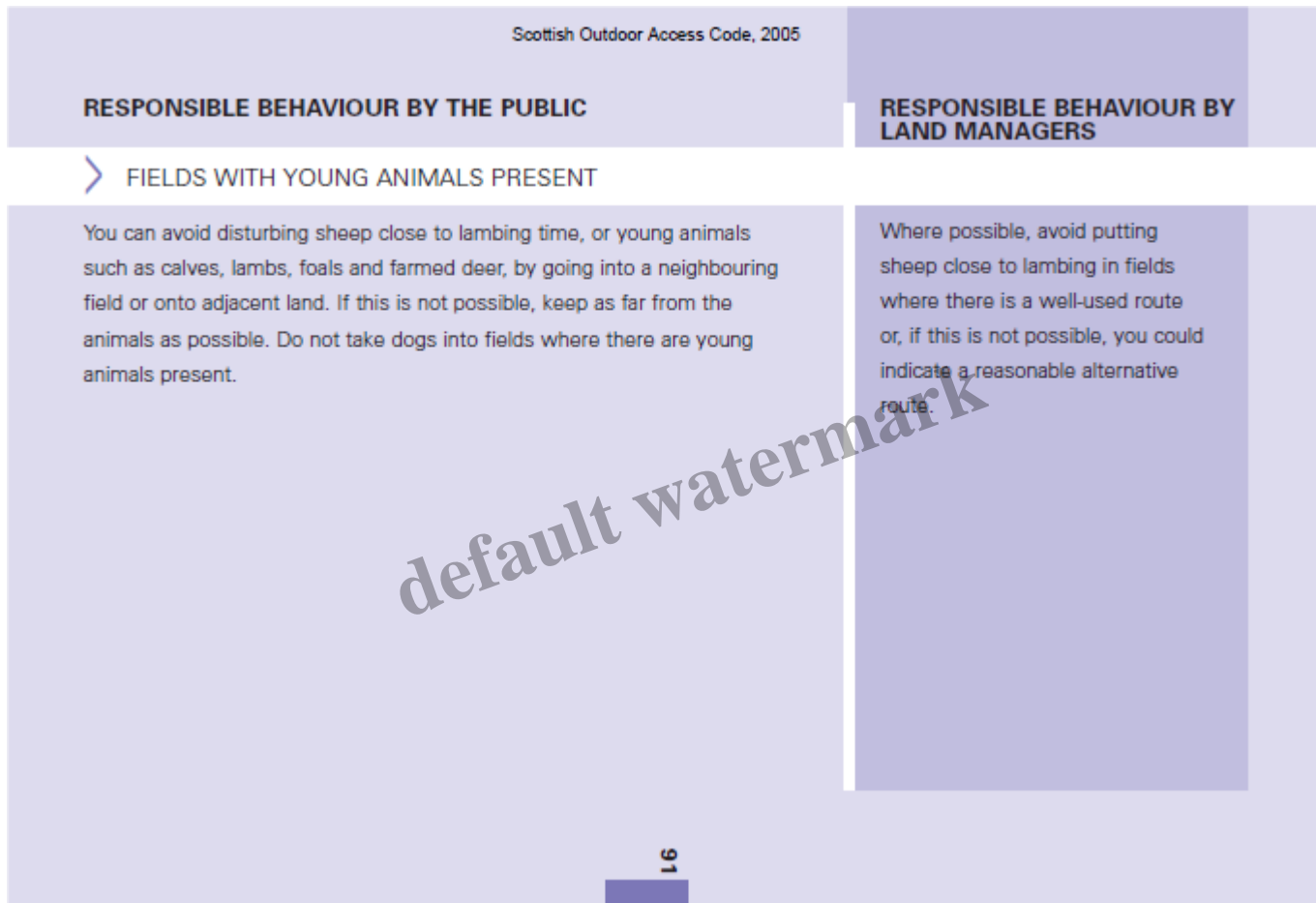
**Ross Finnie:** It should be clear that the bill provides for responsible access to all land. That reflects Scottish Natural Heritage's advice in 1998 to the then Scottish Office that a statutory right of access to all land—open and enclosed—should be established. Amendment 41 would restrict access to large areas of the countryside in Scotland, which is not the intention of the bill. We wish to encourage more people to enjoy the countryside; the bill will, I hope, give them the confidence to do that. There is no reason why responsible access to agricultural land should create problems. Not everyone wants to bag Munros or Corbetts; many people want simply to enjoy the countryside around where they live. The bill will give them confidence that they can do so without fear of challenge.

Ross Finnie, Minister for Environment and Rural Development,

Amendment 79 also follows from stage 2 discussion and makes it clear that access rights can be exercised on all field margins, whether or not they are sown with crops, subject to the exercise of that right being responsible.

Also Ross Finnie. Amendment 79, which was approved, removed the word “unsown” from before “field margins” in the Bill laid before parliament.

In the immediate future everyone should be confident in exercising their access rights in the fields near their home. Of course there are some situations, especially at this time of year, when these rights should not be exercised – for example when the farmer is spraying chemicals or fertiliser in the field. And the Scottish Outdoor Access Code makes it very clear (page 91) that you should not take dogs into any field where young animals are present.



But, with access rights applying to all fields, it should be straightforward to find an alternative route through nearby fields.

## RESPONSIBLE BEHAVIOUR BY THE PUBLIC

## RESPONSIBLE BEHAVIOUR BY LAND MANAGERS

### > FIELDS OF GROWING CROPS

When exercising access rights in a field of crops, avoid damaging the crop by:

- using any paths or tracks;
- using the margins of the field (if the margin is narrow or has been planted, avoid causing unnecessary damage by keeping close to the edge in single file);
- going along any unsown ground (providing this does not damage the crop); or by
- considering alternative routes on neighbouring ground.

Leaving uncultivated margins can help people to exercise access rights responsibly and help to support wildlife so it makes sense, wherever possible, to do this.

My letter does, however, explain that, in the management of field margins, most farmers appear to have failed to follow the Code advice, over the last 15 years, and leave uncultivated ground to facilitate access and provide wildlife habitat. We can expect this situation to be corrected in the coming years as a combination of new regulations and subsidy arrangements are put in place following the UK's departure from the European Union. In future farmers can only expect to be paid public subsidy for delivering public benefit. Field margins provide a great opportunity for developing straightforward management schemes to promote tree planting, wildflower habitat and grass strips, creating ecological corridors throughout our lowland landscapes. Walking and riding around our field margins will then become even more enjoyable as Scotland's land reform agenda moves onto the next stage. Restoring biodiversity, ensuring effective pollution control and climate change mitigation will run in parallel with public access through all our fields, from near home to the far horizon.

### Category

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### Tags

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