

Cattle and public access in Scotland

HSE information sheet

Agriculture Information Sheet No 17S

Introduction

The Land Reform (Scotland) Act 2003 created the right of 'responsible public access' to most land and inland water in Scotland. The right of responsible access can be exercised on and off paths, on open and enclosed land. Public rights of way continue to exist and a system of 'core paths' is being developed by local authorities that will need to be treated in the same manner as rights of way.

Throughout this information sheet, 'public access route' means a public right of way, core path or other well-used route.

The responsibilities of land managers and members of the public are explained in detail in the Scottish Outdoor Access Code. This has been approved by the Scottish Parliament under section 10 of the Land Reform (Scotland) Act.

This sheet describes the major potential hazards to workers or to members of the public associated with keeping cattle, including bulls (uncastrated bovine animals of 10 months or over), where the public has access in Scotland. It suggests reasonably practicable ways of controlling those hazards for walkers, but land managers should also consider risks to other users of public access routes, such as horse riders and cyclists. It does not provide advice on housing bulls or other cattle, nor on safe handling.

Background

Between April 1996 and March 2006, 46 incidents involving cattle and members of the public were investigated by HSE across Britain. Seven resulted in death. Almost all these incidents were in fields and enclosed areas. Many other incidents are not reported to, nor investigated by, HSE. The two most common factors in these incidents are cows with calves and walkers with dogs.

All large animals are potentially dangerous. Farmers try to ensure that the cattle they own or breed from are of a normally quiet temperament. However, when under

stress, eg because of the weather, illness, unusual disturbance, or when maternal instincts are aroused, even normally placid cattle can become aggressive. Even gentle knocks from cattle can result in people being injured. All breeds should be treated with respect.

The Scottish Outdoor Access Code advises the public to be aware of potentially dangerous farm animals, to keep a safe distance if passing through an area with livestock and to consider using an alternative route. The Code advises people not to take dogs into fields where there are young animals present.

The law

- Section 44 of the Countryside (Scotland) Act 1967 bans bulls of recognised dairy breeds (eg Ayrshire, Friesian, Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry) in all circumstances from being at large in fields crossed by public rights of way. Bulls of all other breeds are also banned from such fields unless accompanied by cows or heifers, but there are no specific prohibitions on other cattle. 'Fields' in this legislation does not include areas such as open fell or moorland.
- Section 3 of the Health and Safety at Work etc Act 1974 requires employers and the self-employed to ensure, so far as is reasonably practicable, that they do not put other people, eg members of the public, at risk by their work activities. This applies to keeping bulls or other cattle in fields.
- The Management of Health and Safety at Work Regulations 1999 require that employers and the self-employed assess the risks from their work activities to which employees or others are exposed. This assessment should identify the measures employers need to take to comply with health and safety legislation.

Civil law may also apply and legal advice may be necessary to ensure compliance, eg:

- The Occupiers Liability (Scotland) Act 1960 requires land managers to show a reasonable duty of care towards other people on their property.

- The Animals (Scotland) Act 1987 makes the keeper of an animal 'strictly liable' in most cases for injuries caused by their stock (exceptions may apply).

Plan and take action

When considering where to keep animals you should take into account the amount and type of public access in different areas of the land you manage (eg large groups of walkers with dogs every day, groups of children, or infrequent lone walkers). This will help you decide whether the cattle should be kept in certain areas and what precautions you need to take.

Before you put any cattle, including bulls, in fields and other areas with regular public access:

- assess whether the bull or animals in the herd are generally placid and well-behaved;
- if possible use fields or areas infrequently used by the public when cattle are calving or have calves at foot especially during periods of greater public use, eg school holidays;
- assess whether calves kept with the herd will affect the behaviour of older cattle;
- consider whether it is reasonably practicable, or permissible, to temporarily fence alongside a public access route so that the cattle and people are kept separate. Take care not to obstruct public access routes by fencing across them;
- an alternative route can be offered or provided, but bear in mind that even if you do decide to provide an alternative route, the public will still be entitled to use the existing public access route;
- plan the location of handling and feeding areas away from public access routes to reduce the possibility of stock congregating around these areas;
- where the landowner and the cattle owner are not the same person there may be some joint responsibility and it is the duty of both parties to agree a course of action;
- consider providing signposted paths, and possibly a designated core path, to draw most public access along routes which are best integrated with livestock management.

If you have an animal known or suspected to be aggressive then you must make every effort to keep it in a field rarely used by the public. If necessary you should provide signs advising the public to keep away from the animal and, if possible, offer an alternative route. Consider whether you should dispose of aggressive animals.

Precautions to minimise the risk to the public

- Wherever possible use fields or areas infrequently used by the public, especially when cattle are calving or have calves at foot.
- Check that fences, gates, stiles etc are safe and fit for their purpose.
- Clearly mark alternative paths that avoid areas with cattle.
- Make arrangements for checking both the cattle (for illness or other possible causes of aggression) and the fences etc surrounding the field regularly – at least once each day.
- Plan how to safely move individual cattle, the whole herd, or part of it, from field to field. Remember that inadequately controlled cattle on roads can cause public concern, damage or injury.
- Ensure cattle handling facilities are available, and that you can safely move animals to them.
- If bulls are on hire, lease, or loan, or if other cattle are new to the farm, check that they are suitable to keep in an area with regular public access. A few days in another field or in a stock building, where they can be closely and regularly observed, should be enough.

Precautions if you graze dairy bulls or entire male cattle for bull beef

- Never keep them in areas with public access routes. **Remember, it is against the law to keep a recognised dairy bull in a field crossed by a public right of way and it is advisable to treat core paths in the same manner. Deliberately placing an animal or animals known to be aggressive in order to deter access is likely to be regarded as obstruction under the Land Reform (Scotland) Act and the local authority could take action.**
- Use areas that are rarely used by the public.
- Make sure that groups of animals or bulls older than 10 months are securely enclosed by stock-proof hedging or fencing at least 1.3 m high, strong enough to retain the animals. Erecting an electric fence 0.5 m inside the external perimeter hedge or fence will provide a greater degree of security but should not cause obstruction and should have suitable warning signs.
- Put a sign at each access point advising the public that the animals should be avoided and offer an alternative route if possible.

Signs

Even though you should have made every effort not to keep aggressive, or potentially aggressive, animals in a field or area where the public commonly take access, it is good practice to display signs informing the public when a bull, or cows with calves, are in the area.

- Consider putting a sign at any gate, stile or other access points to a field or open area such as fell, hill or moorland if there is a bull, or cows with calves, at large there.
- Safety signs should conform to British Standard 5378, or European equivalents, and where appropriate the Health and Safety (Safety Signs and Signals) Regulations 1996.
- A suitable bull sign would be triangular with a yellow background and a black band around the outside. A bull or bull's head should be shown (black on yellow) on the sign, with supplementary text (also black on yellow) such as 'bull in field' if desired. Supplementary text should not suggest that the bull is aggressive, threatening or dangerous (ie avoid words such as 'beware' or 'danger').
- Signs alerting the public to the presence of other cattle, including cows with calves, should be informative and based on guidance from the Scottish Outdoor Access Code and Scottish Natural Heritage (see 'Further reading'). The use of symbols will help children, and those unable to read, to be aware of the risks.
- Signs should not be displayed, or should be securely covered, when the animals to which they refer are not present in the field or area. Misleading signs which deter the public from exercising their right of responsible access are likely to be regarded as an obstruction and should never be used.
- Electrified stock fencing will also require warning signs located at access points and suitable intervals along its length – generally 50 to 100 m apart.

Further reading

1 *Scottish Outdoor Access Code* Available from SNH Publications, Battleby, Perth PH1 3EW or view free at www.outdooraccess-scotland.com.

2 *Signs guidance for farmers and other land managers* Scottish Natural Heritage 2006. Available from SNH Publications, Battleby, Perth PH1 3EW or view free at www.outdooraccess-scotland.com.

3 *A brief guide to occupier's legal liabilities in Scotland in relation to public outdoor access* Scottish Natural Heritage 2005. Available from SNH publications, Battleby, Perth PH1 3EW or view free at www.outdooraccess-scotland.com.

Further information

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This document contains notes on good practice which are not compulsory but which you may find helpful in considering what you need to do.

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