

# Advice on Riding on cropped land in Scotland

Cropped ground is an essential part of the working farmed landscape in much of lowland Scotland, and in crofted parts of the Highlands. The crops which this ground produces are essential to farm/croft income, and to feeding livestock through the following winter. Access rights under the Land Reform Act include field margins, stubble and unsown ground, but horse riders and carriage drivers need to take particular care in exercising these rights to do so responsibly.

The notes which follow have been produced by BHS Scotland to help clarify exactly where you can ride across and around cropped land in Scotland. Crops are taken to include cereals (such as wheat and barley), vegetables (such as potatoes, turnips and cabbages), fruit (such as strawberries and raspberries) and grass being grown for hay or silage beyond ankle height. Trees and other horticultural crops also fall under the definition of crops.

**Fields in which crops have been sown or are growing are excluded from access rights because of the high risk of damage. However, you can ride around the margin of cropped fields, on any unsown ground, on field headlands and on paths and tracks through cropped fields, provided you can do so without causing undue damage to the crop or the ground. Access rights usually apply to stubble following harvest, provided it is not undersown.**

## **Legal context for riding across or around cropped land**

The Land Reform (Scotland) Act 2003 defines crops as “plants which are cultivated for agricultural, forestry or commercial purposes”.

Fields of any growing crop are excluded from access rights but the Scottish Outdoor Access Code states quite clearly that horse-riders, as well as other access takers, can exercise their access rights around the edge (or margins) of fields in which crops are growing, even if the margin has been sown with a crop. Grass grown for hay and silage is regarded as a crop when newly sown or when it reaches above ankle height (about 20cm), when it is far more susceptible to damage. Access rights can be exercised across fields of stubble and fields where grass is grown for hay or silage before it reaches ankle height. You also have a right to walk, cycle or ride around the edge of the field regardless of stage of growth, provided you do so responsibly.

Horse riders are responsible for doing whatever necessary to minimise any damage or disturbance wherever they are riding – including areas such as crop margins or field headlands. BHS (Scotland) has issued the following guidance to help riders, based on the Scottish Outdoor Access Code.

### How do I recognise cropped land?

**Cereal crops** are sown either in autumn (e.g. winter barley, oilseed rape) or in spring (e.g. spring barley). A field that has recently been sown usually shows signs of cultivation: the surface will look smooth, much like a freshly raked vegetable patch. Small green shoots will appear shortly after sowing. Cereal crops are ready to harvest from late July onwards with crops sown the previous autumn ready first.

**Vegetable crops** are usually planted in spring, with a wide margin left around the outside to accommodate the large crates used to transport seedlings to the field and take the harvested crop away in the autumn. The prepared seedbed will look much like that for cereals, and the small green seedlings will be apparent from planting.

**Grass being grown for hay and silage** will usually have thick, long grass, and animals will have been excluded from grazing. “A late stage of growth” – during which access rights do not apply – is taken to be when the grass is about 8” or 20 cm long (as a rule of thumb, ankle deep).

### Advice on exercising access rights on cropped land

Sections 3.28 and 3.36 of the Scottish Outdoor Access Code spell out your responsibilities in exercising access rights on cropped land. When exercising access rights, riders should avoid causing unnecessary damage by:

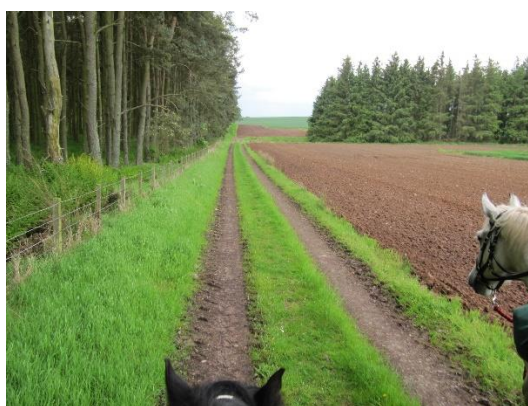
- Using any paths or tracks.
- Keeping a safe distance and taking heed of reasonable advice provided by the land manager to ensure that you do not interfere with any land management operations such as ploughing, harvesting, mowing, tree planting, fencing, dyking.
- Keeping to the edge of the field. If there is no gap between the crop and hedge, fence or dyke, or if the field margin is narrow, keep close to the edge.
- Learn to recognise crops in all stages of growth.
- Ride along any unsown ground (providing this does not damage the crop).
- Ride or lead your horse in single file.
- Follow any precautions provided for your safety where crops are being sprayed, or have recently been sprayed with pesticides.
- Consider using parallel or alternative routes on neighbouring ground.

Riding or carriage driving through grass fields being managed for hay and silage, even at an early stage of growth, can churn up the surface and risk contaminating the crop, which can make it

indigestible for livestock. Horseshoes which might be lost going across the field can also damage machinery. To avoid these risks, horse riders and carriage drivers should keep to paths or tracks through such grass fields, regardless of stage of growth.

**Remember to take account of weather and ground conditions. The wetter the ground, the stickier the soil, and the greater the number of riders, the more easily damage is likely to result, so the more careful you need to be. Where possible, find an alternative.**

*Keep to paths and tracks around the edge of crops where possible*



*Access rights apply around field margins even if the crop has been planted up to the field boundary. Riders should keep to the edge to minimise risk of damage to the crop.*



Watch out for bird scarers, which are designed to frighten birds away from eating newly sown seed, usually in spring, but may inadvertently frighten horses. BHS promotes the NFU Bird Scarers Code of Practice: <https://www.nfuonline.com/news/latest-news/download-our-bird-scarers-code-of-practice/>





### **Conservation headlands, beetle banks and land being managed as Environmental Focus Areas (EFAs)**

For some years farmers have been offered financial incentives to establish and sympathetically manage strips or areas of land for the benefit of wildlife. Recent reform of the Common Agricultural Policy introduced a series of “greening measures” aimed at delivering environmental and climate benefits. As part of these measures, as from 2015, all farmers growing more than 15 ha of arable land are required to manage at least 5% of their cropped land as Ecological Focus Areas (EFAs). In Scotland farmers can choose to meet this commitment in the form of fallow land, buffer strips, field margins, catch crops, green cover or nitrogen fixing crops.

The fact that land is being managed in the interest of conservation does not over-ride the right of responsible access established by the Land Reform (Scotland) Act 2003. Moreover, Scottish Government has confirmed that in its view, the greening requirements do not conflict with access legislation. The usual access rights and responsibilities apply to all EFA options, as well as to permanent grassland and all other cropped ground. Responsible exercise of access rights along strips left around the margins of crops, between fields or cropped areas, or around the edge of cropped EFAs is acceptable as long as care is taken to avoid damage to the conservation benefit of the margin. There is a long established principle that payment will not be withheld because of any path having been formed by people exercising their legal access rights, whether on foot, cycle or horseback. Farmers are obliged to control injurious weeds, and are not allowed to crop EFAs, but there is nothing in the greening rules to preclude maintenance, or to suggest that ‘damage’ due to public access would incur any penalty or greening payments being withheld.

Farmers who are concerned that public access might adversely affect the conservation benefits of the EFA or other type of margin have been advised by Scottish Government to provide an alternative mutually acceptable route, or to erect signs asking people to keep to the edge or the strip or margin.

Signage templates are available from <http://www.outdooraccess-scotland.com/default.asp>; together with guidance on careful use of signs to avoid unjustifiable restrictions on access, for example erection of signs only for a limited period when ground nesting birds are most liable to disturbance.

During resultant discussion at the National Access Forum, Scottish Rural Payments and Inspectorate Division urged all land managers to continue to cooperate on responsible public access. BHS recommends that any riders challenged by land managers concerned about payment conflict should seek written reassurance from their local SGRIPD office on this matter.

If you need further advice on equestrian access in Scotland, contact your local BHS access representative (see [www.bhsscotland.org.uk](http://www.bhsscotland.org.uk) for contact details) or Helene Mauchlen, national manager for BHS Scotland Tel. 01764 656334 or email [Helene.Mauchlen@bhs.org.uk](mailto:Helene.Mauchlen@bhs.org.uk).

For guidance on equestrian access in England and Wales, contact Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton Lane, Kenilworth, Warwickshire CV8 2XZ. Telephone 02476 840581. Email [access@bhs.org.uk](mailto:access@bhs.org.uk).

**IMPORTANT** This guidance is general and does not aim to cover every variation in circumstances. The Society recommends seeking advice specific to a site where it is being relied upon.