



## RIGHT TO ROAM?

Access to open countryside: Countryside and Rights of Way Act (CRoW) 2000

Secretary At Work: Reviewed January 2012

The Countryside and Rights of Way Act 2000 (CRoW Act 2000) was introduced as a response to a 100 years of campaigning for more open access to the Countryside. It received Royal Assent on 30<sup>th</sup> November 2000 and was designed to create new recreational opportunities for all in England and Wales, with the provisions it contains being brought into force in incremental steps over subsequent years. Containing five Parts and 16 Schedules, the Act provided for public access on foot to certain types of land, amendment to the law relating to public rights of way, increasing measures for the management and protection for Sites of Special Scientific Interest (SSSI), strengthening wildlife enforcement legislation, and provide for better management of Areas of Outstanding Natural Beauty (AONB). The Act is compliant with the provisions of the European Convention on Human Rights, requiring consultation where the rights of the individual may be affected by these measures.

Part one (of five) of the Countryside and Rights of Way 2000 (CRoW) introduced a new right of access on foot to mapped open country and registered common land in England and Wales.

- ☛ Part one covers the new right of access: This includes coasts, excepted land, restrictions, maps, closures and restrictions, dogs and means of access.
- ☛ Part two covers rights of way: This includes path changes, flora and fauna, temporary diversion, improvement plans, reopening paths, vehicles on paths and mobility.
- ☛ Parts three and four: Part three gives greater protection to wildlife and natural features with Part four providing for better management and protection of areas of Outstanding Natural Beauty (AONBs).
- ☛ Part five covers miscellaneous items.

Starting in November 2001 the Countryside Agency (in England) and the Countryside Council for Wales (in Wales) undertook the process of producing maps showing the areas of land that qualify as either open country or registered common land. The rights of access were phased in on a region-by-region basis. This process finished with the commencement, **from 31<sup>st</sup> October 2005, of the right of access coming into effect across the whole of England and 865,000 hectares are now classed as 'open access'.** In **Wales**, the National Assembly implemented the CRoW Act, with the new right starting as a **one off process across the whole country on the 28<sup>th</sup> May 2005.**

Open country is defined in CRoW as mountain, moor, heath and down. However, CRoW does not contain definitions of these land types and so, prior to beginning the mapping process, the

Countryside Agency produced its mapping methodology, which includes the definitions that it has used to decide what is, and what isn't, mountain, moor, heath and down.

The Countryside Agency (CA) and the Countryside Council for Wales (CCW) had to include all land which they consider to be wholly or predominantly mountain, moor, heath and down. The CA and CCW could move the boundary to make it more obvious to landowners and users on the ground and exclude areas under 5 hectares if they consider that they serve no useful purpose.

They also had to include all registered common land on the map, that is, land registered under the Commons Registration Act 1965.

Whilst the Countryside Agency was required to map all land, which qualified as open country (mountain, moor, heath and down) and registered common land, the CRoW Act also introduced a new concept of '**excepted land**'. This refers to types of access land that, because of their location or use, were not subject to the new rights – regardless of whether or not they appeared on the new maps. **Golf Courses are listed as one of these categories of 'excepted' land.** Although Golf Courses are exempt from the areas of open access, some courses may experience the public wandering off the public footpaths by mistake. This may be particularly a problem where the course is adjacent to open access areas or situated in popular tourist regions.

The following sorts of land are not access land under the Act – known as 'Excepted Land'. Which is land that:

- ☛ has been disturbed by any ploughing or drilling during the previous 12 months for planting or sowing;
- ☛ is covered by buildings (or the curtilage of such land);
- ☛ is within 20 metres of a dwelling or a permanent building used for housing livestock;
- ☛ is used as a park or garden;
- ☛ is used for getting of minerals (including quarrying);
- ☛ is used for railways and some other statutory functions (like telecommunications);
- ☛ **is used for golf courses, racecourses, aerodromes;**
- ☛ is covered by pens in use for temporary holding of stock;
- ☛ is used habitually for horse training;
- ☛ is regulated by military byelaws.

In either location it may be helpful to have copies of the leaflet produced by the Ramblers' Association to hand to members and trespassers alike that will benefit from further information. The 'Walker's Guide to Freedom to Roam Legislation in England and Wales' can be download/printed from the Ramblers' Association website. (See: <http://www.ramblers.org.uk/OneStopCMS/Core/CrawlerResourceServer.aspx?resource=44B1CBD1-56D6-40B3-AF78-20D949C74AA7&mode=link&guid=307e7609cbcc46d9b35baa4e7048a73a>)

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**For further information see:**

Natural England (for CRoW access maps) -  
<http://www.naturalengland.org.uk/ourwork/access/openaccess/default.aspx>

Country Council for Wales (for CRoW access maps) –  
<http://www.ccw.gov.uk/default.aspx?lang=en>

The Ramblers Association - <http://www.ramblers.org.uk/>

What is open access land & What you can and can't do –  
<https://www.gov.uk/right-of-way-open-access-land/public-rights-of-way>

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### Scotland

Similar legislation was being prepared in Scotland, although there are significant differences regarding access rights. The Scottish Parliament introduced The Land Reform (Scotland Bill) in November 2001. The Bill proceeded through Parliament and received Royal Assent in February 2003 as the Land Reform (Scotland) Act 2003. After public consultation on the draft Code during late Spring of 2003 some changes were made by the Scottish Executive. The Scottish Outdoor Access Code was approved by Parliament in 2004 and the statutory right of responsible access came into effect on 9<sup>th</sup> February 2005.

Land Reform (Scotland) Act 2003  
<http://www.outdooraccess-scotland.com/>

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