Outdoor Events: Application for Section 11 Exemption Order

**(Land Reform (Scotland) Act 2003)**

This form should be used to apply for an Exemption Order under Section 11 of the Land Reform Scotland Act to suspend the public’s rights of access to allow an outdoor event to be held.

Please email your completed application to: Jolyon.Gritten@Argyll-Bute.gov.uk

**Please read the Guidance Notes on page 4 before completing the form**

Please contact the Access Manager on 01546 604314 to discuss your requirements prior to submitting your application if any of the following apply;

* the event is being held over more than one 24 hour period
* involves more than one area of land in one 24 hour period
* If the exemption is required for 6 days or longer you will need to allow up to six months to allow the order to be advertised and approved by the Scottish Ministers. The Council makes a charge for exemptions of over six days.

**1. Applicant**

|  |  |
| --- | --- |
| Name: |  |
| Organisation |  |
| Phone:  |  |
| E-mail: |  |

2. Exemption Order

|  |  |
| --- | --- |
| Event |  |
| Brief description |  |
| Has this event been held before, if so when? |  / /  |
| Date of the Proposed Event  |  / /  |
| Start time |  : hrs |
| End Time |  : hrs |
|  | Yes | No |
| Do you agree to place notices at entry points to the area exempted by the proposed order 7 days before the event and inform local people through the media including appropriate social media 2 weeks before the event. |  |  |

**3. Purpose of Exemption Order**

|  |  |  |
| --- | --- | --- |
|  | Yes | No |
| a) To charge a fee for entry into an event or entertainment |  |  |
| b) To prevent the public causing interference to your event |  |  |
| c) To prevent the public from affecting the safety of the participants or spectators |  |  |
| d) Is there likely to be a problem if the public are allowed to exercise their access rights across the area during the event? |  |  |

**4. Additional Information**

|  |  |  |
| --- | --- | --- |
|  | Yes | No |
| a) Is there a Core Path within the event area |  |  |
| b) Is there a formal or informal path across the area? |  |  |
| c) Are you intending to sign an alternative route around the area?Please mark on the location plan |  |  |

* To find out if there is a Core Path please use the ***“Where to Go Outdoors Map”***
<https://www.argyll-bute.gov.uk/where-go-outdoors>

6. Property Ownership

Who owns the land that is the subject of the proposed order?

|  |  |
| --- | --- |
| Name: |  |
|  | Yes | No |
| Do you have their permission to hold the event? |  |  |

## 6. Location - You must attach an extract from an OS map (1:25,000 scale) with the area of land to be exempted outlined in red on the next page

|  |  |
| --- | --- |
| Name of area to be exempted-address/postcode, or OS map six figure grid reference) |  |

# 7. Attach map showing the event location here

You must attach an extract from an OS map (1:25,000 scale) with the area of land outlined in red. To find out if there is a Core Path across the area please use the ***“Where to Go Outdoors Map”***
<https://www.argyll-bute.gov.uk/where-go-outdoors>

Outdoor Events: Application for Section 11 Exemption Order

**(Land Reform (Scotland) Act 2003)**

GUIDANCE NOTES

Please read carefully before completing the application form.

If you have any questions, you are advised to contact the Access Manager on
01546 604 314 before submitting your application.

Access Rights

The Land Reform (Scotland) Act 2003 establishes a statutory right of responsible access to most land and inland water. Section 6 of the Act lists some areas of land which are excluded from access rights, for example; growing crops, privacy areas around houses (normally the garden), and the curtilage of some other buildings. Land managers should not do anything which prevents or deters people from taking access rights, although there will be times when normal land management activities such as crop spraying or timber operations will affect access. The Scottish Outdoor Access Code gives advice on taking responsible access and on managing land responsibly. More information can be found on the website [www.outdooraccess-scotland.com](http://www.outdooraccess-scotland.com)

Section 11 exemptions

There are times when it may be appropriate to restrict access to areas of land that would normally be within access rights. Section 11 of the Act enables the Council, by order, to exempt an area of land or inland water from access rights. Such exemptions would normally be short term, for the period of an event for instance, but there may be occasions where longer term exclusions will be required.

It might be that allowing the public to continue to exercise their rights of access would not cause problems for your event, and you may consider that an Exemption Order is not required. However, if you do not apply for an Exemption Order, any member of the public who wishes to exercise their access rights across the land on which you are holding your event is legally entitled to do so.

Reasons for exemptions would typically include;

* Allowing a charge to be made for admission to a particular event such as an agricultural show or an outdoor concert.
* In the interests of safety and security during a sporting event such as a car rally.
* Ensuring privacy in particular circumstances, for example during filming

Exemptions would not normally be used for;

* Reasons of land management (there is provision elsewhere in the Act and in the Scottish Outdoor Access Code).
* Providing extensive exclusions around country houses and estates, beyond that reasonably expected for privacy.
* Where a charge would be imposed for access only and not for an event.
* Where access is already restricted by other measures such as byelaws.
* Areas of foreshore where the public have common law rights of access that an order can not suspend

Short term and long-term exemptions.

* Applications to exempt an area for fewer than 6 days can be approved by the Council without further consultation
* Applications to exempt land for 6 days to two years are extremely rare. They require wider consultation and must be referred to the Scottish Executive for ministerial approval.

Factors to consider before applying for an exemption

* Is the area in question within access rights? If the area is not within access rights, a section 11 exemption is not required.
* Is an exemption necessary? Some small events or functions will involve only a small area for a short period of time, and will not have a significant impact on access. The majority of people are likely to comply with polite requests to respect privacy or be diverted around the area. In such circumstances, where no problems are envisaged, it may be unnecessary to apply for an order to exempt the area from access rights.
* Is the exemption proposed for a legitimate purpose, as detailed above?
* Is the proposed exemption for the minimum area and time necessary?
* How will the proposed exemption affect public access? Take into account Core Paths, promoted paths, public rights of way, other path/tracks, public open spaces, and general access rights.
* What measures can be taken to alleviate the effect of the exclusion on public access? I.e. signposting diversions around the area. The exemption should have no more impact on access than is absolutely necessary.
* All exemptions should be for the minimum period of time absolutely necessary. Therefore, if you are organising a multi day event the exemption should only be in place whilst the event is in progress. For instance, a cycling competition held over two days with no competition overnight will require two orders, one for each day to permit public access when the course is not in use. A music festival providing camping over several days may need to exclude the public for a period of several days, including time to allow the organisers to set up equipment and clear up afterwards.

What information will the Council require?

Argyll & Bute Council will have to be satisfied that the proposed exemption is necessary and for an appropriate purpose, that the area of the exemption is no greater than necessary, and is for the minimum period necessary.

* Name and contact details of the applicant.
* The name, including a brief description, date and duration of the proposed order
* Where the same event has been held in the past it is helpful for us to know; agricultural shows may be held annually and we can update last year’s order and plan.
* Details of the location of the exemption. Either an address, or a six figure grid reference.
* A location plan at 1:25,000 showing the extent of the area of land to be exempted is required. The boundaries must be marked with a red line. If you need to know where there are Core Paths in the adjacent area please consult the “Where to Go Outdoors Map” <https://www.argyll-bute.gov.uk/where-go-outdoors>
* Name and contact details of the landowner.
* Brief details of the nature of the event and the purpose of the exemption;
	+ To charge for admission
	+ To provide for security and safety during
	+ To provide privacy for more than a few hours
* Supporting information, including details of public access in the excluded area.
* Details of any proposed measures to provide for access during the period of the exemption, for instance by providing and signposting path diversions around the site, or giving directions to alternative area access.

How long will it take to process an application?

* Applications to exempt land for fewer than 6 days should normally be made at least six weeks in advance. The Council will endeavour to process applications received at shorter notice, but this cannot be guaranteed.
* Applications to exempt land for 6 days or more require a formal consultation period, after which they must be confirmed by Ministers. Applications for such exemptions should normally be made at least 28 weeks in advance.

Application Fees

Applications for 0 – 5 days: free

Applications for 6 days to 2 years:

a) Administration costs: £100.00

b) Fees for public notices in newspaper:

(i) initial notice of proposed order: £96.30

(ii) final notice of confirmed order: £117.07

Cheques should be made payable to Argyll and Bute Council.

What happens next?

Once the Council receives your application, it will be checked to ensure that it has been completed correctly. If it is not complete, it cannot be processed and we will write to tell you what you must do. If your application is complete, you will receive an acknowledgement letter within 5 working days.

For Exemption Orders of 5 days or less, your application will be determined within 21 days. Once a decision has been reached you will be informed of the outcome of your application. If approved, the decision will be publicised on the Council’s website, and you will be sent a Decision Notice, a copy of the Order and an accompanying map. Copies of the Order and map will have to be displayed at the boundary and main access points of the exempted area for the duration of the event. The Council may undertake spot checks to ensure that this is complied with.

If your application is refused, you will be sent an email explaining the reason.

For Exemption Orders of 6 days to 2 years, the Council has to undertake a statutory consultation process where people will have 21 days in which to examine and comment on your application. The officer dealing with your application will also contact you for a more detailed discussion. After taking all objections and representations into account, the Council will make a recommendation to Scottish Ministers. The Scottish Executive will then make a decision, and it is not possible to predict how long this will take. If the Ministers consider it necessary, they can require a Public Inquiry to be held before coming to a decision.

Following Confirmation of the Section 11 Order

Once a decision has been reached you will be sent a letter informing you of the outcome of your application. If approved, the decision will be publicised on the Council’s website. If your application is refused, you will be sent an email explaining the reason.

Notices - You will be sent a Decision Notice and an accompanying Map by email, copies of which have to be displayed at the boundary and the main access points to the exempted area for seven days before to forewarn local people and for the duration of the event. The Council may undertake spot checks to ensure compliance.

You should ensure that notices are still in place on the day of the event and that any marshals are aware of the restrictions on public access, have a copy of the notice available and are able to contact the event organiser if challenged. Marshals should always be cordial and where appropriate exercise discretion and common sense in dealing with the public.

Publicity - You must also endeavour to publicise the notice locally through the media, social media and businesses. The extent to which this is required will depend upon the location and type of event. For instance for an annual agricultural show with no paths crossing the site will not be expected to do anything other than erect the notices. A rally event held over multiple sections of forest road over the course of a weekend will need to ensure that there is wide publicity of the areas affected, the days and times of the closures. This should if possible include information posted on websites used by visitors, links placed on appropriate social media and information provided to local visitor centres and larger accommodation providers.

Top Tip – It is now possible to purchase plastic paper that is suitable for laser or inkjet printers. It is waterproof, tough, quicker and easier to use than laminating notices for outdoor use. Search for Waterproof Paper and ensure that it is suitable for the type of printer you will use.

If you would like information in another language or format, please ask us.

**Privacy Notice**

**What information do we need?**

Argyll and Bute Council will act as the ‘Data Controller’ for the personal data you provide to us. The Data Protection Officer, who is responsible for ensuring personal data is managed in accordance with data protection legislation, can be contacted as follows:

Address: Iain Jackson, Governance and Risk Manager, Argyll and Bute Council, Governance and Law, Kilmory, Lochgilphead PA31 8RT.

Email: Iain.Jackson@argyll-bute.gov.uk or data.protection@argyll-bute.gov.uk

Telephone: 01546 604188 or 01546 605522

The information we collect from you will include details such as your name, address, e-mail address, phone numbers and job title. However, in some cases we may need to ask you for more personal information, which is described in the legislation as Special Category Data, or sensitive personal information.

Unless specifically agreed with you, we will only collect personal data about you, which does not include any *special categories* of personal information about you (also known as ‘*sensitive personal data’)*.

**Why we need this information?**

You are giving us your personal information to allow us to process applications for planning permission, conducting all related statutory and enforcement actions in relation to these applications including public consultation and comment.

We need to know this information in order to:

* To provide you with the services we provide
* To provide you with the services you have requested
* To verify your identity where required,
* To contact you by post, email or telephone *and*
* To maintain our records

If you do not provide this information then we will be unable to provide those services to you. We will not collect any personal data from you that isn’t needed for delivery of those services.

Our **legal basis** for processing your information is:

* Legal obligation – in relation to our Statutory Duties processing is necessary for compliance with a legal obligation under
	+ Land Reform (Scotland) Act 2003
	+ Associated Regulations and orders
	+ Public tasks – in relation to actions in the public interest under our statutory powers under these acts i.e. enforcement.

**Privacy Notice**

**What we will do with your information?**

In order to provide this service Section 11 Order applications will be recorded on the public registry and will be accessible via the Argyll & Bute Council public access database with the exception of signatures, email addresses and phone numbers.

Enforcement actions will remain confidential unless the outcome of such results in decision of public interest wherein it may be added to the public record.

*When you make a comment on a planning application, your comments are recorded for that application, and are made available online to the public with your name and address as supplied.  Personal phone numbers, email addresses and signatures will not be displayed.*

In order to provide this service(s), we will share your information with the service categories of organisations listed below for the purposes specified

* The Scottish Ministers / Directorate for Planning & Environmental Appeals in the event that an objection is made to the Draft Section 11 Order.
* Regulatory and law enforcement bodies in compliance with legal obligations
* Other Council services to help us improve our services, including Building Standards & Development Control.

**UK or International Data Processing**

All of the information we collect from you will be processed by staff in the United Kingdom. You should be aware however that your data will be stored on servers located in within the United Kingdom; the data will not be processed outside the European Union. We will take all reasonable steps to ensure that your data is kept securely and more information on how we do this can be provided by the Data Protection Officer if required.

**How long will we keep your information?**

We will usually keep your information for a minimum of 25 years, after this period it will be destroyed under secure arrangements if it is no longer required for the lawful purpose(s) for which it was obtained. More information on our retention schedule can be provided by the Data Protection Officer if required.

**Automated Decision Making**

There are no Automated Decision Making systems used for any of the purposes identified above.

**Your Rights**

When you provide information to the Council, you will have the following rights:

* to withdraw consent at any time, where the lawful basis specified above is consent
* to lodge a complaint with the Information Commissioner’s Office – see below for details
* to request access to your personal data – please contact the Data Protection Officer if you wish to submit a request.
* to data portability, where the Legal basis specified above is i) consent or ii) performance of a contract
* to request rectification or erasure of your personal data, as far as the legislation permits – please contact the Data Protection Officer and provide details of what data you wish to be rectified or erased.

You can find out more about your rights in relation to data protection here: [www.argyll-bute.gov.uk/data-protection](http://www.argyll-bute.gov.uk/data-protection) or from the Data Protection Officer by telephone or in writing, as detailed above.