



## Buying land for a vineyard

**Purchasing land for a vineyard can be an exciting investment opportunity, however, it is likely to involve more complex legal and financial considerations than the typical property transaction. To protect your investment and ensure a smooth acquisition, it's essential to understand the legal nuances involved in buying and operating a vineyard. Here's a breakdown of the key considerations:**

### **1. Land Acquisition and Title Review**

One of the first steps in purchasing a vineyard is conducting due diligence on the property itself. Arguably, the most important part is identifying land suitable for planting vines. Such land is rare, making it considerably more valuable than ordinary bare land. After the initial significant financial outlay, it is worth remembering that vines can take between five – eight years to reach their full productivity. You need to have deep pockets and patience!

Unlike standard residential or commercial real estate, vineyards must meet specific agricultural criteria. This involves assessing the soil quality (soil fertility is a critical factor), climate (due

to the Gulf Stream, vines near the coast are particularly productive as the climate there is significantly milder and drier), the slope (south facing is best) and water resources (think irrigation), all of which are essential for grape production. It's crucial to verify that the title is free of encumbrances, covenants or rights of way that may limit vineyard operations. Some properties may have historic rights attached to them, such as the right for local farmers or residents to access certain resources which could negatively affect your operations.

### **2. Environmental Compliance and Conservation Laws**

Vineyards are subject to environmental and conservation laws, particularly if located within designated areas like National Parks or Areas of Outstanding National Beauty (AONBs). Farming practices must comply with sustainability guidelines, which may include restrictions on pesticide use, soil conservation and water management. Depending on the vineyard's location, additional permissions from Natural England or the Environment Agency may be required.

### **3. Planning Permission and Zoning Laws**

It's important to assess whether the property's land use classification supports your planned activities. Vineyards generally fall under agricultural zoning, but if you plan to expand or build additional structures on site, such as tasting rooms or event spaces, you may need to obtain planning permission from the local

planning authority. Most local authority planning departments are currently very stretched, so this could be a lengthy, as well as a costly, undertaking.

### **4. Business Structures and Tax Considerations**

How you financially structure your vineyard purchase can affect your taxes and liabilities in various ways. It is therefore essential that you structure the vineyard business correctly to be as tax efficient as possible and maximise your protection against any liabilities. Your options include establishing a limited company or partnership, each with specific tax implications. Vineyard operations may qualify for certain agricultural reliefs under the Agricultural Property Relief (APR). It is therefore always prudent to consult an accountant with expertise in agriculture and viticulture to understand and implement the best business structure for your vineyard purchase.

Buying a vineyard is a rewarding but complex process requiring a keen understanding of agricultural, environmental and business law issues. By consulting legal and other professionals in these areas, before committing to any transaction, you can make an informed purchase and safeguard your investment. This will also allow you to focus on what truly matters to you: producing quality wine and enjoying your vineyard.



# Vineyard Safety Reminder

In 2023-24 the HSE promised **440 proactive inspections across agriculture**. It is worth considering how your business would perform on such an inspection and remembering that vineyard work, like farming, is high risk. Although agriculture only employs 1% of the UK workforce, it is responsible for 18% of workplace deaths (HSE 2021-2022).

Here are some example fines against farm businesses with “micro” turnovers (under £2 million):

#### **Maurice Mason**

£50,000 plus £22,000 costs - death in silo during cleaning.

#### **Toft Partnership**

£60,000 plus £29,417 costs - fatal roof fall. The farm manger involved was responsible for health & safety, but his employer should have done more to raise awareness of safe working practices.

#### **Lincoln Proteins**

£66,000 plus £25,286 costs - fatal entrapment between vehicles (£8m turnover).

In **medium** turnover businesses (£10-£50 million) the fines go up;

#### **WL Duffield**

£50,000 plus costs after worker lost finger in valve with missing cover (£40m turnover).

Courts look at culpability. There is a huge difference in fines for “low” or “high” culpability, especially when you get to medium turnover where the starting point fine is £130,000 for “low” and jumps to £950,000 for “high”. Businesses must therefore eliminate the high culpability behaviours for example:

- Ignoring standards;
- Breaches over a long period of time; and
- “Systemic” failings.

And demonstrate the “low” ones:

- H&S procedures exist and are followed;
- Recommendations are implemented; and
- Near misses and breaches are picked up and lessons learned.

To achieve this, a good start is to refresh the H&S Policy, which businesses are required to have by law. Check it is fit for purpose. Make sure it says who does what and includes regular reviews. The HSE will be unimpressed if not. A policy is no good without living, practical systems for implementing H&S on the ground and that means managing it just like anything else in your business - see Managing for Health and Safety (HSG65) and Leading Health and Safety at work (INDG417) (rev 1) and the Farm Safety Foundation website.

These will help you to:

- Identify risks and training needs;
- Ensure requirements like first aid training or reporting of injuries under RIDDOR 2013 are not overlooked;
- Plan what you and your team would do in the event of an incident; and
- Reduce your exposure to the demoralising, costly, time consuming and sometimes tragic consequences of an accident at work – and lesser but troublesome consequences like an HSE Fee for Intervention, Improvement or Prohibition Notice, even where there hasn't been an accident.

On a positive note, good H&S management is shown to improve profits and productivity (Business benefits of good H&S – Britsafe) and the Aviva 5<sup>th</sup> Health of the Workplace Report says employees work harder for an employer who invests in their health.

For H&S compliance issues, we can help point you to independent H&S consultants and resources. If you face enforcement or investigation early legal advice is important and we can help.

# The new Employment Rights Bill

The highly anticipated Employment Rights Bill was published in October 2024, and it sets out the new Government's plans and its ambition to "make work pay" which is likely to come into force in 2026. The proposed changes to employment law will affect all businesses, but some of the proposals will have a greater impact on those sectors who require a more flexible workforce – notably the drinks and hospitality sectors.

Businesses in these sectors will be affected by the new restrictions on the use of zero hours contracts.

We await the details of how the new restrictions on the use of zero hours contracts will work in practice and they are subject to consultation and further change.

Whilst a ban on zero hours contracts isn't yet taking place there are significant changes being proposed around working hours.

## A requirement to offer guaranteed hours for staff

Employers will be required to make an offer of guaranteed hours to a qualifying worker at the end of every reference period which is expected to be 12 weeks. A qualifying worker will include workers who are engaged on a zero hours contract and those with a low number of guaranteed hours.

We don't yet know what amounts to "low hours" but the offer must reflect the hours worked during the reference period.

There are going to be exceptions, so an offer of guaranteed hours can be on a fixed term basis due to periods of high demand or at busy times of the year.

A worker who isn't offered guaranteed hours may be able to bring a claim in the employment tribunal so it will be important to review future needs and plan accordingly.

## Rights to be given reasonable notice of shifts and changes to them

All employers will be required to provide reasonable notice to workers of the shifts they will be working and changes to shifts. Reasonable notice will be dependent on the circumstances and employers will be obliged to compensate staff where changes are made at short notice and calculated in a way that is proportionate to the change.

Businesses might more broadly need to review their own terms and conditions to reflect costs that they may incur due to customers

cancelling and changing plans so that these costs can be recovered from them rather than incurred by the business.

Businesses that have genuine changes in staffing needs from one day to the next, will find it harder to respond to and manage these employment changes.

In situations where an offer of guaranteed hours is accepted, the worker will be entitled to be offered that level of work, whether it is available or not. Changes at short notice to working hours will come at a cost for some business owners and they may have too many staff and risk incurring significant costs where shift changes are needed at the last minute.

## Other considerations of the Bill

Employers who want to make redundancies will in the future need to carefully manage the process as the right to claim unfair dismissal will apply from day one. Also, an employee will be considered to have been automatically unfairly dismissed if the principal reason for dismissal is because they previously accepted guaranteed hours.

Businesses should start to prepare for how the changes will impact on them which may include:

- ✓ Auditing your workforce and where you rely on zero hours workers.
- ✓ Determine which of your workers would be entitled to an offer of guaranteed hours under the new rules.
- ✓ Look at your business and where you have fluctuations in demand and whether you can use fixed term contracts to address this or agency workers as the new rules won't apply to them now.
- ✓ Review your approach and processes for managing of shifts and consider changes to customer contracts so that the cost of cancellations can be recovered.

If you need help navigating the new employment bill and how it will change the management of your workforce, get in touch with our team.

# Vineyard Licensing



**Wine growing is still a growing sector in England and Wales with another year-on-year increase in the amount of land now planted with vines, and it's still a popular area for landowners to diversify into. If you are planning on going a step further and opening a vineyard to sell wine directly to the public, what are the key licence considerations you need to think of?**

Before you do anything, you will firstly need to contact your local authority Trading Standards office to find out if you need a retail licence to trade in wine in the UK. There are also very strict rules governing how wine is made and labelled which can be found at [www.gov.uk/guidance/wine-trade-regulations](http://www.gov.uk/guidance/wine-trade-regulations)

Next you will need to consider the Licensing Laws and how they impact on your plans.

If you are setting up a new business, buying an existing business, organising an event or considering a career in the licensed trade, you may need to apply for a licence and UK licensing laws, (the Licensing Act 2003) covers licensable activities including: the sale of alcohol, providing regulated entertainment and selling hot food at night.

Licensing Objectives include preventing crime, promoting public safety, protecting children from harm and preventing public nuisance.

There are also different types of licences to apply for and depending on the type of activity, one or more of these examples may be required:

- Premises licences
- Personal licences
- Temporary event notices

Licences are obtained from the Local Authority. There are different considerations depending on the type of licence and you should consider consulting a solicitor to advise or assist. Failure to obtain the relevant licence(s) could have a significant impact on the business, individual, organisation or client including criminal prosecution. If a licence is refused, your solicitor can advise on appealing the decision.

It is also important to consider any changes which may need to be made to an existing licence.

Given the Licensing Laws and the importance of making sure you have the correct licence(s), you should consider taking legal advice in good time of opening any new venture or implementing any changes.

## CONTACT

If you would like any additional information on any of the subjects discussed in this newsletter please do not hesitate to contact us.



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