



This document outlines the circumstances in which land which would otherwise be accessible under CRoW is classed as “excepted” and access rights do not apply.

Part I of the Countryside and Rights of Way Act 2000 (the CRoW Act) introduced a new public right of access on foot in Wales to land that is:

- shown as open country (land which is wholly or predominantly mountain, moor, heath or down) on Conclusive Maps produced by Natural Resources Wales;
- finally registered common land shown on Conclusive Maps produced by Natural Resources Wales;
- Dedicated as CRoW land under Section 16 of the CRoW Act.

The types of land that are excepted are listed in bold below. The guidelines below each type of land do not provide an authoritative interpretation of the legislation, which is a matter for the courts. In addition, these guidelines provide only a very broad outline of the legislation. If in doubt, people should consult the CRoW Act, especially Schedule 1.

### **The Categories of Excepted Land**

#### **Land covered by buildings or the curtilage of such land.**

The term “building” (which is defined in paragraph 12 of Schedule 1) includes most types of structure, including moveable ones like tents and caravans.

The term “curtilage” is not defined, but it generally means a small area, forming part and parcel with the house or building to which it is attached. In most cases the extent of curtilage will be clear: typically, an enclosure around a dwelling containing a garden, garage and side passage; a walled enclosure outside a barn, or a collection of buildings grouped around a farm house and farm yard.

#### **Land within 20 metres of a dwelling.**

Typically a dwelling is a building where people live. 20 metres is approximately 60 feet, or the length of a tennis court.

#### **Land used as a park or garden.**

As well as municipal recreation grounds or play areas, the term park may include the landscaped grounds around a house, such as a country house. A park may include ornamental gardens, water features or other man-made scenic vistas. A garden is usually enclosed land near a building. It typically includes areas of lawn, flower borders and other cultivated plants.

#### **Land used for the getting of minerals by surface working (including quarrying).**

This includes all types of working quarries and also sites used to extract peat commercially.

#### **Land used for the purposes of a railway (including a light railway) or tramway.**

This includes working railways or tramways. Other land used for purposes related to a railway or tramway (e.g. railway embankments and marshalling yards) is also excepted land.

**Land used for the purposes of a golf course, racecourse or aerodrome.**

A golf course includes the clubhouse and other buildings, car parks, practice areas and playing areas such as greens and fairways.

In most cases racecourses will be fenced, signed and easily recognisable.

Many aerodromes will be securely fenced. Some will be less formal and less well used, but the new right of access does not apply even to small unfenced airstrips when they are in use.

**Land which does not fall within any of the preceding categories and is covered by works used for the purposes of a statutory undertaking or a telecommunications code system, or the curtilage of any such land.**

The term “statutory undertaking” is defined in paragraph 14 of Schedule 1 and covers a wide range of undertakings including the provision of transport, the supply of energy, and of water and sewerage.

Works include electricity substations, reservoirs and telephone masts and also temporary public works, such as trenches.

**Land as respects which development which will result in the land becoming land falling within any of the above is in the course of being carried out.**

If land is in the process of being developed for one of the uses set out above, it is also excepted land.

**Land within 20 metres of a building which is used for housing livestock, not being a temporary or moveable structure.**

The work “livestock” is defined as cattle, sheep, goats, swine, horses or poultry.

**Land covered by pens in use for the temporary reception or detention of livestock.**

This category covers temporary accommodation for livestock, rather than permanent buildings.

**Land habitually used for the training of racehorses.**

This would traditionally comprise of training gallops. The land is only excepted land between dawn and midday on any day, and at any other time when the land is in use for that purpose.

**Land the use for which is regulated by byelaws under section 14 of the Military Lands Act 1892 or section 2 of the Military Lands Act 1900.**

This includes most Ministry of Defence (MoD) training areas. This land will usually be signed with danger warnings and may sometimes be fenced. Although the new right of access does not apply to this land, there may be access managed by the MoD. People should check with the MoD before setting off to walk in such areas.

**Land on which the soil is being, or has at any time within the previous twelve months been, disturbed by any ploughing or drilling undertaken for the purposes of planting or sowing crops or trees.**

Ploughing includes agricultural or forestry operations which are similar to ploughing. Similarly, drilling includes agricultural or forestry operations which are similar to drilling.

Where other access rights exist, for instance, public rights of way, these will continue to apply.