

LANDS (STATUTORY WAYLEAVES) ACT, 1963 (ACT 186)

ARRANGEMENT OF SECTIONS

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REPUBLIC OF GHANA

**THE HUNDRED AND EIGHTY-SIXTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE LANDS (STATUTORY WAYLEAVES) ACT, 1963**

AN ACT to provide for entry on any land for the purpose of the construction, installation and maintenance of works of public utility, and for the creation of rights of way and other similar rights in respect of such works and for purposes connected with the matters aforesaid.

DATE OF ASSENT: 16th July, 1963

Be IT ENACTED by the President and the National Assembly in this present Parliament assembled as follows:—

Section 1—Creation of Statutory Wayleaves.

(1) Where the President is of the opinion that it is in the public interest that any right of way or other similar right over any land (hereafter in this Act referred to as a "statutory wayleave") be created in respect of the whole or any part of any of the works specified in the next following section he may, subject to the provisions of this Act, by executive instrument (hereafter in this Act referred to as a "wayleave instrument") declare the land specified in the instrument to be subject to such statutory wayleave as is specified therein; and on the publication of a wayleave instrument and without further assurance the land shall be deemed to be subject to that wayleave which shall, in accordance with the terms of the instrument, enure to the benefit of the Republic, any statutory corporation specified in the instrument, or the public generally.

(2) A wayleave instrument shall contain the following particulars, that is to say—

- (a) a description (with measurements) of the land affected by the statutory wayleave together with a plan showing the position of the works constructed thereon;
- (b) particulars of the person or body for whose benefit the wayleave is to enure; and
- (c) such other particulars of the said works as the President thinks necessary or expedient to include in the instrument.

(3) A copy of every wayleave instrument shall be served on the owner or occupier of the land affected by the statutory wayleave, and if neither the owner or occupier can be found shall be posted in a conspicuous place on the land and published in a newspaper circulating in the locality.

(4) Any land subject to a statutory wayleave shall (notwithstanding any rule of law) continue to be subject thereto until the wayleave is terminated in accordance with regulations made under this Act.

Section 2—Works for which Statutory Wayleaves may be Created.

(1) A statutory wayleave may be created in respect of any of the following works, that is to say—

(a) any highway; and

(b) any other structure or works for the purpose of, or in connection with, any public utility service;

any such works being hereafter in this Act referred to as "specified works".

(2) Any statutory wayleave created for the purposes specified in paragraph (a) of the foregoing subsection shall, unless the contrary intention appears in the instrument creating the wayleave, be deemed to include the purposes specified in paragraph (b) of that subsection.

(3) In this section the expression "public utility service" means any service provided by the Republic, any local authority or statutory corporation, for supplying electricity, water (for any purpose) or gas, or for supplying sewerage, transport or telecommunication facilities or facilities connected with the operation of any port, railway, tramway or airport.

Section 3—Rights of Entry for Survey.

(1) With a view to determining whether any land is suitable for the construction of any specified works, any public officer or other person acting on behalf of the Republic, any local authority or statutory corporation may, if authorised by or on behalf of the Minister with the agreement of the appropriate Minister (any person so authorised being hereafter in this Act referred to as an "authorised person") and subject to subsection (2) of this section, enter upon any land for the purpose of surveying that land.

(2) Before entering on any land in pursuance of the foregoing subsection the authorised person shall give to any person in occupation of that land not less than twenty-four hours notice of his proposed entry; and the notice shall contain particulars of the land to be surveyed, the purpose of the survey and of the works proposed to be constructed thereon.

(3) Any Minister having functions under this section may delegate those functions.

Section 4—Rights of Entry for Construction.

(1) Subject to the provisions of this section an authorised person may enter on any land for the purpose of carrying out any specified works if—

(a) he has given not less than one week's notice in writing to the owner or occupier of the land of the proposed entry; or

(b) where neither the owner or occupier of the land can be found, has posted a notice indicating the date of the proposed entry (being a date not less than one week after the posting of the notice) in some conspicuous place on the land.

(2) Any notice given to any owner or occupier or posted on any land in pursuance of the foregoing subsection shall contain particulars of the land to be affected by the proposed works and particulars of those works, including their position by reference to a plan.

(3) Any person who wilfully obstructs an authorised person in the exercise of his rights under this, or the last foregoing, section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or to a term of imprisonment not exceeding three months or to both.

Section 5—Rights of Entry for Inspection, Maintenance, Etc.

An authorised person may at any time enter on any land for the purpose of inspecting, maintaining, replacing or removing any specified works.

Section 6—Compensation.

(1) Where any person suffers any loss or damage as a result of the carrying out of any survey under this Act or as a result of the installation, construction, inspection, maintenance, replacement or removal of any specified works that person shall, save in so far as the loss or damage resulted from or arose out of the acts of that person, his servants or agents, and subject to the provisions of this section, be entitled to compensation of an amount assessed by the Minister in respect of such loss or damage; and in assessing such compensation the Minister may take into account in reduction thereof any amount by which a person's land has increased in value as a result of the installation or construction of the works.

(2) Any claim for compensation under the foregoing subsection shall be made to the Minister in the prescribed form not more than three months (or such longer period as the Minister may either generally or in any particular case direct) after the date of the declaration made by the President under section 1 of this Act.

(3) No person shall be entitled to any compensation under this section for any loss or damage if—

(a) in the opinion of the Minister—

(i) where the alleged damage is to land, that land has been sufficiently reinstated; or

(ii) where the alleged loss arises out of the deprivation of the use of any land, the person alleging the loss has been offered other land of equivalent value;

(iii) where the alleged damage is to movable property, that property has either been replaced or sufficiently restored; or

(iv) the works constructed do not substantially interfere with the enjoyment of the land;

(b) where the alleged loss arises out of the construction of a highway, that construction does not deprive the owner of the parcel of land affected thereby of more than one-fifth of the parcel and the remainder of that parcel continues to be suitable for use for the purposes for which it was being used before the highway was constructed.

(4) Where any person is dissatisfied with the amount of compensation assessed by the Minister under this section, but in no other case, the matter may be referred by the Minister to a Tribunal established in accordance with the next following subsection.

(5) The Tribunal shall consist of three persons appointed by the President, following consultation with the Chief Justice, and one of those persons shall be a Judge of the High Court who shall be chairman of the Tribunal.

Section 7—Regulations.

The Minister may, by legislative instrument, make regulations—

(a) providing for all matters relating to the procedure and functions of the Tribunal established under this Act; and

(b) generally for giving effect to the provisions of this Act, and any regulations made by the Minister may, without prejudice to the generality of the foregoing words, impose charges upon any person or make provision for the payment of fees to the Minister or to any person appointed by him, and may make provision for the termination of any statutory wayleave and for all matters connected therewith.

Section 8—Interpretation.

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

"The Appropriate Minister" means the Minister responsible for the works concerned;

"highway" means any road, street, path, pavement or square and includes any bridge or other structure associated therewith;

"the Minister" means the Minister responsible for lands;

"specified Works" has the meaning assigned to it by section 2 of this Act;

"statutory Wayleave" has the meaning assigned to it by section 1 of this Act;

"transport" includes transport by canal, by overhead cable, conveyor or rail, or by pneumatic dispatch tube or by pipe line;

"wayleave instrument" has the meaning assigned to it by section 1 of this Act.

Section 9—Other Enactments Relating to Entry on, and Acquisition of, Land.

This Act shall not be construed as in any way being prejudiced by any other enactment relating to the entry on, or the acquisition of, any land for any purpose whatsoever.