

The Scottish Government's Policy on
**Non-Timber Forest
Products**

Non-Timber Forest Products

Purpose

To provide policy direction for decisions on encouraging and supporting the sustainable development of the non-timber forest products (NTFP) sector in Scotland.

Forestry Commission Scotland will apply the policy to decisions within its areas of competence. It will also encourage others to have regard to the policy.

Definition

In this policy, the term 'non-timber forest products' will be used, abbreviated to NTFP. The definition will be as agreed by the FAO for non-wood forest products. See Appendix 1 for a discussion of definitions.



Non-timber forest products are products of biological origin other than wood derived from forests, other wooded land and trees outside forests.

The definition does not include venison, game, and eco-tourism, which are already adequately covered by existing policies.

Background and context

The Scottish Government's economic strategy is to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. The Scottish Forestry Strategy recognises the economic potential of NTFPs in supporting business development activities. In Scotland, interest in NTFPs has been increasing over the last 10 years or so. There is now a wide range of businesses generating significant economic activity, which deal in a variety of products from wild mushrooms to essential oils. Recent surveys^{1,2} have indicated that within Scotland, 24% of the population had collected NTFPs in the previous five years and that 80% of those people (which equates to around 19% of the Scottish population) had gathered NTFPs in the last 12 months. As the majority of collecting is for personal use, policy relevant to the sustainability of personal use is as important as regulation of commercial harvesting. See Appendix 2 for further background details.

These findings reinforce and highlight the popularity of woodland product gathering in Scotland. At the same time, the downward pressure on timber prices and the related need to diversify the economic base of rural areas has led woodland managers and policy makers to consider NTFPs as potential sources of revenue and rural development opportunities.



Unlike many other natural resources, NTFPs are often owned by one set of individuals, and exploited by another. This has the potential to lead to misunderstanding and possible conflict. Sustainable forest management also places an emphasis on managing forests for a broad range of values and uses.

To date, there has been no clear policy for this important and expanding area of the rural scene. That said, it is also recognised, if less well understood, that NTFPs are also present and collected in urban areas. This policy sets out some core principles for the future management of the NTFP resource in Scotland.

¹ TNS GLOBAL (2003). Woodland research. Results of an omnibus survey into non-timber forest product use in Scotland. Internal report for Forestry Commission, Edinburgh.

² FORESTRY COMMISSION (2005). Public opinion of forestry 2005: Scotland. Forestry Commission, Edinburgh.

Principal aims

- To identify the rights and responsibilities of landowners and NTFP users
- To state the position and approach of Forestry Commission Scotland to NTFPs on the national forest estate
- To consider a definition of what constitutes sustainable management and use of NTFPs in Scotland.
- To support and encourage the sustainable development of the NTFP sector
- To raise the profile and encourage the integration of NTFP issues with contemporary forestry practice
- To raise awareness of NTFP issues within the private land-ownership and land management sectors

Guiding Principles

- There is a strong presumption in favour of protecting, improving, and expanding Scotland's woodland resources.
- NTFP gathering should be carried out in a responsible and environmentally sustainable way.
- The sustainable development of the sector is dependent on mutual respect, and well-defined relationships, between the landowner and gatherer.

The law, rights and responsibilities

Under Scots common law the produce of the land is the property of the landowner, thus, gathering NTFPs without the permission of the landowner, for whatever purpose, is common law theft.

- The Wildlife and Countryside (1981) Act and amendments in the Nature Conservation (Scotland) Act 2004 support the common law. Under section 13(1b), uprooting any plant without the permission of the landowner is illegal (for the purposes of the Act fungi are considered to be plants). Schedule 8 listings³ give some species complete

³ www.snh.org.uk/publications/on-line/wildlife/law/pdfs/schedule8.pdf

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- protection from harvesting (including seeds or spores), disturbance and sale or possession with or without the landowners consent, or by the landowner themselves.
- Additionally, the Land Reform (Scotland) Act 2003 specifies that taking away anything in or on the land for commercial purposes or for profit is excluded from the right of access (and is therefore an offence).
 - The outdoors is not a risk free environment, as it is used for many working activities such as farming and forestry. Land managers may put up signs asking people not to use a particular path or area whilst land management operations such as tree felling are underway.
 - There is a longstanding legal principle called “volenti non fit injuria” which means that a person taking access will generally be held to have accepted any obvious risk or risks inherent in the activities they are undertaking. The key word here is “obvious”, but the landowner still owes a duty of care to people entering onto their land as enshrined in the Occupiers Liability (Scotland) Act 1960.
 - In spite of the above, where landowner interest in exploiting the products is perceived to be low, a strong tradition of customary rights to NTFPs as public goods exists. This tradition has been practised for many years in Scotland without legal challenge. It suggests that landowners view responsible harvesting for personal use as an acceptable rural activity. Both the UK Forestry Standard (UKFS) and the UK Woodland Assurance Scheme (UKWAS) require owners to respect and continue to allow the uses of woodland where established by long tradition providing these are sustainable and not detrimental to the objectives of management. In the UKWAS, permissive and traditional uses include:
 - Gathering fruit or fungi by the public for their own consumption where this does not jeopardise the achievement of biodiversity objectives (having regard to codes of good practice), and
 - Traditional ‘common rights’.



However, quite apart from legal considerations, common courtesy would be to request permission from the landowner, if wishing to collect regularly for personal use in an area. Potential conflict can arise where the landowner wishes to exploit the resource for their own interest, or where individuals or companies collect NTFPs for commercial gain. Any gathering of NTFPs can be seen as part of a continuum, as shown in Figure 1 below.

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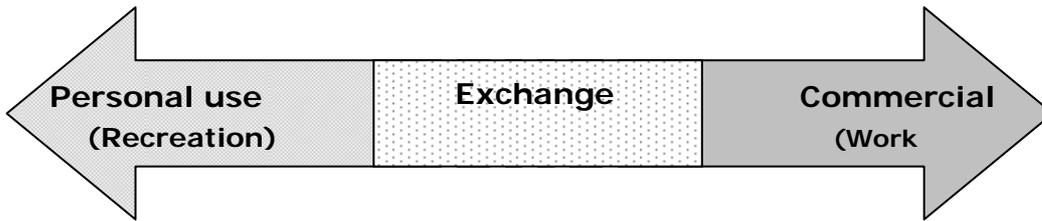


Figure 1 – The NTFP continuum

The middle area, where exchanges⁴ may take place, is where the greatest level of difficulty lies in determining the point at which harvesting is considered to be for commercial gain rather than for personal use. The need to differentiate between harvesting for commercial and harvesting for personal use is most obvious at the extreme ends of the scale, where there is no doubt of the intent of the harvester. Where collections are made for commercial benefit, the balance is tipped from 'tolerated' public goods to private goods. This distinction is also important in terms of how the health and safety legislation will apply.

- Under the Land Reform (Scotland) Act, the harvester has no right of access to collect for commercial benefit, and must gain consent or permission prior to any harvesting activity.
- Where permission has been granted for commercial collection, employers need to be aware of the provisions of the Health and Safety at Work Act 1974. The act places duties on employers to ensure, so far as is reasonably practicable, the health, safety and welfare at work of employees and others who may be affected by their business.



Annex A outlines key pieces of legislation, but it is not intended to be exhaustive. The onus is on the individual to fully acquaint themselves with the legislative requirements relating to their activity.

⁴ See Deer(Scotland) Act 1996, Section 36 sub section 7

Forestry Commission Scotland and NTFPs

Many gatherers have used the national forest estate over the years to collect fungi, berries, and other NTFPs. Research has shown that many are unsure about the legality of doing this. Until recently, Forestry Commission Byelaws stated. *'No person shall in or on the lands of the Commissioners dig up, remove, cut or injure any tree, shrub or plant, whether living or not, or remove the seeds there from, or dig up or remove soil, turf, leaf mold, moss, peat, gravel, slag, sands or minerals of any kind.'*

In practice, and unless gathering was causing serious vandalism or environmental damage, use of the byelaws was rarely invoked. The Land Reform (Scotland) Act 2003, section 30, required the FCS to review its byelaws relating to access to ensure they were consistent with and did not duplicate or contradict the general law. The review found both some inconsistencies with the 2003 Act and, in reality, that police and Procurator Fiscals very rarely used FC byelaws to charge and prosecute offenders.

Since February 2007, UK wide forest byelaws no longer apply to the national forest estate managed by Forestry Commission Scotland.

- Forestry Commission Scotland is keen to support and encourage the development of the NTFP sector in a way, which allows continued access to the resource, but ensures that harvesting is carried out in a sustainable and responsible way.
- A new Access Behaviour Code has been developed to provide guidance to FCS staff and stakeholders. This sets out how the relevant legislation applies to forest users, and provides a traffic light system to indicate what activities are acceptable, and which will be subject to advice or, in the worst case, criminal proceedings.
- For example, the collection of small quantities of moss for personal use is acceptable from appropriate sites. Equally, picking mushrooms and toadstools does not constitute uprooting and is not an offence, but it may be an offence to sell the fungi collected.



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- On the National Forest Estate, the requirement for a licence or permission to collect for commercial purposes is based on Section 36 of the Deer (Scotland) Act 1996.

'Persons who require to acquire a permit or permission in respect of NTFPs are those intending to or carrying out the following, and that whether or not for profit or commercial gain, and whether or not in the course of a profession, trade or business:

(a) the sale, or offering or exposing for sale, or (b) the possession, transportation or causing to be transported for the sale at any premises, of any NTFPs.

"Sale" shall include barter, exchange and any transaction in which NTFPs are or may be disposed of for value, and also any transaction in which NTFPs are used or are to be used but not disposed of to obtain money, goods, services or other consideration. '

- Any use falling outwith the above definition shall be deemed to be personal use. Any use falling within the above definition shall be deemed to be non-personal use.
- Any permit, or permission granted shall be personal and not assignable and on such standard and additional conditions as FCS see fit. FCS reserves the right to revoke any permit or permission without any notice being, or requiring to have been, given. Any such permit or permission granted shall be deemed to have been terminated in respect of any land in respect of which FCS have ceased to be the owner.'
- The Forest District Manager will use discretion in situations where there is either uncertainty over the activity to be carried out, the numbers, routing or impact on others. If in doubt, a permission may be issued.
- However, persistent commercial collecting without FCS permission will be reported to the police, and may be prosecuted.
- Some user groups have regarded the system whereby formal permissions are issued for all activities as restrictive, and it places burdens on Forest District staff, when permissions are sought for small, low-key events and activities. Permissions for NTFP gathering will be required under one or more of the following circumstances.
 - Where the activity requires exclusive use of the forest, or where exclusive use is desirable;
 - Where the activity is likely to have an adverse impact on the forest environment or other users and a high degree of control is required; or



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- Where the event or activity is of a commercial nature, with duties under the Health and Safety at Work Act, and where the Commission should be receiving income.
- The decision as to whether a particular event or activity requires exclusive use will have a significant bearing on the management of the permission. Exclusive use may be required by FCS, or requested by the commercial collector on account of the nature of the activity. This will mean that procedures put in place to manage the activity will be much more rigorous than where low level informal use is required.
- FCS may require commercial operators to finance an initial baseline survey before collection takes place, and regular monitoring to ensure collection is being implemented in a sustainable way. FCS will organise / contract the baseline survey & monitoring to ensure it is unbiased, but the cost will form part of the agreement with the commercial collector.
- FCS will expect any commercial operator to undertake his or her activities in line with good practice and provide evidence, if requested, that they have appropriate liability insurance, or other necessary cover to allow them to comply with statutory requirements. This includes Health and Safety, and Gangmaster Licensing rules.
- Forestry Commission Scotland will manage its woodlands in accordance with the requirements of the UKWAS. This is based on the UK Forestry Standard, which provides clear guidelines for sustainable forest management (See section below). Where possible, we will manage the national forest estate in a way, which allows the sustainable development of NTFPs alongside the other activities, which we engage in.
- Forestry Commission Scotland will continue to support the NTFP sector in developing new guidelines and disseminating information to promote the use of sustainable harvesting activity and resource management.
- We will encourage the formation of a trade association, to make and develop useful contacts, develop, promote and police effective NTFP leases and permits, organise events and joint marketing, develop supply chains, provide a cohesive voice for the sector, and encourage best practice.



Sustainable management of NTFPs in Scotland

General principles and guidelines

- Sustainable management for NTFPs in Scotland can be defined as '*the maintenance of forest resources to meet current and future ecological, economic, and social needs*'.
- Some sites and species will be appropriate only for small-scale manual collection; others will lend themselves to more commercial approaches.
- Some sites^{5,6}, such as Sites of Special Scientific Interest may have restrictions, which either prevent harvesting, or only permit it at certain times if there is a risk of disturbance to wildlife. SNH will be able to advise on operations requiring consent on designated sites such as SSSIs. The landowner will need to apply for consent to SNH, and then permit a third party to carry out the collection on their land.
- The existing published guidelines^{7,8} are the starting point for sustainable management, and it is incumbent on landowners and gatherers to have read and understood them. Reforesting Scotland is currently working on guidance on the sustainability impacts of harvesting, which will provide additional information.
- The UK Forestry Standard sets out some general guidelines for good sustainable forest management practice. Grants for forestry in Scotland are dependent upon compliance with the published guidelines.



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- Forests should be managed in a way that protects or enhances biodiversity, and opportunities for enhancing biodiversity should be considered in forest plans.
- Forest management should aim to maintain the capability of forests to produce a range of wood and non-wood forest products and services on a sustainable basis, and to achieve a diversified output of goods and services over the long term.
- A minimum of 15% of the woodland area should be managed with conservation and the enhancement of biodiversity as a major objective

⁵ www.jncc.gov.uk/page-1527

⁶ <http://data.nbn.org.uk/datasetInfo/datasetList.jsp?dsType=A&grpType=0>

⁷ The guidelines were created by a group of representatives of conservation organisations, landowners, public land-owning bodies, harvesters and buyers.

⁸ <http://www.forestharvest.org.uk/guidelines/harvestingguidelines.htm>

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- It is important to ensure that removal of forest products from the site, including non timber products, does not compromise the long term productive potential

Certification

The sustainable management of NTFPs is one of the verification factors assessed when certifying against the UK Woodland Assurance Standard⁹ (UKWAS). Owners of certified woodland, or those seeking to gain certification, will need to consider the impact of NTFP harvesting on their ability to satisfy UKWAS criteria. Where forests are certified through the UKWAS, a stronger requirement is placed on owners to verify conformance with the spirit of any relevant codes of practice, guidelines or agreements.

- All certified woodlands must demonstrate no evidence of non-conformance from audit, and certified woodlands over 100 hectares must have a system in place, which is aware of and implements the requirements of any new legislation.
- The requirement states that 'Authorised harvesting of non-timber woodland products shall not permanently exceed, or diminish, the long-term productive potential of the woodland.' (See UKWAS Section 2.2.3)
- Verification of this is determined by evidence from records and discussions with the land owner or land manager that quantities harvested are properly and regularly recorded, are in line both with sustainable utilisation and reproductive rates and that there are no significant adverse short or long-term environmental impacts.



Avoiding damage to the resource, owner's property, or relations

In some locations collecting can have a significant impact on landowners. Adverse impacts are defined as:

- Where sustainability is being compromised, or
- where damage to the property is being caused, or
- when the owner wishes to gain commercially from the collection.

⁹ [www.forestry.gov.uk/pdf/ukwasguide.pdf/\\$FILE/ukwasguide.pdf](http://www.forestry.gov.uk/pdf/ukwasguide.pdf/$FILE/ukwasguide.pdf)

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The main way to avoid damage is to follow the best practice guides and inform the owner where and what you are going to collect. The owner can then let you know of other operations or events that may be taking place. If you are selling you need to ask the owner if they wish to issue a licence or permit and that it is advisable to get the response in writing if they don't. The landowner will decide how best to regulate activity on their land.

- Some owners operate an existing regime of permits, for the most commercial and potentially intrusive end of harvesting (moss and bulbs), which works well. The landowner will need to consider the ecological, economic, health and safety as well as social implications (including the potential for conflict with existing non-commercial users)



- before granting a license or permit, for exclusive or non-exclusive use of specified NTFPs on their land. In relevant circumstances, such consideration may require consultation by both the landowner and potential collectors with relevant regulatory bodies such as SNH or SEPA.
- Responsible harvesters are likely to view the resource as a long-term opportunity and take the appropriate steps to safeguard the resources concerned through the adoption of appropriate harvesting and management regimes. A license or permit then acts in the best interests of both parties. This approach could also work with local groups, who would secure their interests by effectively policing resource management and collection on behalf of the owner. They would know their members and could challenge those that they do not know. In return, any agreement could provide other benefits, such as access to other areas on the property.
 - Where it is apparent that the present guidelines are being ignored, landowners (or their land managers) have a range of options¹⁰ open to them:
 - If members of the public are behaving irresponsibly and causing unreasonable interference, they can be asked to change their behaviour. If they do not change their behaviour, then they give up their access rights. If the person continues to behave irresponsibly, they can be asked to leave and help can be

¹⁰ <http://www.outdooraccess-scotland.com/default.asp?nPageID=47&nSubContentID=0>

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sought from the local authority or law enforcement agencies. The local ranger service may be able to help provide advice too.

- Land managers can ask people to behave responsibly but cannot use force; their ultimate sanction if the irresponsible actions persist is to seek an interdict¹¹.
- Police forces will have a full time wildlife crime co-ordinator to help in enforcing the law when wildlife crimes are being committed.
- You should contact the police immediately and tell them which offences are being committed. Try to ensure there is at least one other witness, and if possible collect the vehicle registration numbers
 - If a person's behaviour is threatening or
 - If you encounter behaviour that is a criminal offence.
- Annex A provides details of the relevant legislation.
- The Land Reform Act Scotland 2003 has provisions, which allow for the following instances to be implemented in a responsible way.
 - Temporary land closure,
 - where other forest operations are taking place,
 - where the resource is being over exploited, or
 - where there is a risk of disturbance to endangered species.
- Policing can be difficult but appropriate signage en-route to the site and local awareness raising will help to minimise conflict.

Sector development

Forestry Commission Scotland and the Enterprise Network have provided considerable support for the sector over the last eight years. This will continue, but at a reducing rate, as the sector gains momentum, and opportunities to source funding from elsewhere are found. The Scottish Rural Development Programme offers some new business development support and skills development measures, which may be helpful in this respect. These offer potential new opportunities for wild harvest businesses. The Scottish Working Woods¹² label is also a useful marketing tool.

¹¹ An interdict is a type of court order, which would require the person to stop the behaviour concerned. A breach of the terms of an interdict can lead to various penalties including a fine or even imprisonment. The consent of the Procurator Fiscal is required to raise proceedings for breach of interdict.

¹² www.scottishworkingwoods.org.uk

Policy consequences

The principal aims of this policy statement are set out on pages 3 & 4. The primary consequences will be:

- Improved understanding of the roles and responsibilities of all those directly involved with the NTFP sector in Scotland, and the development of productive relationships between growers, landowners, and collectors
- The safeguarding of an important national resource through responsible and sustainable management and harvesting activity
- A raised profile for NTFPs, as an important part of the forestry scene in Scotland.
- Increased employment and rural development opportunities from sustainable collection and processing.

Review

This policy will be reviewed after not more than 5 years.

Appeals procedures

FCS has an established procedure for dealing with complaints and appeals relating to its decisions or activities. This is available at: www.forestry.gov.uk/forestry/INFD-5ZADX4.

Appeals relating to planning consents are dealt with under the procedures set out in the Town and Country Planning (Scotland) Act 1997.

Equality Impact Assessment

This draft policy has been screened and the conclusion was that it does not require a full Equality Impact Assessment.

Defining NTFPs

- The FAO defines Non Wood Forest Products¹³ as products of biological origin other than wood derived from forests, other wooded land and trees outside forests. In this context, hedgerows can be considered other wooded land.
- The United Kingdom Woodland Assurance Scheme (UKWAS) 2nd edition (section 2.2.3) states that 'Non Timber Woodland Products include venison and other animal products, but not tourism or education'.
- Another view is that NTFPs are annually renewed non-timber products that require no management.
 - This definition covers the fungi, berry, nut and pharmaceutical products but runs into difficulties over foliage/bark harvests, Christmas trees, wood fuel, and some other NTFPs, such as mosses, lichens and floral greens. It is also difficult to fit game into this definition as it is managed to some extent in many situations. Although NTFPs may be naturally occurring within a particular silvicultural regime, appropriate management may be beneficial to the natural resource. Similarly, although education and tourism/recreation benefits can be provided without management, the quality and extent of the benefits is often greatly enhanced by management. These benefits are an important part of the economic activity of the sector, and are key to ensuring its sustainability
- Alternatively, one could define NTFPs as any non-timber benefit arising from woodland.
 - This is a very wide ranging definition which embraces all forms of microclimatic, hydrological, edaphic, sporting, recreational and educational benefits as well as Christmas trees. To base a policy on this definition would require it to deal with a wide range of benefits that are already adequately addressed under existing policies. For example deer management is covered by Forestry Commission Scotland¹⁴, the Scottish Government¹⁵, the Deer Commission for Scotland¹⁶, and FSC¹⁷ policies; and recreation and access policy is articulated in the strategy paper 'Access, recreation and tourism on the national forest estate'¹⁸.

¹³ <http://www.fao.org/docrep/x2450e/x2450e0d.htm#fao%20forestry>

¹⁴ [http://www.forestry.gov.uk/pdf/DeerGuidanceNote.pdf/\\$FILE/DeerGuidanceNote.pdf](http://www.forestry.gov.uk/pdf/DeerGuidanceNote.pdf/$FILE/DeerGuidanceNote.pdf)

¹⁵ <http://www.scotland.gov.uk/Publications/2008/06/17122304/0>

¹⁶ www.dcs.gov.uk/downloads/final%20fencing%20policy.pdf

¹⁷ <http://www.fsc-uk.org/about/case-studies/4/fsc-venison/>

¹⁸ [www.forestry.gov.uk/pdf/fcfc114.pdf/\\$FILE/fcfc114.pdf](http://www.forestry.gov.uk/pdf/fcfc114.pdf/$FILE/fcfc114.pdf)

Policy

UK Biodiversity Action Plan

- For all uses and activities, it should be an aim of policy to minimise further losses of biodiversity due to human activity and, where possible, to increase biodiversity. The context for the chapter is provided by Article 10 of the UN Convention on Biological Diversity.
- Article 10 of the Convention on Biological Diversity says: 'Each Contracting Party shall, as far as possible and as appropriate:
 - a) Integrate consideration of the conservation and sustainable use of biological resources into national decision making;
 - b) Adopt measures relating to the use of biological resources to avoid or minimise adverse impacts on biological diversity;
 - c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;
 - d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced;
 - e) Encourage co-operation between its governmental authorities and its private sector in developing methods of sustainable use of biological resources.'

Scottish Outdoor Access Code

You should be familiar with the three principles of the Scottish outdoor access code (SOAC¹⁹) which guide people taking responsible access into the forest.

- Take responsibility for your own actions: The outdoors cannot be made risk-free for people exercising access rights; land managers should act with care for people's safety.
- Respect the interests of other people: Be considerate, respect privacy and livelihoods, and the needs of those enjoying the outdoors.
- Care for the Environment: Look after the places you visit and enjoy. Care for wildlife and historic sites.

¹⁹ www.outdooraccess-scotland.com

Regulation

- The Nature Conservation (Scotland) Act 2004 states that: “It is the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.” It also enables the Forestry Commission to impose conditions for the “purpose of conserving or enhancing the flora, fauna or geological or geographical features, or the natural beauty or amenity of any land.” (Section 19) It is an offence to intentionally or recklessly damage any natural feature specified in an SSSI notification.
- Anti Social Behaviour Scotland Act 2004. The vandalism offence is a fixed penalty offence under the Act, which can be issued by the police.
- The Land Reform (Scotland) Act 2003 specifies that taking away anything in or on the land for commercial purposes or for profit is excluded from the right of access (and is therefore an offence). However, there is no specific provision for non-commercial harvesting, which potentially remains a grey area. Commercial activity that could be carried on otherwise than commercially or for profit, such as guided walks is not excluded from the right of access. This puts commercial activity in which the participants are engaged in extraction, such as commercial fungi forays, in another grey area.
- The Wildlife and Countryside Act (Amendment) 1995 requires the Forestry Commissioners to: “...endeavour to achieve a reasonable balance between: the development of afforestation; the management of forests and the production of timber, and the conservation and enhancement of natural beauty and conservation of flora, fauna and geographical or physiological features of special interest”.
- Criminal Law (consolidation) Scotland Act 1995 Section 52. Theft is a statutory offence and Section 2.12 and 2.13 explains such activities are excluded from access rights. The term theft covers dishonesty, appropriation, intention to permanently deprive, deception, abandoned property, robbery, and fraud.
- Criminal Justice and Public Order Act 1994 (Section 61 and 62). Collective trespass. If two or more people are trespassing with common purpose to reside on land for any time, and have caused damage or used threatening, abusive or insulting words or behaviour, or have between them 6 or more vehicles, they can be directed to leave by the police. If they fail to do so, they commit an offence.

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- Criminal Justice and Public Order Act 1994 (Section 68). Aggravated Trespass. A person commits this offence if, in relation to any lawful activity people are engaged in or about to undertake, the person does anything that is intended to intimidate and deter those people or to obstruct or disrupt the activity.
- The EC Habitats Directive (1992) requires certain habitats and species to be protected by means of a network of sites (SACs and SPAs) known as Natura 2000. There is a statutory need to prevent deterioration of these sites and to take measures to maintain or restore relevant natural habitats and wild species at a favourable conservation status. In some cases this might require woodland removal. (NB the 2007 amendments to protect breeding sites/resting places and prevent significant disturbance to European Protected Species). The Habitats Directive also lists species that should be given complete protection from harvesting, and those for which harvesting should be closely monitored.
- Environmental Protection Act 1990 (Section 87). Dropping of litter. It is an offence to leave litter in any public open place (a place in the open air where you can go without paying).
- Road Traffic Act 1988 (Section 22) Driving a vehicle off road and parking It is an offence to leave a vehicle or its trailer in a position likely to cause danger to other road users for example in gateways or in passing places
- Civic Government (Scotland) Act 1982 (Section 56). Any person who lays or lights a fire in a public place so as to endanger any other person, or to give reasonable cause for alarm or annoyance, or so as to endanger any property is guilty of an offence. A public place is any place to which the public have unrestricted access.
- The Wildlife and Countryside Act 1981 and The Conservation (Natural Habitats etc) Regulations 1994. Damage to plants or animals. Under section 13(1b), uprooting any plant without the permission of the landowner is illegal (for the purposes of the Act fungi are considered to be plants). However, picking mushrooms and toadstools does not constitute uprooting and is not an offence. It may though, be an offence to sell the fungi collected. Schedule 8 listings give some species complete protection from harvesting (including seeds or spores), disturbance and sale or possession with or without the landowners consent. It is also an offence to keep, sell, advertise or exchange such plants. Schedule 9 lists plants, which cannot be released into the wild. Section 3.43 – 3.48 sets out responsible access over land where there is natural heritage interest. For protected species, it is an offence to: kill or injure the animal, capture or keep the animal, destroy damage or obstruct access to its place of shelter, and disturb the animal while using its place of shelter. NTFP harvesting may create disturbance in this respect.

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- Criminal Justice (Scotland) Act 1980 (Section 78). Vandalism and Criminal damage and Graffiti. Vandalism is a statutory offence and Section 2.12 and 2.13 explains such activities are excluded from access rights. Anyone who, without reasonable excuse, wilfully or recklessly destroys or damages another's property commits this offence of vandalism.
- The Forestry Act 1967 (as amended) charges the Commissioners with the "...general duty of promoting the interests of forestry, the development of afforestation and the production and supply of timber and other forest products...". In doing so they must endeavour to achieve a reasonable balance between the above and "...the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest".
- Occupiers Liability (Scotland) Act 1960. (see section 12) An 'occupier' of land has a duty to show care towards people on that land. The level of this duty of care is the level, which it is reasonable to foresee, will be needed so that people do not suffer injury or damage. The occupier must consider injury or damage which may be caused as result of any dangers due to the condition of the property, or of anything done or omitted to be done by the occupier which is his legal responsibility.
- Trespass (Scotland) Act 1865 (Section 3). Lighting fires and Lighting fires as part of vandalism. You are guilty of an offence if you light a fire: on or near any private road, on enclosed or cultivated land, in or near any plantation without the consent of the owner or land manager. The Land Reform Scotland Act 2003 amends the act so that it does extend to anything done in exercise of the new rights - which allows fires to be lit in controlled circumstances.
- Health and Safety at Work Act 1974. This makes it the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees. The act also requires every self-employed person to conduct their undertaking in such a way as to ensure, so far as is reasonably practicable, that they and other persons (not being employees) who may be affected thereby are not thereby exposed to risks to their health or safety.
- The Gangmasters (Licensing) Act 2004 includes a number of criminal offences. These make it illegal to operate as a Gangmaster without a licence or use an unlicensed Gangmaster. The GLA enforces these criminal offences on behalf of Defra.

Forestry Commission Scotland serves as the forestry directorate of the Scottish Government and is responsible to Scottish Ministers

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