

Top 10 Tips – For if you own land

Supplied by: Robinson & Hall



Robinson & Hall, Land and Property Professionals detail the top 10 considerations if you own land..... We fully appreciate that the amount of paperwork which comes with land ownership only ever seems to increase. Whilst we don't want to add to this burden, there are things which, if considered early, can save significant costs in the long term. We frequently come across small but costly mistakes which a landowner has made which could easily have been avoided. We thought it would be useful to highlight a few of these issues to try to prevent others making the same mistake in the future.

1. Grazing land and Basic Payment Scheme

There are many arable farmers who have a small area of pasture and rather than have some stock to graze it themselves they allow a local livestock farmer to graze the land on a short term basis. If the landowner claims this land for the Basic Payment Scheme, unless there is a written grazing agreement the RPA will consider the livestock to be the responsibility of the landowner. The landowner will not hold the records for the livestock and will therefore be deemed to have breached the cross compliance regulations and will likely receive a minimum fine of 3% of the BPS payment for that year. Whilst the income from the grazier may be minimal, the cost of a formal grazing licence is also small and could save a large BPS penalty in the future.

2. Providing accommodation to agricultural workers

It is important to have a written tenancy agreement for any residential tenant but for an agricultural worker it is vital they have a written agreement and are served with a notice in the statutory form, stating that the tenancy is an Assured Shorthold Tenancy. If this notice is not served prior to the start of the tenancy it will become an Assured Agricultural Occupancy and the tenant will gain lifetime security of tenure.

3. Letting buildings or land for business use

Most farms have a building which is no longer needed for agricultural purposes. Some extra income can be earned by allowing someone to use the building for storage or as a workshop. However, if they are running a business from the building (no matter how informal that business may be) their occupation will fall under the Landlord & Tenant Act 1954. Under the Act the tenant will have security of tenure unless the landlord has served a notice contracting out of the security of tenure provisions. Failure to serve the required notice will severely limit a landlord's ability to regain possession of the building from the tenant.

4. Equestrian tenants

We would always advise having a written tenancy agreement where land is used for grazing horses. This enables both parties to understand their rights and responsibilities and clearly defines the options for termination of the agreement. It also should detail the deposit which is paid by the tenant should they leave the land in a poor state at the end of the agreement.

5. Cross compliance

For those who claim the Basic Payment do not forget that, even following the Brexit result, cross compliance still applies. Common failures are:

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- Not maintaining the uncultivated strip besides hedges and ditches.
- Breaching the closed period for tree and hedge cutting.
- Keeping NVZ records.
- Livestock movements and ear tags.

If you have a BPS inspection, a cross compliance failure will result in a minimum penalty of 3% of your annual claim.

6. Basic Payment Scheme - greening

We have had a number of calls this autumn from people whose oilseed rape has failed. Before drilling a spring crop in its place, make sure that you will still be able to comply with the Crop Diversification rules of the Basic Payment Scheme for 2017.

7. Rights of way

A member of the public can claim a route as a public right of way if they use it for in excess of 20 years without permission, force or secrecy. With cross compliance and stewardship margins around fields it is increasingly easy for the public to access agricultural land. Make sure you know who is using your land. There are steps that can be taken to reduce public access but this is always a contentious subject in local communities so we would advise seeking advice before taking any action.

8. Make a will

It may seem depressing to consider your own mortality but making a will and, equally importantly, keeping it up to date can save your family a significant amount of time and money in the future. The nature of farming businesses means that an individual's home is often also the business premises and if this is to be passed to the next generation it needs to be planned for. Making a will and planning for Inheritance Tax can never happen soon enough.

9. Wayleaves

Do you have electricity cables crossing your land? If so you are entitled to payment by the electricity company for having the apparatus on your land. The payments are not large but over the years they add up.

10. Partnership agreement

Whilst it is not a legal requirement to have a written partnership agreement, it is certainly advisable to do so. Even if you have one it is important to ensure it is reviewed and updated regularly.

Robinson & Hall have touched on the issues briefly above but if you would like further information on any of these points or to find out how our Rural Property & Business department can help you please call Polly Sewell, Partner & Rural Surveyor on 01234 362933 or email pkts@robinsonandhall.co.uk

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