



# Malvern Hills Act 1995

## 1995 CHAPTER iii

### 8 Power to grant easements, etc

The following sections are hereby substituted for section 7 (Power to grant easements) of the Act of 1930:—

#### “7 Power to grant easements

- (1) Subject to subsection (5) below, the Conservators may grant upon such terms and conditions and for such a period as they think fit easements, rights, privileges or licences in, under or over the Malvern Hills for the provision of public or private underground or overground services relating to water, electricity, gas, oil, telecommunications, drainage and sewerage:  
Provided that it shall be a term of any such grant that the surface of any part of the Malvern Hills that may be disturbed in connection with the exercise of any easement, right, privilege or licence so granted shall be restored as soon as practicable by and at the expense of the person to whom the easement, right, privilege or licence is granted.
- (2) Subject to subsection (3) below, the Conservators may with the consent of the owner exercise the powers of this section in relation to any land forming part of the Malvern Hills not owned by them as though they were the owners of that land.
- (3) The consent of the owner under subsection (2) above shall not be required in any case where the owner is not known.
- (4) For the purposes of this section and section 7A below the owner of land is not known where after diligent enquiry the Conservators are unable to discover his identity.
- (5) (a) The Conservators shall not exercise the powers of this section for the provision of any service, other than a temporary service, overground unless—
  - (i) in the opinion of the Conservators it is not reasonably practicable for the service to be other than overground;

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (ii) the service is to be provided to a domestic property in existence at the time of the passing of this Act; and
  - (iii) in the opinion of the Conservators and the local planning authority the provision of the service overground is reasonable.
- (b) The Conservators shall not exercise the powers of this section for the provision of any service overground except by way of determinable licence.

#### **7A Access roads**

- (1) Subject to subsection (2) below, the Conservators may on such terms and conditions as they think fit (including terms and conditions as to the provision and maintenance of cattle grids and other works) authorise in writing any person to construct, maintain, alter or improve roads or ways over the Malvern Hills affording vehicular or other access from any highway to land being land lying within or adjacent to any part of the Malvern Hills and appearing to the Conservators to lack satisfactory access.
- (2) In granting authorisation under subsection (1) above the Conservators shall have regard to the effect of the works being so authorised on the natural aspect of the Malvern Hills and shall impose such terms and conditions as are necessary to ensure that any adverse effect is minimised.
- (3) The Conservators may, on such terms and conditions as they think fit, for the purpose of or in connection with the provision of roads or ways, grant licence to use and grant easements and rights in, under or over lands forming part of the Malvern Hills and on which roads or ways are authorised to be constructed pursuant to subsection (1) above.
- (4) Subject to subsection (5) below, the Conservators may with the consent of the owner exercise the powers of this section in relation to any land forming part of the Malvern Hills not owned by them as though they were the owners of that land.
- (5) The consent of the owner under subsection (4) above shall not be required in any case where the owner is not known.”.