

## Edinburgh Parks Briefing 3

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# Public Access

*This paper was written by Andy Wightman who is a member of Stockbridge and Inverleith Community Council. This paper, however, represents his own personal views.*

### Rights of Access

Part 1 of the Land Reform (Scotland) Act 2003 (1) establishes statutory rights of responsible public access to virtually all of Scotland. The public can thus enjoy access to land for recreational and other purposes and it is unlawful for anyone to block or obstruct them. If any person or organisation wishes to exempt land from access rights, they can only do so by an order made by the local authority under Section 11 of the Act.

### Edinburgh Parks

Edinburgh's parks are land over which the public has a right of responsible access. However, in recent years, large commercial events have taken place (circuses, food festivals, large charity events etc.) which have excluded the public from large areas of Inverleith Park and the Meadows for example. Large fences have been erected and the public has been asked to pay an entrance fee. When challenged, event organisers appear to have been ignorant of the rights of access enjoyed by the public over the land they have enclosed by fences and have refused public access.

### Section 11

Before anyone can deny the public access rights, the local authority must have made an order under Section 11 of the Act specifying the purpose and duration of any proposed exemption. To my knowledge, this has never been done in Edinburgh and thus the public have been unlawfully denied their rights. Where land is to be exempted for a period of six days or more, a Section 11 Order cannot be made without: -

- consultation with the local access forum, the owner of the land and other appropriate persons and,
- public notice of the proposed order inviting objections.

The local authority must send copies of any objections to Scottish Ministers who must consider them and who may hold a public inquiry. Ministers have the power to confirm an order with or without modifications or to refuse it.

### Edinburgh Parks Events Manifesto

The Edinburgh Parks Events Manifesto (2) makes no mention of the public's right of access to Edinburgh's parks. Organisers of commercial events who intend to exclude the public from land over which they have access rights must apply for a Section 11 Order. The process for doing this should be made public as part of a Section 11 policy. An example of such a policy is that adopted by North Ayrshire Council (3).

### Contact

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(1) See [www.opsi.gov.uk/legislation/scotland/acts2003/asp\\_20030002\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/acts2003/asp_20030002_en_1)  
(2) See [http://cpol.edinburgh.gov.uk/getdoc\\_ext.asp?DocId=132328](http://cpol.edinburgh.gov.uk/getdoc_ext.asp?DocId=132328)  
(3) See [www.andywightman.com/docs/n\\_ayrshire\\_section11.pdf](http://www.andywightman.com/docs/n_ayrshire_section11.pdf)