

S11 Access Exemption Order



Under access legislation, Section 11 of Part 1 Land Reform (Scotland) Act 2003, you may apply for an access exemption order to enable you to exclude the public from taking passage through the area of ground proposed for your event or activity.

Is a Section 11 required?

This power enables the NPA to issue an order to exempt areas of land or inland water from access rights. This power is likely to be used to exempt land where a charge is to be made to access an event such as Highland Games, golf tournament or outdoor concerts. It may also be for security reasons or privacy reasons not catered for under section 6 of the Act, for example outdoor weddings. It is not intended for use to exclude areas for reasons such as land-management, for areas where a charge would be made for access only or for extending privacy zones to whole estates.

Where fixed machinery or tents/marquees etc are placed, an automatic privacy zone applies to the area immediately around them under section 6 of the Act. However, in order to close off an area of land where access rights would normally apply so that you may make a charge to enter the land then an order exempting the land from access rights should be applied for, otherwise the public are legally entitled to enter the land as long as they do so responsibly.

Any granted exemptions will not cover core paths where access rights will remain, this position should be considered within any application

Process

The issuing of orders falls into two clear categories each requiring a different procedure:

- a) The National Park Authority may issue orders for 5 days or less.
- b) Ministerial approval is required for orders of 6 days up to 2 years.

All applications should be sent to the National Park Authority Headquarters in Balloch detailed on the attached application form. The NPA will acknowledge all valid applications within 7 days of receipt.

Applications of 5 days or less will be considered by the NPA and should ideally be sent 8 weeks in advance of the start date required for the exclusion, if this deadline is missed the NPA cannot guarantee that the application will be processed in sufficient time. Such applications are required to go through a formal consultation period of 14 days where a public notice will be issued.

Applications of 6 days up to 2 years should be sent in 6 months in advance of the start date, if this deadline is missed the NPA cannot guarantee that the application will be processed in sufficient time. Such applications are required to go through a formal consultation period of 14 days where a public notice will be issued. The Local Access Forum, the landowner, Community Council and others will be consulted and any objections or representations invited before a recommendation is put to the NPA Planning & Access Committee. Following this decision a recommendation is made to Scottish Ministers to consider. There is also an option for Ministers to hold a public enquiry if required.

Once an application is approved the applicant will be sent three laminated copies of the signed Order and digitised map. These should be placed at key access points 3 days before the exclusion and removed immediately after the order has expired.

Filling in the Application Form

1 & 2: Confirmation of the person or body applying for the exemption and full contact details.

3: Area of land applied for must be illustrated clearly on a map at a suitable scale with grid references. The area to be excluded should be clearly marked on the location map in a **red hatched area** as shown in the example attached to this Advice Note. For larger events applicants should show parking areas, payment sites, stage areas, event routes and any other relevant event management sites. The area should be kept to a minimum, with minimal impact on recreational use. The application should explicitly detail the event management reasoning behind the area requested.

4: Landowner name and their contact details along with confirmation that you have notified the owner of your intentions to seek a Section 11 order, if you are applying separately.

5 & 6: Reasons for the land to be excluded from access rights such as to make a charge for entry to manage visitors to an event.

7: How long the exclusion is for including start and end dates and times. These must be accurate and exact and be as short in duration as practicably possible. A single application relates to one defined area for one continuous period of time, ie, requesting an area is excluded on the 10th and 15th of June between the hours of 9am and 5pm would require two separate applications. If an application is for more than 5 days the order will require public consultation, neighbour notification and submission to Scottish Ministers for approval.

8: The management measures proposed to manage access around the proposed area, including alternative route provision, diversions, advisory signage, and marshalling. These measures must minimise any inconvenience to the general public will be looked upon favourably and the NPA can advise on suitable advisory signage.

Please ensure that you sign and date the form and include a clear map of the area applied for.

EXAMPLE SECTION 11 APPLICATION MAP

