

Department for Environment, Food and Rural Affairs

Information note on restrictions and exclusions of access under the Countryside and Rights of Way Act 2000 and Marine and Coastal Access Act 2009

June 2012

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For later information see
<https://www.gov.uk/open-access-land-and-the-coastal-margin-how-to-restrict-public-access>

Background

1. Part I of the Countryside and Rights of Way Act 2000 (“the 2000 Act”) introduced a right of access for open-air recreation to ‘access land’. Access land means open country (mountain, moor, heath and down), registered common land and any land that has been voluntarily dedicated as access land in England. It does not include land that is excepted land or land which is treated by section 15(1) of the 2000 Act as being accessible to the public apart from that Act.
2. Part 9 of the Marine and Coastal Access Act 2009 (“the 2009 Act”) introduce a right of access to the English coast. The coastal access provisions in the 2009 Act place a duty on the Secretary of State and Natural England to secure two linked objectives:
 - that there is a route for the whole of the English coast consisting of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
 - that in association with the route there is a margin of land along the length of the English coast which the public can have access to and enjoy for the purpose of open-air recreation.
3. The 2009 Act amends Part 4 of the National Parks and Access to the Countryside Act 1949 to provide for the designation of a long-distance coastal route. It also amends Part 1 of the 2000 Act to provide a right of access to the coastal margin which, in addition to the margin of land in association with the route, includes the land covered by the route itself and any land voluntarily dedicated as coastal margin. However, the right of access to the coastal margin does not apply to excepted land (unless voluntarily dedicated as coastal margin), or to land which is treated by section 15(1) of the 2000 Act as being accessible to the public apart from that Act. The right of access to coastal land will come into force in stages, starting in 2012 with a stretch of the English coast between Rufus Castle, Portland and Lulworth Cove in Dorset.
4. Not all of the land on the conclusive maps of open country and registered common land issued under the 2000 Act, or land to be approved as coastal margin under the 2009 Act, will be subject to the access right. People will not be able to walk on land such as gardens or golf courses.

5. Schedule 2 to the 2000 Act contains a number of general restrictions which must be observed by a person exercising the right of access to access land and the coastal margin. Damaging activities such as lighting fires or destroying plants will not be allowed. Some recreational activities (eg cycling, horse riding, camping) are also excluded from the right, but may continue if they are currently enjoyed under other legislation, or where the landowner is content for these to continue.
6. The general restrictions set out in Schedule 2 to the 2000 Act relate to the right of access conferred by Part I of that Act. Activities which are restricted by Schedule 2 to the 2000 Act can be carried out on access land with the permission of the landowner either by:
 - virtue of a direction given by the relevant authority (under paragraph 7(1) of Schedule 2 to the 2000 Act); or
 - by a simple permission given by the landowner outside the statutory framework (in which case the access is on a permissive footing, not by statutory right and so that the persons to whom permission has been given in this way will not be relying on the statutory right of access. So what they might do in relation to other users of the land will be simply governed by what the landowner allows).
7. In relation to access land the term “a relevant authority” means the National Park Authority where access land falls within a National Park; the Forestry Commission where land voluntarily dedicated for access is comprised mainly of woodland; and Natural England in all other cases.
8. For land which is coastal margin, Natural England is the “relevant authority”. Natural England may however authorise the National Park Authority or the Forestry Commission to carry out the functions as a “relevant authority” for land which is coastal margin, as it may specify.
9. Separate guidance has been issued for both relevant authorities and landowners on directions to remove or relax a general restriction under paragraph 7(1) of Schedule 2. The guidance includes a model direction to remove or relax any such general restriction.
10. Where, despite these general restrictions, land managers feel that local intervention is necessary to prevent unacceptable impacts from access, they can use informal

management techniques, such as encouraging use of particular paths, areas or access points, to influence how people visit the land.

11. If further legal restrictions on the right of access are required at the local level, this is possible under the provisions in Chapter 2 of the 2000 Act as they apply to open country, registered common land and any land that has been voluntarily dedicated for access. The restrictions are amended by the Access to the Countryside (Coastal Margin) (England) Order 2010 in their application to any land which is coastal margin.
12. Full details of the restrictions are shown in **tables A and B** and, where appropriate, how to apply for a direction can be found on Natural England's website:
<http://www.naturalengland.org.uk/openaccess>. Applications for a direction to exclude or restrict access are made to the "relevant authority".
13. The Access to the Countryside (Exclusions and Restrictions)(England) Regulations 2003, the Access to the Countryside (Exclusions and Restrictions)(England) (Amendment) Regulations 2006, and the Access to the Countryside (Exclusions and Restrictions)(Amendment)(England) Regulations 2011 set out the procedures which owners and land managers must follow if they wish to restrict or exclude access to their land, and the procedures which a relevant authority and the Secretary of State, as appropriate, must follow in dealing with a direction. The Regulations also include details of the procedures and time limits which apply for the making of appeals and decisions by the Planning Inspectorate Executive Agency, on behalf of the Secretary of State.

Table A – grounds for a direction

Table A shows the grounds for which a direction can be given and the relevant section of the 2000 Act, who may apply and the authority which may make a direction to exclude or restrict access:

Brief description	Detailed description and relevant section of CROW Act	Who may apply	Authority to make direction
Land management	For the management of the land – section 24	Landowner or others with a legal interest in the land apply to the relevant authority	<p>Relevant authority may make a direction on receipt of an application</p> <p>In relation to land which is coastal margin the relevant authority may make a direction without an application having been made</p>
Fire prevention	To prevent fire by reason of exceptional weather or ground conditions – section 25(1)(a)	Landowner or others with a legal interest in the land apply to the relevant authority	Relevant authority may make a direction on receipt of an application or without an application having been made or without an application having

		Section 25 (1)(a) does not apply to land which is coastal margin if it is land over which the coastal route passes	been made
Public safety	To avoid danger to the public from something done or proposed to be done on the land – section 25(1)(b)	Landowner or others with a legal interest in the land apply to the relevant authority	Relevant authority may make a direction on receipt of an application or without an application having been made
Salt marsh and mudflat	To exclude access to salt marsh or mudflat where it is unsuitable for public access – section 25A	This is no power to apply for such a direction	Relevant authority may make a direction
Nature conservation	To conserve flora or fauna or geological or physiographical features – section 26(3)(a)	There is no power to apply for such a direction	Relevant authority may make a direction, with regard to any advice received from Natural England, as appropriate
Heritage preservation	To preserve any scheduled monument as defined by section 1(11) of the Ancient Monuments and Archaeological Areas	There is no power to apply for such a direction	Relevant authority, may make a direction, with regard to any advice received from English Heritage, as

	Act 1979, or any other structure, work, site, garden or area which is of historic, architectural, traditional, artistic or archaeological interest – section 26 (3)(b)		appropriate
Defence	For the purposes of defence – section 28	There is no power to apply for such a direction	Ministry of Defence, on behalf of the Secretary of State
Security	For the purposes of national security – section 28	There is no power to apply for such a direction	Home Secretary

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Table B – discretionary restrictions

Table B shows the discretionary restrictions which may be used without an application being necessary to be made to the relevant authority. These restrictions only apply to access land - they **do not** apply to the coastal margin:

Brief description	Detailed description and relevant section of CROW Act	Who may use the restriction
Any reason	To exclude access up to 28 days over a year (Bank Holidays and some Saturdays and Sundays in the year are excluded) – section 22	Landowner or farm tenant notifies the relevant authority via the Open Access Contact Centre: Natural England First Floor
Dogs on grouse moors	To exclude people with dogs on land consisting of moor managed for the breeding and shooting of grouse for up to 5 years at a time – section 23(1)	Temple Quay House 2 The Square Bristol BS1 6EB
Dogs in fields with lambs	To exclude people with dogs on land containing sheep in the connection with lambing- section 23(2) and (3)	0845 100 3298 e-mail: openaccess@naturalengland.org.uk

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