



Isle of Man
Ellan Vannin

WAYLEAVES BILL 2020

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Explanatory Memorandum

1. This Bill is presented by Mr Tim Baker M.H.K, on behalf of the Council of Ministers.
2. The Bill provides for the extended use of national infrastructure for telecommunications purposes in the national interest. It allows existing easements, consents or wayleaves for infrastructure to be used, where the means already exists, for the purposes of delivering telecommunication services without replicating or producing new agreements.
3. The Bill does not enable any statutory authority to build new infrastructure without agreement by the landowners and or occupiers of the land concerned, where the means to do so does not already exist.
4. **Section 1** gives the Bill its short title.
5. **Section 2** provides for the Bill to come into operation on a day appointed by the Council of Ministers.
6. **Section 3** provides an interpretation of terms used within the Bill.
7. *In particular, the Bill defines wayleaves so as to include consents and easements.*
8. **Section 4** allows wayleave agreements to be extended to include the use of associated infrastructure for telecommunication purposes.
9. Clause 4(1) describes which wayleaves can be relied upon for this legislation.
10. Clause 4(2) automatically allows a statutory board, its successors and or its sub-ordinates to use its existing wayleave agreements to facilitate the provision of new commercial telecommunications services.

11. Clause 4(3)(a) to (c) describes the uses that may be made of an existing wayleave in reliance on the clause.
12. Clause 4(4) provides that no further consent, agreement, formality, notice or payment is required for the statutory undertaking to use the infrastructure for which the wayleave applies for commercial telecommunications services.
13. Clause 4(5), qualifies Clause 4(4)(a) by requiring the statutory board to give appropriate notice to all persons likely to be affected by this change of use and to allow representations to be made by those persons in this regard. The notice must explain the effect of the change.
14. Clause 4(6) qualifies clause 4(4)(b) by allowing a landowner or tenant subject to an existing wayleave agreement to make representations under Part III of the Acquisition of Land Act 1984 if they feel that the existing compensation they receive is not adequate to reflect any additional use in reliance on the clause.

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A BILL to make provision for the application of wayleaves to uses in connection with communications; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1 Short title

The short title of this Act is the Wayleaves Act 2020.

2 Commencement

This Act (other than section 1 and this section) comes into operation on such day as the Council of Ministers may by order appoint.

3 Interpretation

In this Act—

“commencement” means the commencement of section 4;

“communications services” includes any service consisting of or relating to the transmission of messages, information and data of any kind (whether by the use of electrical, magnetic or electro-magnetic energy, or signals, or otherwise);

“infrastructure” includes any apparatus, structure, machinery, device and equipment (including, in particular, overhead lines, wires, cables, tubes, pipes and pipelines, fibres and fibre-optic equipment, conduits, ducts and anything connected to or associated with any of those things);

“loss” includes damage, inconvenience and any other matter in respect of which compensation could be awarded in accordance with Part III of the Acquisition of Land Act 1984;

“statutory board” means a body specified in Schedule 1 to the Statutory Boards Act 1987;

“use”, in relation to a wayleave, is to be construed in accordance with section 4(3); and

“wayleave” includes any consent granted in respect of the installation or keeping of infrastructure, whether granted by agreement, under an enactment or in any other way (including by easement).

4 Extension of wayleaves

- (1) This section applies where a wayleave has been relied upon by a statutory board (whether before or after commencement) in order to install or keep any infrastructure on, under or over land.
- (2) The wayleave may be used by the statutory board, or any other statutory board, for the purpose of the provision of communications services.
- (3) For the purposes of subsection (2) use of a wayleave means—
 - (a) using infrastructure which is installed or kept in reliance on the wayleave;
 - (b) accessing land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing infrastructure, or taking any other action of a kind that could be carried out in reliance on the wayleave;
 - (c) installing or keeping any infrastructure of a kind that is or may be required for the purpose of the provision of communications services.
- (4) Use of a wayleave in reliance on this section—
 - (a) does not require any additional consent, grant or agreement, or any other formality or notice;
 - (b) does not entitle any person to any additional payment (subject to subsection (6)); and
 - (c) is subject to any provision about compensation for damage or disturbance.
- (5) Despite subsection (4)(a), a statutory board intending to use a wayleave in reliance on this section must—
 - (a) take all reasonable steps to give reasonable advance notice to any person likely to be affected by use in reliance on this section;
 - (b) give any person likely to be affected an opportunity to make representations about the extent or manner of use of the wayleave in reliance on this section;
 - (c) include in the notice under paragraph (a) a statement of the effect of this section in general (and of paragraph (b) in particular);

but the lawfulness of anything done by virtue of this section is not dependent upon compliance with this subsection.

- (6) Despite subsection (4)(b)—

- (a) where a person who is affected by a pre-commencement grant of a wayleave (whether by agreement or otherwise) believes that use in reliance on this section has caused or is likely to cause loss not adequately reflected in arrangements in respect of the pre-commencement grant, the matter shall be treated as a question of disputed compensation and determined in accordance with Part III of the Acquisition of Land Act 1984; and
 - (b) nothing in subsection (4)(b) prevents use in reliance on this section from being taken into account in respect of payment, compensation or other arrangements in respect of a post-commencement grant of a wayleave.
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