

## ScotWays 175<sup>th</sup> Anniversary Access Quiz!

The Land Reform (Scotland) Act 2003 has given Scotland has some of the best public access rights to land and inland water in the world. But what does this mean? How much do you know about your rights, where you can go and what you can do? Take our short quiz to find out! The answers are given at the end (no peeking!)

The first couple of questions are about the difference between the **general right of access** and **rights of way**. It's a bit tricky, but also fundamental!

1. There is a **general right of access** to all land and inland water in Scotland (with a few exceptions). Does this mean (select all that apply):
  - A. You have the right to go where access is allowed and generally do what you like.
  - B. You have the right to go where access is allowed as long as you behave responsibly.
  - C. You have the right to go where access is allowed as long as you have the landowner's permission.
  - D. If you are on land or water where access is allowed, you have the right to carry out recreational, educational and some commercial activities.
  - E. You have the right to drive your car across land where access is allowed.
  - F. You have the right of access as long as there are no locked gates or signs telling you that you are on private land.
2. On a **right of way** you only have the right to follow the track or path from one public place to another. You shouldn't go off the path unless there is an obstruction.
  - A. True
  - B. False
3. What is a core path?
  - A. A route designated by an access authority
  - B. The main path through a valley
  - C. The way through an orchard
4. Which of these activities are covered by public access rights? Select all that apply.
  - A. Walking
  - B. Cycling
  - C. Horse riding
  - D. Caving
  - E. Hang gliding
  - F. Kayaking
  - G. Climbing
  - H. All of the above
5. There is no law of trespass in Scotland.
  - A. True
  - B. False
6. How many years does a path need to be in regular use before it becomes a right of way?
  - A. 10 years
  - B. 20 years
  - C. 30 years
  - D. 40 years

7. If a right of way falls out of use, after how many years does it cease to exist?
  - A. 10 years
  - B. 20 years
  - C. 30 years
  - D. 40 years
  
8. Do access rights allow you to fly a kite on someone else's land?
  - A. Yes
  - B. No
  
9. Which of these is needed to form a right of way?
  - A. The route connects public places
  - B. The route is more or less defined
  - C. The route doesn't rely on the consent of the landowner
  - D. All of the above
  
10. Who has a duty to keep rights of way open?
  - A. The planning authority
  - B. The access authority
  - C. The Scottish Government
  
11. Access rights apply to all land and inland water unless:
  - A. You are being irresponsible
  - B. Parliament has excluded the land from access rights
  - C. You are undertaking conduct that parliament has excluded from access rights
  - D. All of the above
  
12. According to the access code, cyclists and horse riders should dismount and walk when:
  - A. They meet other users on a route
  - B. The route is narrow and steep
  - C. The route is wet and soft
  - D. The route goes past or through a field of farm animals
  - E. All of the above
  - F. There is no occasion when they are required to dismount under the code
  
13. All core paths and rights of way must be signposted.
  - A. True
  - B. False
  
14. Am I entitled to use bolt cutters to open a padlocked field gate?
  - A. Yes
  - B. No
  
15. Am I required to obey signs that tell me to stay on paths during the bird nesting or stalking season?
  - A. Yes
  - B. No
  
16. Can I take access in a field with llamas in it or wild boar or farmed deer?
  - A. Yes
  - B. No
  
17. Can I walk across a field of growing crops as long as I am careful?
  - A. Yes
  - B. No

18. When I encounter a gate on open fields that is padlocked or tied shut with barbed wire, should I:
- A. phone the local Access Officer and report it
  - B. phone the local Access Officer and demand he or she comes and opens it for me immediately
  - C. text a complaint to my MSP
  - D. phone ScotWays and demand they organise a mass trespass
  - E. climb over the gate anyway
  - F. go home, but come back equipped to open the gate with a bolt cutter and/or heavy-duty pliers
  - G. all of the above
19. Am I allowed to walk over the golf greens at my local golf course?
- A. Yes
  - B. No
20. I pass by an apple tree loaded with fruit. Can I pick it?  
If the fruit has fallen onto the ground, can I take it?
- A. Yes to both
  - B. No to both
  - C. Yes to the first; No to the second
  - D. No to the first; Yes to the second
21. Can a landowner take steps to prevent a drone flying over their property?
- A. Yes
  - B. No
22. Farmyards are exempt from statutory access rights. However, where a track crosses a farmyard, may access be taken over it?
- A. Yes
  - B. No
  - C. Sometimes
23. Someone trying to catch up with friends who are walking across some land (in accordance with their access rights), borrows a 'buggy' adapted for use by a disabled person. Have they the right to cross land in that buggy in order to join their party?
- A. Yes
  - B. No
24. I know I'm not allowed to remove plants, but is it OK to pick mushrooms and brambles on someone else's land?
- A. Yes
  - B. No
25. A person is injured when he falls from a cliff top path in the early hours of the morning. He had gained access to the path by stepping over a fence around the car park. The fence was found to have been damaged at the time and therefore easy to step over. Are the owners of the car park liable for damages?
- A. Yes
  - B. No

**The Answers are overleaf ...**

## ScotWays 175<sup>th</sup> Anniversary Access Quiz – ANSWERS

1. The correct answers are B and D. You can go almost anywhere – above, below and on the surface – but you must behave ‘responsibly’, as defined in the Scottish Outdoor Access Code. Where access is allowed, you may engage in recreational and educational activities, and even commercial activities if they can also be carried out on a non-profit basis – for example, you can lead a walking tour because walking can also be enjoyed as a hobby. You CANNOT do what you like and you don’t have the right to drive your car anywhere as access rights usually only apply to non-motorised users. On the plus side, you do not need a landowner’s permission to be on their land if access rights apply, and locked gates and ‘Private’ signs are only legitimate if they deter access to places where access rights do not apply, such as a private dwelling and the land immediately around it (curtilage), school grounds, building sites and Ministry of Defence land.
2. The correct answer is A – True. Rights of way are generally traditional routes which have been established over time. They give you the ‘right of passage’ from one public place to another and you must use it in the way that has been established, e.g. for walking. Of course, if the right of way crosses over land where general access rights apply, you may leave the path and have a picnic, fly your kite or climb that mountain!
3. The answer is A. Local authorities and national park authorities are called ‘access authorities’ and have extensive powers and duties in relation to access rights. Core Paths are networks of routes established following public consultation and shown on the Core Path Plans produced by the access authorities. They can be in rural and urban areas.
4. The answer is H – All of the above. Access to land isn’t just about crossing it – it’s also about what you can do on, over or under it.
5. The answer is B - False. Greater tolerance has existed in Scotland than in other parts of the UK due to Scottish traditions of access and the network of long-established rights of way and this has contributed to the perception that there is no law of trespass in Scotland. The truth is somewhere in the middle. If you are causing harm, a landowner is within their rights to ask you to leave their land. You are also not entitled to stay on someone else’s land for an indefinite period. A sign saying ‘Trespassers will be prosecuted’ is something of an empty threat, but you could be prosecuted for criminal damage.
6. The answer is B – 20 years. A route must have been used without substantial interruption for at least 20 years. Sometimes it is necessary to gather written evidence from users to prove that the route has been regularly used during this period before it can be asserted as a right of way.
7. The answer is B – 20 years. If there is no evidence of people using the path in this period, it no longer has the status of a right of way.
8. The answer is A – Yes, if you have a right to be on the land.
9. The answer is D – All of the above. Plus, the route must have been used without substantial interruption for at least 20 years.

10. The answer is A and/or B – the access authority is also the planning authority. All 32 local authorities (councils) in Scotland and the two national parks (Loch Lomond & The Trossachs National Park and The Cairngorms National Park) are access authorities.
11. The answer is D – All of the above.
12. The answer is C. The Code says that cyclists and horse riders should dismount when the path is boggy, wet and soft to avoid churning up the surface. The Code does also ask cyclists to dismount or give way when they meet other users on a narrow path, but not on any path. Similarly, horse riders are asked to give way to walkers and cyclists on narrow routes. Both cyclists and horse riders must take care not to alarm farm animals, horses and wildlife, but can cycle or ride past them. The key thing is to treat other users with consideration and act responsibly!
13. The answer is B - False.
14. The answer is A – Yes. But only if the gate is obstructing a right of way.
15. The answer is B – No. But only if you are behaving responsibly. That includes keeping your dog under control!
16. The answer is A – Yes. As long as you behave responsibly.
17. The answer is B – No. But you may go along the margins of the field.
18. The answer is A – phone the local Access Officer and report it. The Access Officer has the legal power to keep routes open, so you should report any obstructions to them. You may climb over the gate if you can and you would be entitled to cut the padlock or barbed wire if the route is a right of way, but that could generate ill-feeling. Contacting local politicians could be a next step if the issue is not resolved. ScotWays is always interested to know of any access issues, but does not have any statutory powers and therefore can only provide advice.
19. The answer is B – No. You have the right to walk on all other parts of a golf course, although you must behave responsibly by paying attention to what golfers are doing and not disrupting play or putting yourself in danger of being hit by golf balls in play. Access rights do **not** apply to specially prepared sports surfaces, such as golf greens, bowling greens, cricket squares and tennis courts.
20. The correct answer is B – No to both. Whether on the tree or rotting on the ground, the fruit all belongs to the landowner!
21. The correct answer is A – Yes. Well, how would you like it if someone was taking aerial shots of you in your garden?!
22. The answer is C – Sometimes. If the track is a right of way or core path then you have the right to use it to cross the farmyard. If it is not a right of way, you don't. This is an example of where rights of way are vital to providing access in places where general access rights do not apply, such as through the curtilage of farm buildings and in urban areas.
23. The answer is B – No. Access rights apply to motorised vehicles, such as mobility scooters, which have been adapted for and used by a person with a disability. These

rights do **not** apply when the vehicle is used by someone who does not have a disability.

24. The answer is A – Yes. You may forage for wild crops. However, if you make jam with the brambles and sell some pots at the local bring and buy sale, this is probably not OK as you are engaging in a commercial activity.

25. The answer is B – No. The owners of the car park are not liable, despite their fence being in a poor state of repair. The person who was injured was not acting responsibly when he climbed over the fence in the dark!

### **How did you do?**

If you got over 20 questions correct – Excellent! Over 15 correct – Well Done!

Less than 15 – you may wish to read our brief guide to 'Public Access in Scotland – Know Your Rights'. This leaflet is free and can be ordered from our office or downloaded from our website.

If you want to get to grips with the complexities of access law (we've only touched the surface in this quiz), you can get a copy of our user-friendly guide to 'The Law of Access to Land in Scotland', published in 2018. Order it from our online shop at [www.scotways.com/shop](http://www.scotways.com/shop).

The law governing public access in Scotland is complex. If you disagree with any of our answers or wish to discuss them, please contact the ScotWays office.