



**Scottish & Southern**  
Electricity Networks

England



# Land Rights, Wayleaves and Legal guide

New Connections

# Introduction

Southern Electric Power Distribution (SEPD) owns and maintains the electricity distribution system serving central Southern England and provides new electricity connections to domestic, commercial and industrial customers. SEPD are also licenced to provide connections to customers outside this area in conjunction with the incumbent network operators (out of area connections). We have geographically based Wayleave Officers who will co-ordinate the consent and land rights requirements for you to allow your electricity connection to be installed where we provide the works.

The operation of the distribution system relies on land rights granted by land owners and occupiers (referred to generally in this documents as land owner/s) which allow us to place and maintain electricity infrastructure on or over their land.

## New Connections - The Requirement for Land Rights

Where SEPD are contracted to install your electricity infrastructure, it may be necessary to place it on land belonging to you and occasionally also on third party land. In these situations, we require land rights from you (and any other affected land owners) to place and maintain the electricity infrastructure required.

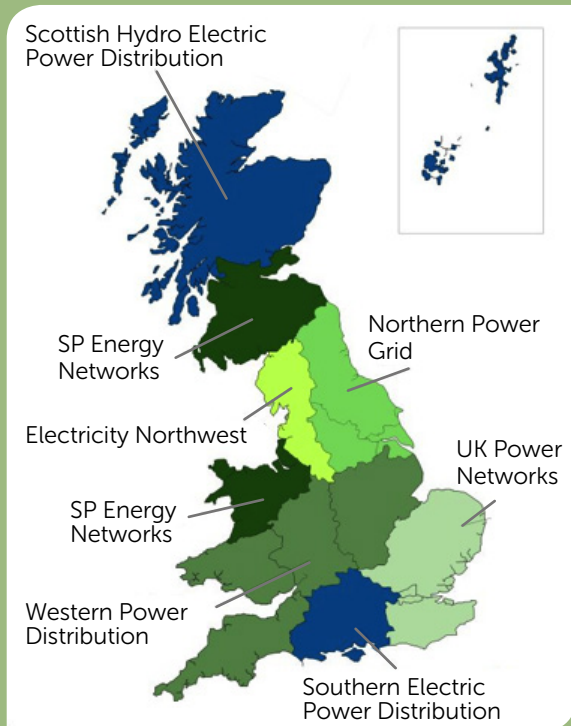


## These rights in land are:

- Wayleave Agreements and/or Easements – Required for overhead lines and underground cables.
- Purchase or lease of land – Required for substation sites.

Wayleave agreements are prepared by our Wayleave Officers and signed by land owners. Easements, substation site purchases and leases are prepared by the solicitors representing SEPD in conjunction with land owners legal representative, in accordance with set SEPD styles.

If we are providing a connection to you out of our SEPD area elsewhere in the UK and there is a requirement for us to acquire a substation from you, then we are required to provide the resident Distribution Network Operator with a lease or land rights for part of the substation that will provide the connection to their network.



# How do we secure land rights?

The consent/s necessary to place our equipment on private land depends on the type of equipment being installed.

Rights can be secured in the following ways:

## Wayleaves

A Wayleave is a simple agreement between SEPD and a landowner to formalise consent for equipment to be located within their land along with access for maintenance, tree cutting etc. In return the landowner generally receives either an annual or sometimes a one off payment except if the equipment is solely within the land of the customer no payment will be made. The wayleave payment depends on the amount and type of equipment used as well as its impact on landowner operations such as farming. The payment is based on a number of criteria and is normally reviewed each year. It should be noted that Wayleave Agreements are made with landowners and are not registered against the land title.

The time it takes to obtain a voluntary wayleave can vary; typically projects can take between 12-16 weeks to be granted necessary consents. If your project is more complex this can take considerably longer. The SEPD Wayleave Officer will keep you fully advised of the consents required and potential time scales.



## Wayleaves (continued)

We must secure landowners permission in order to place equipment on their property. If the landowner refuses to grant permission, we can apply to the The Department for Business, Energy and Industrial Strategy to seek to gain the appropriate land rights under a compulsory Purchase Order or necessary Wayleaves. However this is a long, complex and costly process which does not always provide a successful outcome and should only be considered as a last resort. Any costs associated with a necessary wayleave will be in addition to your new connection costs.

We will always try other avenues before applying for a compulsory purchase order. If the landowner refuses to grant permission, we can apply to The Department for Business, Energy and Industrial Strategy to seek to gain the appropriate land rights under a compulsory Purchase Order or necessary Wayleaves.

Before the above happens the wayleaves team will try other avenues and explore alternative arrangements to pursue wayleaves.

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## Easement

Deeds of Easement provide SEPD with increased security for equipment, as we acquire permanent rights to the land. This minimises any future problems with the location of equipment, ensuring we can keep our customers supplied with electricity into the future. The deed associated with this form of consent is registered in the Land Register and cannot be terminated.



# How do we secure land rights?(continued)

## Acquisition of Land -Leaseholds & purchase

In order to make some electricity connections we may need to build a new substation on private land. In this instance we secure consent from the landowner in the form of a freehold or leasehold acquisition of the land required.

Where we agree a leasehold we secure rights to the land for an agreed period of time. Where we agree freehold we secure rights to land outright. To build a new substation SEPD should normally be granted the land required within the customers own land (normally four metres by four and a half metres in size) for a nominal purchase price or rent £1.00. Substation sites to be purchased / leased on third party land will likely require a greater payment to be agreed.

Where substation sites are being acquired associated rights will also be obtained to cover access from the adopted highway and any overhead lines or underground cables.

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## Statutory consents

In order to place equipment on or over land in certain areas we may need to get additional consents. These consents are usually granted by bodies responsible for protected sites, buildings, protected species and in some situations planning permission may be necessary. Some of these bodies are listed below.

- Planning permission from local planning authorities for overhead lines or substation sites where permitted development rights are not appropriate.
- Consent under the Electricity Act 1989 granted by The Department for Business, Energy and Industrial Strategy for consent to build overhead lines.
- Consent from Natural England for works on or near protected sites or species.
- Consent from Historic England for works on or near protected archaeological sites.
- Consents from The Environment Agency for works on or near watercourses.

We work with these and other agencies to ensure that any required consents are applied for within a reasonable time.

# Statutory consents (continued)

The electricity industry is required to conform to specific planning provisions before building or modifying an overhead line. Considering connections at voltages of 33kV and below provisions are contained primarily in Section 37 of the Electricity Act 1989. Connections at 132kV or greater are regulated under the Planning Act 2008.

## Section 37 Electricity Act 1989

A Section 37 application is a two part process involving an initial application to the local planning authority followed by an application to the appropriate Ministry:-

Scotland - Scottish Government Energy Consent Unit.

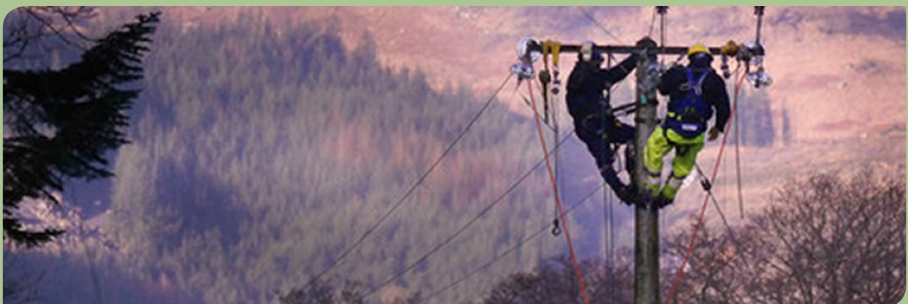
England / Wales - The Department for Business, Energy and Industrial Strategy.

This process can take a minimum of twelve weeks and will incur additional fees.

There are certain circumstances where a supply may be provided to a single customer at less than 33kV without the need to obtain a section 37 Consent. In these situations it is still necessary to consult with the local planning authority before constructing the line. Where an existing line serving one customer is subsequently required to serve further customers a retrospective Section 37 Consent will be required.

Section 37 consent can also apply in cases where underground cables are being installed from an existing overhead line where retrospective Section 37 may be required. Where it is necessary to modify an overhead line Section 37 may be required or in certain circumstances works may be carried out under the provisions of the requisite Overhead Lines (Exemption) Regulations.

The Wayleave Officer for the project will keep you fully advised as to the consents required and whether any exemptions apply under the applicable legislation.



# Who is involved in the consent process?

Here we explain the various parties that can be involved in the process and what role they play. Note - the parties involved will depend on what rights are required for our equipment and the land we intend to place that equipment on.

| Party Description                               | Role   |
|---|--|
| SEPD Planning Team Manager                      | Design connection proposal   |
| SEPD Wayleave Officer                           | Determine what form of consents are required, progress and agree terms for;<br><ul style="list-style-type: none"><li>- Wayleaves</li></ul> Provide customer with updates<br>Agrees terms and instructs our solicitor for;<br><ul style="list-style-type: none"><li>- Easements</li><li>- Freehold/leasehold substation sites</li></ul> |
| Landowner (this may be a customer or 3rd party) | Agree wayleave or legal plan and terms with SEPD Wayleave Officer and instruct their solicitor where appropriate   |
| Landowner's agent                               | Where appointed deal with consents process on behalf of the landowner  |
| SEPD Legal Services                             | Review details & instruct internal/external solicitors as appropriate to obtain substation sites/easements   |
| SEPD internal/external solicitor                | Progress legal instruction from Wayleave Officer and issue documentation to land owners solicitors   |
| Landowners solicitor                            | Work with SEPD solicitor to complete documentation   |



# Wayleave officers

It is important to ensure that all land rights are in place in readiness for the electricity infrastructure to be installed. To do this we will work with you or your appointed solicitor or agent to acquire these rights.

It is important that you instruct your solicitor at the earliest opportunity to ensure that they work with SEPD's legal advisors to complete the transaction without delay.

If land rights are to be acquired from a third party, the Wayleave Officer will determine which land owners to consult and identify what land rights may be needed to place the electricity infrastructure across their land where required. The Wayleave Officer will negotiate to secure these rights and in some cases this may also involve the SEPD solicitor being instructed. SEPD solicitors will be instructed to secure these land rights. It may well be that you are responsible for meeting the legal fees of the third party. Occasionally we will find that terms cannot be agreed with third party land owners and in these instances contact will be made with you to discuss alternatives.



# How SEPD have changed to speed up the process

SEPD is committed to simplifying the process for the connection you need, that's why we reviewed our policies, processes and requirements for placing equipment on land. We have also changed our staged payments process to provide you with more flexibility for your project. Based on feedback we have gone further and now allow you to make an advanced payment to progress your wayleaves in the early stages of the connection. Typically this advance payment for wayleaves is received with your acceptance payment or shortly after your acceptance of a quotation. Please note, we will not accept a payment to progress wayleaves unless a quotation has previously been accepted.

We have also made available on our website our standard wayleave and legal deed styles so that you can see what we expect in advance of negotiations or contact by the Wayleave Officer.

[www.ssepd.co.uk/LandRights](http://www.ssepd.co.uk/LandRights)

## What can you do to help speed up the process?

In order to secure rights to make a connection across private land SEPD follow the process set out in the flow chart, visiting relevant landowners to explain what work we need to carry out and the process involved. Landowners are often unfamiliar with this process, resulting in delays to your connection.





If you know we will require permission to lay cable or build an overhead lines across or access a neighbour's land you could speed things up by discussing this with them in advance. Listed below are some of the things you should do.

## Inform your neighbour:

- Explain to your neighbour that SEPD will wish to place equipment on their land.
- Inform your neighbour who will be carrying out the work & what the work will involve (those carrying out the work will be responsible for leaving property as they found it).
- Provide guidance as to when and for how long the work will take to complete.
- Inform your neighbour when to expect SEPD to approach them requesting their permission, explain the consent process and ensure they sign and return the necessary documents and provide the relevant information within seven days of it being requested. The SEPD Wayleave Officer and/or solicitor cannot complete the process until all documents have been received and any title queries resolved.

However, don't forget our Wayleave Officers are here to help and will be happy to visit you and your neighbour to clarify the details.

## How long will it take to obtain consents for new connections?

The time it takes to obtain a voluntary wayleave to deliver the consents for your connection can vary based on individual circumstances. Certain types of projects where the works required to connect your property are all within your land can take 5 – 7 weeks to put in place all the consents required. Other types of connections can take between 12-16 weeks for the wayleave consents to be granted by third parties. If your connection is more complex this can take considerably longer. The SEPD Wayleave Officer will keep you fully advised of the consents required and potential time scales throughout the wayleave process.

Should any other statutory consents be required these will typically be progressed at the same time as wayleaves are being obtained. The timescales for these can be lengthy depending upon the nature and use of the land affected and the third parties we will have to discuss and agree the proposals with. Timescales for successful negotiations vary greatly but we will try to complete these as efficiently as possible to meet overall connection timescales.

Where a Section 37 is required the process can take between 12 and 24 weeks depending upon the potential impact of the works.

The successful delivery of the consents for your connection within a reasonable timeframe is very much dependant upon the number of third party consents which will be required. Some Local Authorities and larger landowners have set procedures which each wayleave application is subject to and there can be very limited flexibility in the timescales.

Consents from environmental organisations and pipeline operators can be lengthy due to the likely impact upon these organisations respective interests. Timescales of typically 20 - 22 weeks are not uncommon.

The use of our Compulsory or Necessary Wayleave rights can take between 9 and 15 months.

The Wayleave Officer appointed to your connection will keep you fully informed as to the progress towards gaining all relevant consents. We work to obtain the land rights required promptly and efficiently, but we are dependant on you, and where necessary your neighbours and other statutory organisations to progress these. Every effort will be made to obtain the land rights at the earliest opportunity.

## How are legal and additional costs charged?

There can be additional costs which are not known at the quotation stage which become evident during the wayleave process. These costs could be environmental costs for investigations and surveys, 3rd party surveyors fees, legal costs to secure rights and claims for compensation as a result of the construction of the project. When these costs are known you will be made aware of them.

## Working with independent network operators and independent connection providers

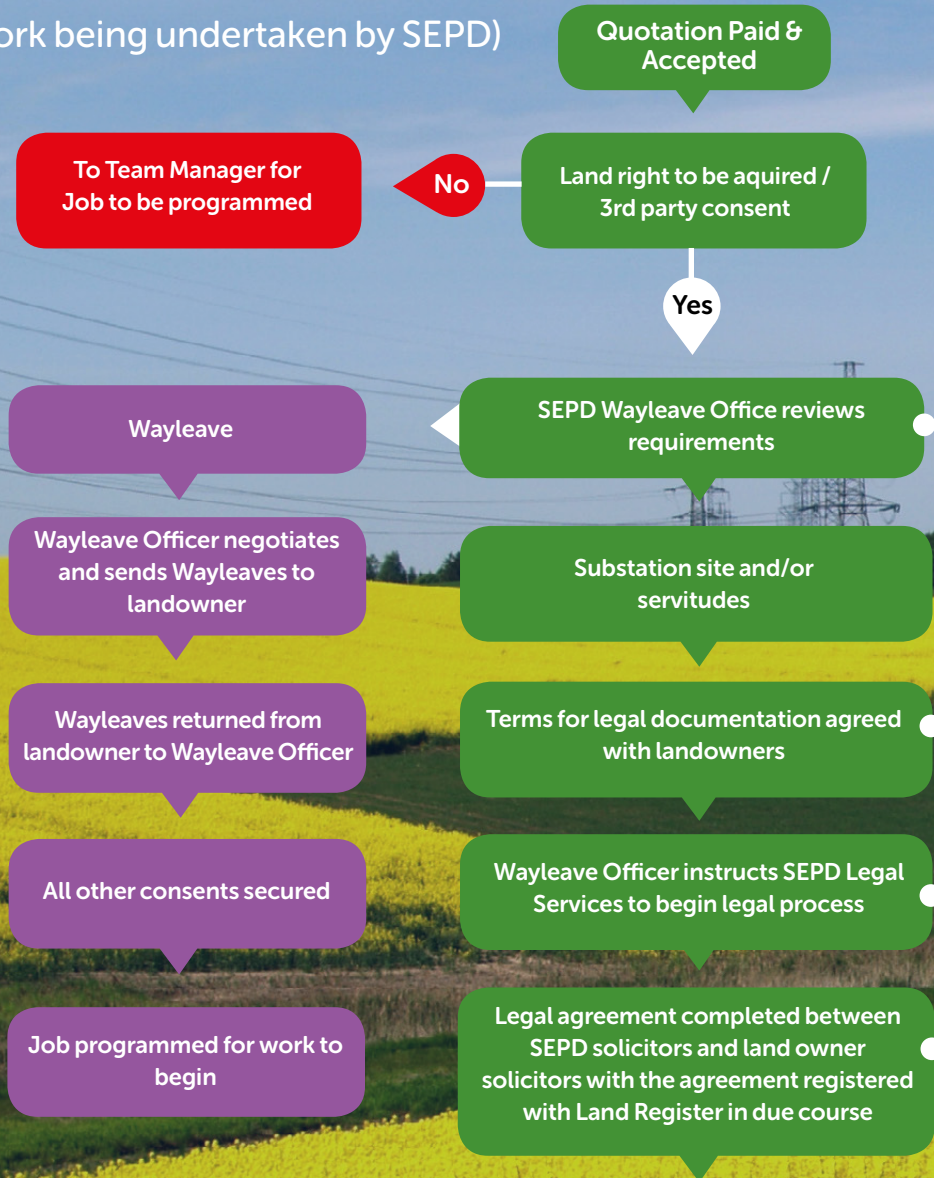
There are other companies who are able to carry out your connection works, so you can compare prices and service levels to decide which company is best for you. Other companies who provide a connections service are known as Independent Connection Providers (ICPs) or Independent Distribution Network Operators (IDNOs).

a) Where an ICP is providing your connection, this will then be adopted and thereafter maintained either by us or by an IDNO. The ICP will typically secure and agree the terms of land right consents. Final paperwork will then be signed by us or the IDNO where applicable.

b) Where an IDNO is establishing the network, the IDNO will obtain all of the required land rights and consents to establish and maintain their network and our staff may not be involved, except in relation to rights for the final connection to our network.

# Wayleaves Consents & permissions process

(Work being undertaken by SEPD)





The Wayleave officer will contact you to check all details are correct, at this stage any issues should be raised to avoid future delays



In order to avoid delays please ensure that you reply to the terms letter promptly and have a solicitor in place at the beginning of your project



In order to avoid delays please ensure your solicitor deals with all documentation and queries promptly and any issues referred to you by your solicitor for further instruction are also dealt with promptly



### Key points on the legal agreement process :

- When the draft deed and enquiries (relating to ownership, existing disputes etc) are sent to your solicitors ensure your solicitor responds and sends any enquiries promptly
- The deed should then be signed, dated and returned to SEPD's solicitors promptly

# Wayleaves map

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## Director of Customer Operations Ridgeway and Thames Valley

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# Wayleaves escalation route

**Craig Gilroy and Paul Forster**  
Director of Customer Operations

**Head of Region**

**Network Design Manager**

**Lead Wayleave Officer**

**Wayleave officer**



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