

Utility companies and rights over third party land

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This information sheet considers the rights of different utility companies to lay pipes, wires, drains, cables etc. through land owned by third parties in order to provide residential premises with utilities.

Water and sewerage companies

Water and sewerage companies are given rights under the Water Industry Act 1991 to enable them to fulfil their duties.

Duties

The duties of a water company include:

- a duty to develop and maintain an efficient and economical system of water supply; and
- a duty to make a connection to a water main for domestic purposes when asked to do so by the owner or occupier of a building or person proposing to erect a building.

The duties of a sewerage company include:

- a duty to provide, improve and extend a system of public sewers; and
- a duty to provide a public sewer or lateral drain for domestic purposes to premises when requested to do so by an owner or occupier.

Rights

A water company has rights to lay a water main, resource main, discharge pipe or service pipe under or over any land, not being a street, and to keep it there and to

inspect, maintain, adjust, repair or alter any such pipes.

However this right to lay pipes is limited and does not allow the water company to lay the pipe unless

- there is already a service pipe where that pipe is to be laid; or
- the water company is required by the Water Industry Act to lay that pipe in, on or over that land. These circumstances are limited and include:
 - where the water main with which the service pipe is to be connected is situated in a street, the building abuts the street and the service pipe to that building will enter the premises otherwise than through an outer wall abutting on to the street and will have a stopcock fitted to it - the water company can lay the service pipe in land between the boundary of the street and the stopcock;
 - where the water main is alongside a street and within 18 metres of the middle of that street - the water company can treat that land as if it was part of the street (i.e. not private land)

A sewerage company has rights to lay a sewer, disposal main or lateral drain under or over any land, not being a street, and to keep it there and to inspect, maintain, adjust, repair or alter any such sewer, main or drain.

Both water and sewerage companies have rights to lay pipes and drains in, under or over any street and to keep them there and to inspect, maintain, adjust, repair or alter any such pipes or drains.

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Notice

Before a water or sewerage company can exercise its power to lay pipes or drains, reasonable notice must be given to the owner and occupier of the land. For laying new pipes the minimum period of notice is three months. For altering existing pipes the minimum period of notice is 42 days.

Compensation

Where the value of any interest in the land, or land held with that land, depreciates as a result of the works, then the persons entitled to the interest are entitled to compensation from the water or sewerage company to the amount of the depreciation.

Electricity companies

Electricity companies are given rights under the Electricity Act 1989 to enable them to fulfil their duties.

Duties

The duties of an electricity company include a duty to develop and maintain an efficient, co-ordinated and economical system of electricity distribution.

Rights

If consent for the electricity company to install and keep installed an electric line on, under or over third party land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the electric line ("wayleave") cannot be obtained through negotiation with the owner or occupier of the land, the electricity company can apply to the Secretary of State for the grant of a wayleave.

Requirements

Before applying to the Secretary of State:

- the electricity company must have given notice to the owner or occupier requesting the grant of the wayleave within a period of not less than 21 days;
- the owner or occupier must not have given the wayleave or have given the wayleave subject to terms and conditions to which the electricity company objects.

The Secretary of State will give the owner or occupier an opportunity to put forward their views.

Limitations

The Secretary of State will not order a wayleave to be granted for overhead lines where the land is covered by a dwelling.

Compensation

The owner and/or occupier may recover compensation in respect of the grant of the wayleave.

Gas companies

Gas companies are governed by the Gas Act 1986.

In contrast with an electricity company, a gas company does not have the right to apply to the Secretary of State for a wayleave.

Telecommunication companies

Telecommunication companies are governed by the Communications Act 2003.

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The Electronic Communications Code contained within this Act governs how telecoms companies can gain access to land for their networks but does not impose an express statutory duty to provide telecommunication services.

Generally the agreement in writing of the occupier of the land must be obtained to confer on a telecommunication company a right to carry out works for or in connection with the installation, maintenance, adjustment repair or alteration of electronic communications apparatus for the purposes of the company's network on that land.

Compulsory Wayleave

Where the owner or occupier's consent cannot be obtained, the company may give notice of the right and the agreement required. If, after 28 days agreement has not been given, the company may apply to the County Court for an order conferring the proposed right and dispensing with the need for agreement of that person.

The Court must make an order only if it is satisfied that any prejudice caused by the order is capable of being adequately compensated for by money or is outweighed by the benefit accruing from the order to persons whose access to a telecommunications system will be secured by the order.

The Court must have regard to all the circumstances and to the principle that no person should unreasonably be denied access to a telecommunications system.

Compensation

The terms and conditions of such an order must include terms:

- as to the payment of consideration for the granting of the agreement as it appears to the court would have been fair and reasonable if the agreement had been given willingly and subject to the other provisions of the order; and
- appropriate for ensuring that that person and persons from time to time bound by the rights to which the order relates are adequately compensated for any loss or damage sustained as a result of the order.

Compulsory purchase

The Secretary of State may authorise any of the utility providers to compulsorily purchase land required for the purpose of carrying out their duties or functions. In each case the law applying to compulsory purchase is extended to include the compulsory purchase of a right over land.

Further information

This information sheet has been prepared to highlight some of the key issues relating to rights of utility companies over third party land. It is intended to be for general guidance only and is not a substitute for specific advice. It is based upon our understanding of the law as at March 2019 and may be affected by subsequent changes to the law. For more information, please contact Sarah Easton on 01892 510000 or email at:

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