

Road (Scotland) Act 1984

Interpretation (Clause 151)

Road - any way (other than a waterway) over which there is a public right of passage (by whatever means) and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes;

Public Road - a Road which a Roads Authority have a duty to maintain.

Private Road - any Road other than a Public Road.

Carriageway - a Road where the public right of passage includes such a right by vehicle, other than a right by pedal cycle only.

Footway – a Road where the public right of passage is by foot only, and where it is associated with a carriageway.

Footpath - a Road where the public right of passage is by foot only, and where it is not associated with a carriageway.

Cycle Track - a Road where the public right of passage is by pedal cycle only, or by pedal cycle and foot only.

Exemptions - there are some exemptions from the definition of a road. The Land Reform (Scotland) Act 2003 (section 5(6)) stops access rights from being considered a public right of passage in terms of the Roads (Scotland) Act 1984. This means that a core path or any path/track across land to which access rights apply is not covered by either the public road or private road definitions above.

The Roads (Scotland) Act 1984 itself excludes three types of routes from being defined as a road (section 151(3)).

1. Footpaths created by a public path agreement under section 30 of the Countryside (Scotland) Act 1967.
2. Footpaths designated as long-distance routes under section 40(1) of the Countryside (Scotland) Act 1967.
3. Paths and tracks across land owned and managed by local authorities and used for recreational, sporting, cultural or social activities under section 14 of the Local Government and Planning (Scotland) Act 1982.

In all four of these exemptions above there is a public right of access, but it is provided by a different piece of legislation.

A local authority is only under a DUTY to maintain public roads, but it does have a POWER to maintain private roads, core paths, rights of way, long-distance routes. Whether it chooses to exercise its powers will depend upon the budget available to it and the priorities that it has set for its area.