



Ramblers Scotland
Kingfisher House
Auld Mart Business Park
Milnathort
Kinross KY13 9DA

Phone 01577 861222
Fax 01577 861333

Email scotland@ramblers.org.uk
www.ramblers.org.uk/scotland

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Head of Legal Services
Perth & Kinross Council
2 High Street
PERTH
PH1 5PH

Dear Sir/Madam

Land Reform (Scotland) Act 2003, S.11 Exemption order for land related to the Ryder Cup at Gleneagles

Ramblers Scotland is pleased to have the opportunity to comment on the consultation regarding the exemption of land from statutory access rights in association with the Ryder Cup competition at Gleneagles in September. We recognise that the nature of this international event will require security and organisational measures to be implemented before and after the event and during the event itself. We note that the exemption of land from statutory access rights is expected to include land designated as core paths.

We wish to ensure that the proposed exemptions are not excessive in extent, both in terms of time and area and to also ensure that there is a full and correct understanding by the public, and by those responsible for the Ryder Cup operations and arrangements, of the consequences of the exemptions. In particular, all parties need to understand that the presence of an exemption does not preclude the taking of access over the area of land concerned. The exemption simply means that the statutory right of access does not apply over that land and anybody taking access across that land during the period of exemption cannot claim to be taking access under the provisions of section 1 of the 2003 Act and cannot seek the support of the Access Authority in securing that access. Persons who wish to take access on the basis of other rights, custom or tradition would be unaffected by the presence of the exemption order, so long as they acted in ways which were not damaging or disruptive to other interests, including attempts to take access over land to which an entrance charge was being applied, did not infringe any other legislation relevant to public behaviour or protection of property, and were not in breach of any interdict or other order of a court.

This means, for example, that a local resident who is accustomed to taking access on Gleneagles Golf Club in ways which do not interfere with those playing golf, can continue to do so during the period of the exemption order which does not cover the actual days when payment is required to enter to watch the Ryder Cup. Such a resident can continue to exercise such access, if they wish, providing they do not interfere with any of the activities associated with the setting up and dismantling of the facilities associated with the Ryder Cup and they also abide by any requests from police officers to adjust the way that they are taking access. If the Ryder Cup organisers have any difficulty with this situation the remedy open to them is to seek interdict against named individuals to try to prevent them taking access.

If the Ryder Cup organisers wish to establish a more restrictive regime in relation to public access during this period they would need to seek approval for the establishment of byelaws to regulate public access during the period of the tournament.

We do not expect the above understanding will cause any difficulties to the Ryder Cup organisers. It simply ensures that members of the public, notably local residents, can continue to take access during most of the exemption order period across the Gleneagles Golf Course providing they do not go too close to works being carried out as part of the Ryder Cup arrangements. We would expect this would apply to a limited number of people, who would then be able to take access in the knowledge that they were not committing any offence under civil or criminal law, irrespective of the absence of statutory access rights. We believe it is important for all interests to understand this is the basis for the exemption arrangements, especially as the exemption order for the golf course area is for a considerable period of time (7 weeks) during the summer. We do not consider it is in the public interest to see the public discouraged from taking access for such a long period, including early mornings and late evenings when no golf is being played or no construction activity is taking place.

We would wish to be consulted over any signage that might be erected to indicate that these exemption orders are in place. Such signs should simply indicate that that, for the defined area and period, statutory access rights do not apply beyond the sign. We would have no objection to wording which also indicated that, during the period of the exemption, the public were advised that, in the absence of statutory access rights in the exempt area, the Access Authority recommended that public access should be taken elsewhere. That would be sufficient to discourage the majority from taking access while at the same time taking account of the minority who would still wish to take access under a non-statutory basis to the golf course area.

We do, however, **object** to the application of the exemption order to core path AUCH/35/1 across Auchterarder Golf Course. We understand this exemption has been made at the request of Ryder Cup Europe to pre-empt the possibility that members of the public may use this path to informally view a small part of the adjacent Gleneagles golf course during the Ryder Cup, claiming that there may be risks relating to security, safety and public order. There is no indication that such an exemption is required by the police or security authorities. Given that private vehicular travel to the area will be heavily restricted during this week, we feel it is unlikely that large numbers of people will be able to arrive at Auchterarder to view the event from this path. Nevertheless, local people may still be wanting to take informal access on that route during the period of the Ryder Cup, especially given the fact that their recreation opportunities will be restricted elsewhere. The designation of this path as a core path means that it is important for local recreation.

Furthermore we believe that to apply the exemption order to AUCH/35/1 would set an undesirable precedent for similar situations elsewhere in Scotland. Just because any particular location provides a view of adjacent ground on which an interesting event is taking place is not a justification for applying an exemption order to that location. This is like saying that an exemption order should be applied to a hill which overlooks part of the pitch in a nearby football stadium. Such an exemption order would fall well outside the intentions of the Scottish Parliament when it approved the wording of section 11 of the Land Reform (Scotland) Act 2003.

Therefore, on balance we do not believe that it is necessary to apply the exemption order to this particular path for the duration of the event.

We would be happy to discuss this matter further at your convenience.

Yours faithfully



Helen Todd
Campaigns & Policy Manager

Ramblers Scotland is the representative body for walkers in Scotland and recognised by **sportscotland** as a governing body of sport. Our charitable aims are to promote walking, secure and facilitate access to land, and to protect the countryside. We have around 6,300 members in Scotland and 55 local walking groups, all run by volunteers.