

Covid-19: FAQs regarding land and countryside access during the current situation

The Coronavirus (Scotland) Act 2020 (CSA) is now in force and introduces interim measures and powers on devolved areas. This legislation and the general Government advice have prompted many queries on what is and what is not allowed in relation to accessing the countryside during “lockdown”.

In this guide, we answer some of the questions that both landowners and the public may have regarding access and activity in the countryside, as well as providing a summary of the impact on rural sporting and fishing activities.

A landowner’s perspective

Landowners may want to know what rights they have to restrict the public accessing their land during the current outbreak. However, they should be aware of the limitations on what they are permitted to do.

Does the new legislation change existing rights of access?

No, access rights remain the same under the CSA and can continue to be exercised responsibly.

The Land Reform (Scotland) Act 2003 is the statutory basis for public access rights in Scotland and the [Scottish Outdoor Access Code](#) narrates the rights people have to cross land and for what purposes.

The 2003 Act sets out the land over which access rights are not exercisable which includes land that forms the curtilage of a building, compounds or enclosures containing fixed machinery and land on which crops have been sown or are growing.

Those using the countryside for access are to act responsibly when doing so and this would apply to the current circumstances.

The areas of land over which access rights are not allowed to be exercised in the 2003 Act is not added to in the CSA, even temporarily.

Can I temporarily restrict access to people crossing my land to help minimise spread of the virus?

No, the CSA does not change landowners’ rights or their ability to restrict access, the rights remain those that are contained in the 2003 Act.

People are advised that their activity should be exercised responsibly though the question may be, what is responsible access in these unique times.

If you have concerns, you can get in touch with us for advice regarding your specific situation.

What should I do if I have concerns about people crossing my land?

If you are experiencing problems with more people crossing your land than you think is safe in the current situation, feel free to get in touch with your usual contact or any member of our Rural services team.

You could also consider the appropriate use of signage, templates available:

<https://www.outdooraccess-scotland.scot/sign-templates>

NFU's website also contains a useful FAQ page:

<https://www.nfus.org.uk/coronavirus/coronavirusqa/public-access-to-farmland-during-covid-19.aspx>

The public's perspective

From the public's perspective, never has daily exercise become such a hot topic. Here's a reminder of some of the current guidance.

I live in the countryside; can I still go for a local walk?

Yes, so long as you abide by the Government guidance regarding travel restrictions, social distancing as well as avoiding the areas of land where access is not permitted under the 2003 Act (see above) and abide by the [Scottish Outdoor Access Code](#).

Current guidance is that travelling to somewhere rural in order to exercise is not a permitted reason to be out and is being actively discouraged by the Government. Exercise in the countryside should be taken responsibly and in line with the Government advice that you exercise alone or with members of your own household only. Exercise should be taken locally and you should keep a distance of 2m away from others when out exercising.

Can I drive to the countryside in order to exercise?

The Government guidance permits you to leave your house once a day for exercise. The legislation does not limit where you can and cannot go in order to exercise. Travelling somewhere in a car for example in order to exercise does not fall within one of the permitted reasons to be away from your home and so it is implied that if you are leaving your house for exercise then this should be done locally.

The closure of many car parks and facilities at National Nature Reserves, National Parks and other rural beauty spots, should restrict the number of people travelling in order to start their exercise somewhere not local to where they live.

Can I go hillwalking as my daily exercise?

Types of exercise such as mountain biking, mountaineering, hillwalking and horse riding are discouraged as it is felt that accidents would put unnecessary strain on mountain rescue and the NHS and are not classed as essential activities.

Can I continue to walk my dog through a local field?

People can continue to walk their dogs providing that they are kept under control and this is done responsibly. It is currently lambing time and you should not take your dog into fields where there are lambs or other young farm animals.

If you are not sure if you can use your usual route, then please contact us to discuss further.

Sporting and fishing rights

Stalking, shooting and fishing are a vital part of the Scottish rural economy. However, the current Government rules mean that a lot of the commercial activity related to such pursuits is now no longer possible.

We are aware that Forestry and Land Scotland (FLS), the Scottish Government body managing the national forests and land of the former Forestry Commission, has suspended all “direct, contract and recreational shooting” on its land.

FLS have further asked their shooting tenants to suspend their own shooting, stalking and related activities until further notice. They have also asked all fishing tenants and permit holders not to fish until further notice.

Other private landowners are likely to be taking the same line as FLS.

Sporting tenants and others with rights to shoot or fish would ordinarily have legal recourse against a landowner preventing access. However, we are in extraordinary times and those with sporting and fishing rights will be mindful of the Government advice to stay at home even if their lease or other legal documents giving the rights do not contain clauses covering the present situation.

If you are unsure what your rights are in relation to stalking, sportings or fishing then please contact us.

For further guidance and support, you can contact:

[Michael Yellowlees](#), Partner and Head of Rural Services
michaelyellowlees@lindsays.co.uk
0131 656 5669

or

[Andrew Duff](#), Director in Rural Services
andrewduff@lindsays.co.uk
0131 656 5792