



PUBLIC UTILITIES COMMISSION OF SRI LANKA

GUIDELINES ON WAYLEAVE,
FELLING OR LOPPING OF TREES &
DETERMINATION AND PAYMENT OF COMPENSATION

V 4.0



GUIDELINES ON WAYLEAVE, FELLING OR LOPPING OF TREES AND DETERMINATION AND PAYMENT OF COMPENSATION

ISSUED BY:

PUBLIC UTILITIES COMMISSION OF SRI LANKA

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These guidelines are prepared in terms of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended) and approved by the Commission on 21st January 2020. The licensees and the Divisional Secretaries are expected to follow these guidelines in discharging their respective powers and duties under the said Act. All the previous guidelines issued by the Commission in this regard are hereby repealed

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PREAMBLE

The Public Utilities Commission of Sri Lanka (PUCSL) has derived guidelines on wayleave, felling or lopping of trees and determination and payment of compensation in order to elaborate the relevant provisions in regard to obtaining/acquisition of wayleave, installing and removing electric lines and matters connected therewith.

Within the provisions specified in Sri Lanka Electricity Act No. 20 of 2009 as amended by Act No. 31 Of 2013, licensees are authorized by their licensees to install and keep installed electrical lines on, under or over any land and to enter any land for the purpose of inspecting, maintaining, adjusting, repairing, altering, removing, or replacing such electrical lines. These guidelines aim providing provisions for licensees to carry out their authorized activities effectively and efficiently within the given legal framework.

Obtaining consent from land owners by the licensees to install and keep installed an electrical line and to fell or lop trees or branches are an essential requirement. It is the right of the land owners to be received justice through provisions specified in the relevant Acts when granting of wayleave. Accordingly, these guidelines provide required information to the landowners and the general public on granting wayleave and related matters.

Divisional secretaries are vested with powers to grant wayleave for construction of new electric lines or removal of such lines already constructed as the case may be and the decisions given/determinations made are final unless contested in a competent court of law. Further the PUCSL also has delegated certain powers to the Divisional secretaries in order to ensure efficiency and reasonability is carried out in the processes.

Accordingly, the main intention of issuing these guidelines is to make aware all parties and the general public in regard to the applicable legal provisions in the Sri Lanka Electricity Act No. 20 of 2009 as amended by Act No. 31 Of 2013. These guidelines provide a proper explanation and interpretation to those legal provisions for the convenience of reference by the stakeholders.

The utmost expectation of the PUCSL is that these guidelines will help and support in directing all authorities, decision makers, licensees and affected parties to arrive at harmonized decisions and agreements and thereby minimizing disputes among parties.

Definitions

‘affected person’ means any person/ any institution of government or private or statutory board affected by the decision of granting wayleave and felling or lopping of trees.

‘compensation’ means a payment in cash/cheque or in kind of replacing an asset for granting of wayleave, any damage caused to a land or movables and any disturbance caused to person’s enjoyment of any land or movables;

‘dwelling’ means a building or part of a building occupied or (if not occupied) last occupied or intended to be occupied, by a private dwelling.

‘distribute’ means distribute by means of a system which consists (wholly or mainly) of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system

‘electric line’ means any line whether underground or over ground which is used for carrying electricity for carrying electricity for any purpose and includes, unless the context otherwise requires –

- (a) any support for any such line, including but not limited to, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended;
- (b) any apparatus connected to any such line for the purpose of carrying electricity; and
- (c) any wire, cable, tube, pipe or other similar thing (including its casing, insulator or coating) which surrounds or supports or is surrounded or supported by or is installed in close proximity to or is supported, carried or suspended in association with, any such line.

‘electrical plant’ means any plant, equipment, apparatus or appliance used for or for purposes connected with, the generation, transmission, distribution or supply of electricity, other than –

- (a) an electric line;
- (b) a meter used for ascertaining the quantity of electricity supplied to any premises; or
- (c) an electrical appliance under the control of a consumer

‘Electricity Act’ means the Sri Lanka Electricity Act, No. 20 of 2009 (as amended by the Act, No. 31 of 2013).

‘licensee’ means a person who has been granted a license to generate, transmit or distribute electricity.

‘expert member’ means an official representative from an appropriate statutory/professional institution to value damages to the crops or trees etc.

‘premises’ includes any land, building or structure.

‘supply’ means supply of electricity to any premises (other than the premises occupied by a licensee for the purpose of carrying on the activities which it is authorized by its license to carry on) but shall exclude bulk sales of electricity.

‘transmit’ means the transportation of electricity by means of a system, which consists (wholly or mainly) of high voltage lines and electrical plant and is used for conveying electricity from a generating station to a sub-station, from one generating station to another or from one sub-station to another.

‘wayleave’ means such interest in the land as consists of a right of a licensee to install and keep installed an electric line on, under or over a land and to have access to that land for the purpose of inspecting, maintaining, adjusting, repairing, altering, removing or replacing such electric line.

Part 1 – Introduction

- 1.1 The Public Utilities Commission of Sri Lanka (hereinafter referred to as the ‘Commission’), established under the Act, No. 35 of 2002, is the economic, safety and technical regulator of the electricity industry in Sri Lanka. In terms of the Sri Lanka Electricity Act, No. 20 of 2009 and (Amendment) Act, No.31 of 2013 (hereinafter referred to as ‘Electricity Act’), the Commission is required to ensure that an efficient and economical system of electricity supply is provided for and maintained throughout Sri Lanka, at all times.
- 1.2 For any purpose connected with the carrying on of the activities authorized by its license, a requirement may arise for a licensee to install and keep installed an electric line on, under or over any land. Upon installing an electric line, licensee would need to have access to that land for the purpose of inspecting, maintaining, adjusting, repairing, altering, removing or replacing such electric line. Licensee requires the consent of the owner or occupier of a land to install and keep installed an electric line and to have access to the land for the said purposes. The items 3 and 5 of Schedule I of the Electricity Act specify the procedure to be adopted by the licensees in obtaining such consent from the owner or occupier of the land; and (upon failing to obtain such consent) in applying for/obtaining authority for the same.
- 1.3 Item 4 of Schedule I of the Electricity Act contains the provisions relating to the payment of compensation to the owner of a land in respect of a grant of wayleave and to any person in respect of damages or disturbances caused in the exercise of any right by a licensee conferred by a wayleave.
- 1.4 A requirement might arise to fell or lop or cut back its roots when a tree is or will be in such close proximity to an electric line or electrical plant, which has been installed or is being installed or is to be installed by a licensee, as to:
- (a) obstruct or interfere with the installation, maintenance or working of the line of plant; or
 - (b) constitute an unacceptable source of danger to public.
- Item 6 of Schedule I of the Electricity Act specifies the procedure to be adopted by the licensees in ensuring that such a tree is felled or lopped or its roots are cut back.
- 1.5 As per Section 2A(1)(b) of the Electricity Act, the Commission is authorized to delegate any power conferred on it by items 3, 4, 5 and 6 of Schedule I of the Electricity Act to any Divisional Secretary and as such it has delegated the powers conferred on it under items 4 and 6 of that Schedule to the Divisional Secretaries.
- 1.6 This document intends to:
- (a) guide the licensees, who will be the applicants to the Divisional Secretaries requesting authority:
 - (i) to install or keep installed an electric line on, under or over any land;
 - (ii) to fell or lop a tree or cut back its roots that obstruct or interfere with the installation, maintenance or working of an electric line or plant, or constitute an unacceptable cause of danger;

- (b) guide the Divisional Secretaries, who are empowered under the Electricity Act to:
 - (i) authorize the licensees or prohibit the licensees from carrying on activities specified under (a)(i) above;
 - (ii) make recommendations on acquisition of wayleave to the Commission;

- (c) guide the Divisional Secretaries, who are delegated powers by the Commission conferred on it by items 4 of Schedule I of the Electricity Act:
 - (i) to determine the amount of compensation that a landowner may recover from the licensee in respect of grant of wayleave
 - (ii) to determine the amount of compensation that a person may recover from the licensee for any damage caused to land or movables in consequence of the exercise of any right conferred by a wayleave
 - (iii) to determine the amount of compensation that a person may recover from the licensee for any disturbance caused to his or her enjoyment of any land or movables in consequence of the exercise of any right conferred by a wayleave
 - (iv) to conduct inquiries, on his/her own motion or on the application of a person affected as necessary, to determine whether a licensee is liable to pay any person any compensation under (i) and (ii) above;

- (d) guide the Divisional Secretaries, who are delegated powers by the Commission conferred on it by item 6 of Schedule I of the Electricity Act to make orders allowing the licensee to cause a tree to be felled or lopped or its roots to be cut back and to determine any question as to what expenses (if any) are to be paid to the licensee by the owner or occupier of the land (on which such tree is growing), after giving the parties an opportunity of being heard; and

- (e) provide information to the owners and occupiers of lands and the general public on granting or not granting of wayleave (including related procedures) and felling or lopping of trees by licensees.

Part 2 – Guidelines on wayleave

There are two (2) possible scenarios under which a requirement might arise for a licensee to secure the grant of a wayleave:

- (a) for the installation of a new electric line; or
- (b) when there is a request by a landowner to remove an existing electric line

2.1 Installation of a new electric line

- (a) The licensee shall identify all lands on/under/over which it planned to construct any electric line and give the landowner not less than twenty-one (21) days' notice (as per specimen format given in appendix I) requiring him or her to give the necessary wayleave. (However, when the Distribution Licensee supplies a new electricity supply connection to a premise, steps should be taken to install an electric line through an access road to the premise, whenever possible.)
- (b) Where the occupier is not the owner of the land, notice under paragraph (a) above shall be served on the landowner. The licensee shall ensure that the notice is acknowledged by the occupier (and if the occupier is not also the owner of the land, by the landowner).
- (c) Upon giving a notice under paragraph (a), the licensee shall take all reasonable efforts to secure the grant of wayleave. If a response is not received from the landowner within the stipulated period in the notice, the licensee shall make further efforts to meet or communicate with the landowners, to explain why such wayleave is required, to find out what the landowners are expected to grant such wayleave, to propose licensee's offer to the landowners for the required grant of wayleave etc. In the event of compensating for obtaining of wayleave, any damage caused to a land or to movables in the exercise of any right conferred by a wayleave, any disturbance caused to person's enjoyment of any land or movables in consequence to the exercise of a right conferred by a wayleave, the Licensee shall take actions such as obtaining prior internal approval for the Compensation Assessment Procedure, appointing a Compensation Assessment Committee (with internal /external parties) or obtaining a valuation report by submitting the relevant information to the Valuation Department etc. to assess the compensation.¹ These efforts shall be completed within thirty (30) days on expiry of the twenty-one (21) days' notice stated in (a) above, documented and kept by the licensee to show proof of the efforts taken to obtain wayleave. If the owner or occupier of the land agrees to grant the wayleave, subject to terms and conditions acceptable to the licensee, the parties shall enter into an agreement (appendix II). This Agreement may also include the obligation of the owner / occupier of the land to ensure that trees and branches not to grow in the premises of the land owner in

¹ When determining compensation for trees or crops to be felled or uprooted, the licensee may obtain a blanket approval annually from the Department of Valuation, which includes assessment fees for trees or crops, as applicable to the island.

order to make sure the line clearance. The distance from trees to overhead lines as per the Electricity (Safety, Quality and Continuity) Regulations No. of 2016 is as follows:

(a) Low Voltage Overhead Lines

	Not Surrounded by insulation	Surrounded by insulation
Vertical distance	2.7 m (8.85 ft)	0.15 m (5.90 inch)
Horizontal distance	1.5 m (4.92 ft)	0.15 m (5.90 inch)

(b) Medium Voltage Overhead Lines

(i) 11 kV

Vertical distance	2.7 m (8.85 ft)
Horizontal distance	1.5 m (4.92 ft)

(ii) 33kV

Vertical distance	3.7 m (12.13 ft)
Horizontal distance	2.9 m (9.51 ft)

(c) High Voltage

(i) 132 kV

Within an area of 13.5 m from center line on both sides of the overhead line, trees shall not be grown, unless the licensee determines that it wouldn't compromise safety. In case the licensee allows trees to be grown, following minimum distances shall be maintained up to swing of 45⁰

- 1.4 m from the overhead line if tree cannot support a ladder/climber, and
- 3.6 m from the overhead line if tree is capable of supporting a ladder/climber

Outside the area of 13.5 m from center line on both sides of the overhead line, height of the tree should be at least 5 m less than the distance to the tree from the center line.

(ii) 220 kV

Within the area of 17.5 m from center line on both sides of the overhead line, trees shall not be grown, unless the licensee determines that it wouldn't compromise safety. In case the licensee allows trees to be grown, following minimum distances shall be maintained up to swing 45⁰

- 2.4 m from the overhead line if the tree cannot support a ladder/climber, and
- 4.6 m from the overhead line if the tree is capable of supporting a ladder/climber,

Outside the area of 17.5 m from center line of the overhead line, height of the tree should be at least 5 m less than the distance to tree from the center line.

- (d) The licensee shall ensure that the installations of the electrical line shall be carried out in compliance with the terms and conditions agreed by the parties in that regard.
- (e) In the event that all reasonable efforts made to secure the wayleave have been failed, the licensee shall make an application (appendix III) to the respective Divisional Secretary requesting authority to install the electric line. The licensee shall submit its documentary proof in regard to the efforts it has made to secure the wayleave together with the details of the landowner/s from whom the wayleave is to be obtained, in its application.
- (f) When an application is made by the licensee, the respective Divisional Secretary shall hold an inquiry to give an opportunity to owner(s) of the land(s) to be heard. The Divisional Secretary shall take all reasonable efforts to convoke all the relevant parties to the inquiry. If any party who had been properly notified to attend the inquiry but had failed to do so without informing the Divisional Secretary, a decision can be taken by the Divisional Secretary, upon the submissions made by party/s attended. Application is made by the Distribution Licensee to supply a new electricity supply connection to a premise, the Divisional Secretary shall make the decision to install an electric line through an access road, whenever possible. However, if an alternative route is proposed by any party, based on submissions made by them and technical requirements for installing electrical line submitted by the licensee, the final decision on alternative route for installing electricity line shall be taken by the Divisional Secretary. Accordingly, within six (06) weeks of receipt of the application and upon holding an inquiry after giving an opportunity to the owner(s) of the land(s), the Divisional Secretary:
- a. may authorize the licensee, either unconditionally or subject to terms, conditions and stipulations as he or she considers appropriate, to install the electric line; (in order to make sure the maintenance of electricity line clearance, a condition may be included keeping the responsibility to the land owner/occupier to ensure that trees and branches not to grow in his/her premises)
 - b. may prohibit the licensee from installing the electric line; or
 - c. if being satisfied that the acquisition of the wayleave has become necessary for the purpose of carrying on the activities authorized by the license of the licensee, shall make his or her recommendation (in the

format specified in appendix IV) pertaining to the same, to the Commission.

- (g) However, the Divisional Secretary shall not recommend the acquisition of a wayleave, where the line is to be installed on or over a land that is covered by an authorized dwelling, or planning permission has been granted under the relevant laws for construction of a dwelling.
- (h) Upon receipt of a recommendation from a Divisional Secretary and upon being satisfied that it is necessary or expedient to install the electric line on, under or over the land concerned in order to carry on the activities which the licensee is authorized to carry on under the license, the Commission shall recommend to the Minister the acquisition of the wayleave. Thereupon the Minister shall approve the acquisition by Order published in the Gazette and the wayleave shall thereupon be deemed to be required for a public purpose and be acquired under the Land Acquisition Act and transferred to the licensee. Any amount payable for such acquisition shall be paid for by the licensee.
- (i) If there is an application for new connection for which an electrical line needs to be installed on, under or over a land where there is a legal dispute pending in a court of law, the person who requires new connection may request permission from such court to install such line.

2.2 When there is a request by a landowner to remove an existing electric line and;

- (a) licensee has obtained required wayleave to install such line, the following procedure shall be adopted;
 - (i) the licensee shall produce acceptable evidence of the granting of wayleave by such land owner.
 - (ii) Licensee shall inspect location;
 - i. to obtain agreement from the land owner on new place of location or
 - ii. to obtain wayleave from any other party to locate electrical pole/line
 - (iii) if any objection is received from the land owner or any other party in the process of removal/shifting of the electrical pole/line, in accordance with item 3 of Schedule 01 of the SLEA (as amended), the Divisional Secretary shall decide on granting of authority upon a request is made by licensee. After receiving the decision from the Divisional Secretary, licensees shall prepare a cost estimate as follows;
 - 1. LV lines - within 07 working days;
 - 2. MV lines - 15 working days;
 - 3. MV tower lines within 30 working days

Licensee shall remove/shift the electrical pole/line within 14 working days from the date of payment made by such land owner or nearest available date where a power interruption has scheduled or can be obtained.

- (iv) If any objection is not received, licensee shall provide a detailed cost estimate to such land owner as follows:

1. LV lines - within 07 working days;
2. MV lines - 15 working days;
3. MV tower lines within 30 working days

Licensee shall remove/shift the electrical pole/line within 14 working days from the date of payment made by such land owner or nearest available date where a power interruption has scheduled or can be obtained.

- (b) licensee has not obtained required wayleave to install such line or where a wayleave (whether granted under item 3 of Schedule I of the Electricity Act or by agreement between the parties):
- (i) is determined by the expiration of the period specified in the wayleave;
 - (ii) is terminated in accordance with a term contained in the wayleave; or
 - (iii) ceases to be binding on the owner of the land by reason of a change in the ownership of the land after giving the wayleave
- (c) On receipt of a request for removing/shifting of an electrical pole/line in the manner specified in paragraph (b) above, the licensee shall issue an estimate (subject to obtaining wayleave) to owner of the land to recover the cost of the removal of such line and, shall adopt the following procedure;
- (i) licensee shall make every reasonable effort to obtain/secure wayleave from such land owner to install or keep installed an electric line/pole on his/her land;
 - (ii) In the event that all reasonable efforts made to secure wayleave have been unsuccessful, the licensee shall make an application (appendix III) to the respective Divisional Secretary requiring authority to keep installed the electric line/pole. The licensee shall specify the efforts made to secure the wayleave.
 - (iii) When an application is made by the licensee under above (ii), the respective Divisional Secretary may hold an inquiry giving an opportunity to all the owners of the lands to be heard and the Divisional Secretary shall take all reasonable efforts to convoke the all parties to the inquiry When any party does not attend continuously to the inquiry, a decision can be taken by the Divisional Secretary, upon the submissions made by attended party/s. Accordingly, within six (06) weeks of receipt of the application and Upon holding an inquiry after giving an opportunity to the owner of the land, the Divisional Secretary:
 - i. may authorize the licensee, either unconditionally or subject to terms, conditions and stipulations as Divisional Secretary considers appropriate, to keep installed the electric line;
 - ii. may prohibit the licensee from keeping installed the electric line; or
 - iii. may recommend the licensee to remove or shift such electrical line or pole

If the Divisional Secretary authorizes the licensee to remove or shift such electrical line or pole, the licensee shall comply with such authorization.²

(d) If there is an application for removal/shifting of an existing electrical line installed on, under or over a land where there is a legal dispute pending in a court of law, the person who requires such removal/shifting may request permission from such court to remove/shift such line.

(e) upon being satisfied that the acquisition of the wayleave has become necessary for the purpose of carrying on the activities authorized by the licensees, shall make his or her recommendations (appendix IV) pertaining to the same, to the Commission.

(f) The Commission shall recommend to the Minister the acquisition of the same. Thereupon the Minister shall approve the acquisition by Order published in the Gazette and the wayleave shall thereupon be deemed to be required for a public purpose and be acquired under the Land Acquisition Act and transferred to the licensee. Any amount payable for such acquisition shall be paid for by the licensee.

(g) Where within the period of three (3) months beginning from the date of the notice under paragraph (a), the licensee:

- (i) fails to make an application under paragraph (c);
- (ii) makes an application under paragraph (c) and that application is refused by the Divisional Secretary; or
- (iii) fails to obtain an order authorizing the compulsory purchase of the land under item 7 of Schedule I of the Electricity Act,

the licensee shall comply with the notice at the end of that period, or in the case of subparagraph (ii) above at the end of the period of one (1) month beginning from the date of the Divisional Secretary's decision or such longer period as the Divisional Secretary may specify.

² The Licensees can submit the cost of such removal/shifting of the electricity pole/line through OPEX/CAPEX program to the Commission to recover the same from electricity tariff on a reimbursement basis only up to a maximum of five hundred thousand rupees (Rs. 500,000/=) for each case.

Part 3 – Guidelines on felling or lopping trees

(In this section: ‘tree’ includes any shrub, and references to ‘felling’ and ‘lopping’ shall be construed accordingly; ‘land’ means the land on which the tree is growing)

- 3.1 When a tree is or will be in close proximity to an electric line or electrical plant which has been installed or is being or to be installed as to obstruct or interfere with the installation, maintenance or working of an electric line/plant or is a source of danger to public, unless the wayleave agreement is specified that the land owner responsible of ensuring that trees and branches not to grow in his/her premises, a notice (appendix V) is required to be issued by the licensee to the occupier of the land requiring him/her to fell or lop the tree or cut back its roots. In the event of having to cut down trees or branches with a permit under the Felling of Trees (Control) Act, the licensees shall obtain an approval to the permit from relevant authority (from Divisional secretary, District Secretary or Secretary, Ministry of Agriculture) for felling such trees/branches in addition to obtaining wayleave from the owner of the land.
- 3.2 Where the occupier is not also the owner of the land, a copy of any notice under 3.1 above shall also be served on the landowner. The licensee shall ensure that the notice is acknowledged by the occupier (and if the occupier is not also the owner of the land, by the landowner).
- 3.3 If within seven (7) working days of the notice:
 - (a) the requirements of the notice are complied with by the owner or occupier, licensee shall pay the expenses incurred by the owner or occupier as per the Part 4.
 - (b) the requirements of the notice are not complied with and neither the owner nor occupier of the land gives a counter-notice, the licensee shall cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in 3.1 above
 - (c) the requirements of the notice are not complied with and the owner or occupier of the land gives a counter-notice, the matter shall be referred (appendix VI) to the respective Divisional Secretary.
- 3.4 On a reference to him/her under paragraph 3.3(c) above the Divisional Secretary, after giving the parties an opportunity of being heard, may make such order as he/she thinks just, in the circumstances and any such order –
 - (a) allowing the licensee to cause the tree to be felled or lopped or its roots to be cut back, after notifying any person by whom a counter notice was given; and
 - (b) determining any question as to what expenses (if any) are to be paid to the licensee by the owner or occupier of the land as per the Part 4.
- 3.5 Where the licensee acts in pursuance of paragraph 3.3(b) or an order made under subsection 3.4, the licensee shall:
 - (a) cause the tree to be felled or lopped or their roots to be cut back in accordance with good arboricultural practices and under the supervision of an officer of the licensee so as to do as little damages as possible to trees, fences, hedges and growing crops;
 - (b) cause the felled trees, lopped boughs or root cuttings to be removed in accordance with the directions of the owner or occupier, unless land owner or occupier

- informs licensee that trees, branches or its roots to be in the possession of the owner or occupier of the land;
- (c) in order to make sure the line clearance, the felled trees, lopped boughs or root cuttings to be removed in the public roads by the licensee; and
 - (d) make good any damage caused to the land.

Part 4 - Guidelines on determination and payment of Compensation for Wayleave and Felling or Lopping of Trees

Where a wayleave is granted to a licensee under item 3 of Schedule I of the Sri Lanka Electricity Act (by way of an authorization granted by the Divisional Secretary or acquisition under the Land Acquisition Act), the owner of the land may recover from the licensee compensation in respect of granting such wayleave as may be determined by the Divisional Secretary.

As per the powers delegated by the commission to the Divisional Secretaries for carrying out functions under item 4 of the schedule 1 of the Sri Lanka Electricity Act, No.20 of 2009 as amended by the Act, No.31 of 2013 (hereinafter referred to as “Electricity Act”), the Divisional Secretary may on its own motion or on the application of a person affected, **conduct inquiries** to determine whether a licensee is liable to pay any person any compensation **and determines the amount of compensation** on:

01. Grant of wayleave,
02. Any damage caused to land or movables,
(If any damage is caused to land or to movables in the exercise of any right conferred by a wayleave, any person interested in such land or movables may recover compensation in respect of that damage from the licensee)
03. Any disturbance caused to person’s enjoyment of any land or movables
(If a person is disturbed in his or her enjoyment of any land or movables in consequence to the exercise of a right conferred by a wayleave, he or she may recover compensation in respect of such disturbance as may be determined by the Divisional Secretary, from the licensee).

As per the powers delegated by the commission to the Divisional Secretaries for carrying out functions under item 6 of schedule 1 of the Sri Lanka Electricity Act, No.20 of 2009 as amended by the Act, No.31 of 2013, after **hearing to all parties**, the Divisional Secretary may **make such order** as he/she thinks just to the licensee on the **payment of the expenses reasonably incurred by the occupier** of the land to fell or lop the tree or cut back its roots in accordance with or in compliance with the notice issued by licensee and he/she may **determine any question as to what expenses (if any) are to be paid to the licensee by the owner or occupier.**

4.1 ASSESSMENT OF COMPENSATION

The compensation on grant of wayleave, any damage caused to land or movables and any disturbance caused to person’s enjoyment of any land or movables may be assessed **at market rate of servitude granted or based on negotiation by the parties involved.**

Payment of the expenses reasonably incurred by the occupier of the land to fell or lop the tree or cut back its roots in accordance with or in compliance with the notice issued by the licensee or expenses (if any) are to be paid to the licensee by the owner or occupier **may be determined based on the commercial value or based on negotiation by the parties involved.**

4.2 COMMITTEE FOR ASSESSMENT OF COMPENSATION

Divisional Secretary has the power to;

- **conduct inquiries** to determine whether a licensee is liable to pay any person any compensation
- determines the amount of compensation,
- give all parties an opportunity of **being heard** prior to inform licensee on the payment of the expenses reasonably incurred by the occupier of the land to fell or lop the tree or cut back its roots with the notice issued by licensee and
- determine any question as to what expenses (if any) are to be paid to the licensee by the owner or occupier.

As per the aforesaid power, the Divisional Secretary may appoint a “Compensation Committee” chaired by him or decide by himself/herself to facilitate determining the amount of compensation, for distribution lines and new supply service connection, after collecting required information on it. But Divisional Secretary shall appoint a committee to determine wayleave compensation for constructions of transmission lines.

4.2.1 COMPOSITION OF THE COMMITTEE

The composition of the compensation determination committee may comprise of;

- The Divisional Secretary (Chairman) of the relevant Divisional Secretariat Division
- Chief valuer/District valuer or his/her nominee
- An authorized representative of the licensee.
- An expert member/s to value damages to the crops or trees (if applicable).

The committee shall obtain relevant information including expected compensation from affected person/s in writing. Affected person(s) may be given an opportunity to be heard, if required.

The Divisional Secretary will take final decision on assessment and payment of compensation in consultation with other members of the committee. The Divisional Secretary shall clearly record the basis on which his or her decision or determination is made. The Divisional Secretary shall keep records of the meetings, considerations and determinations. The decision of compensation shall be communicated in writing to the licensee and to the affected party/s within two weeks from the date of conclusion of final meeting. In accordance with decision of Divisional Secretary, the licensee shall issue a compensation assessment estimation to the consumer with a copy to the Divisional Secretary.

Payment shall be made to the affected party/s by the relevant party (the licensee or the owner of the land) with a copy to relevant Divisional Secretary within twenty-eight days from the decision of Divisional Secretary. Where that owner is unknown or where the ownership of that land is subject to dispute, the licensee shall pay compensation in terms of the Item 4 (7) of Schedule I of the Sri Lanka Electricity Act, No. 20 of 2009.

4.3 APPEAL ON THE DETERMINATION OF COMPENSATION

Any affected person who is dissatisfied or aggrieved by the assessment of the compensation determined by the Divisional Secretary may make an appeal to the Commission. Upon receiving such appeal, the Commission may review the procedure adopted in determination of the compensations and if there is any laps observes on adoption or compliance of this guideline and the provisions of the electricity act, upon reviewing the appeal, the commission may reject or refer the appeal with its observation if any to the relevant the Divisional Secretary for further review of his/her decision.

The decision of the commission/Divisional Secretary on determination of compensation will be final unless the aggrieved party institutes in a court of competent jurisdiction.

Part 5 – Entering into land or premises

- 5.1 Any authorized officer of a licensee may enter any land or premises for the purpose of:
- (a) placing a new electric line or new electrical plant in place of, or in addition to, any existing line or plant which has already been lawfully placed; or
 - (b) repairing or altering any such existing electric line or electric plant
- 5.2 However, any authorized officer of a licensee shall not demand to enter any land or premises, for the purposes specified in paragraph 5.1, unless:
- (a) three (3) days' notice (appendix VII) of the intended entry has been given stating as fully and accurately as possible the nature and extent of the acts intended to be done;
 - (b) if required to do so, the authorized officer shall produce evidence of his or her authority;
 - (c) reasonable compensation is to be paid to the owner of the land or premises for any disturbance, disability or damage that may cause pursuant to the entry.
- 5.3 Any notice referred to in subparagraph 5.2(a) shall:
- (a) where the land is occupied, be given to the occupier;
 - (b) where the land is not occupied, be given to the owner if his or her name and address is known to or can be ascertained with reasonable diligence;
 - (c) where the land is not occupied and the name and address of the owner cannot with reasonable diligence be ascertained, be exhibited in some conspicuous position in the land; and
 - (d) where the land is used or reserved for any public purpose, be given to the officer or other person in charge of the execution of that purpose.
- 5.4 Any person authorized by the licensee, shall be entitled to enter the land, for the purpose of giving a notice referred to in subparagraph 5.2(a)
- 5.5 No person shall enter into any land or premises, for the purposes specified in paragraph 5.1, unless he or she is authorized in writing by a licensee.
- 5.6 Where any person exercises any right to enter into any land or premises, the licensee, by whom he or she was authorized in writing, shall make good any damage done to the land as a result of such entry.
- 5.7 Where in the exercise of a right to enter into any land or premises, any damage is caused to any land or to any movable property, any person interested in the land or movable property may recover compensation in respect of that damage from the licensee on whose behalf the right is exercised.
- 5.8 Where in consequence of the exercise of such a right, a person is disturbed in his or her enjoyment of any land or movable property, he or she may recover from that licensee reasonable compensation in respect of that disturbance as determined by the Commission.

- 5.9 If, in an attempt to exercise any right of entry, a licensee has made all reasonable efforts, otherwise than by the use of force, to obtain entry to the premises; and those efforts have been unsuccessful, it may apply, *ex parte*, to the Magistrate Court having jurisdiction over the place where the premises is situated for an order authorizing an officer authorized by the licensee to enter the premises by force (please refer item 9 of Schedule II of the Electricity Act for further details of such order).
- 5.10 Where in pursuance of any right or power, entry is made on any premises by an officer authorized by a licensee:
- (a) the officer shall ensure that the premises is left no less secured by reason of the entry; and
 - (b) the licensee shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him or her in entering the premises, or in taking any authorized action.

Part 6 – Information for the general public

6.1 Wayleave

- (a) In terms of the provisions of the Electricity Act, the licensees are granted powers to install any electric line or electrical plant under, over, in, on, along or across any street with the consent of the local authority or other relevant authority.
- (b) The licensees shall obtain wayleave to install or keep installed an electric line on, over or under any land by way of:
 - (i) an agreement between the parties (i.e. licensee and owner or occupier of the land)
 - (ii) an authority granted by the Divisional Secretary; or
 - (iii) acquisition of the wayleave
- (c) Initially, the licensee will issue a notice to the owner or occupier of the land requiring the wayleave. It will make all reasonable efforts (As per the 2.1 (c) in Part 2 of Guidelines on wayleave) to secure the grant of wayleave (by agreement between parties) prior to making an application to the Divisional Secretary requiring authority to install or to keep installed the electric line.
- (d) Upon receipt of a notice requiring wayleave to install a new electric line or to keep installed an existing electric line, from a licensee, an owner or occupier of the land may:
 - (i) grant wayleave without any terms & conditions. The licensee will install or keep installed the line on this instance.
 - (ii) Refrain from responding to the notice within the stipulated period stated therein - licensee may take reasonable efforts to secure the wayleave, failing which, it will consider that the owner of the land is not willing to grant wayleave and hence, may make an application for an authorization to install or keep installed the electric line from the Divisional Secretary.
 - (iii) grant wayleave subject to terms & conditions - licensee may either accept the grant subject to landowner's terms & conditions, or make an application for an authorization to install or keep installed the electric line from the Divisional Secretary subject to the terms & conditions acceptable to
 - (iv) if he or she is not willing to grant the wayleave, inform the same to licensee in writing - licensee may consider alternatives (if any) or apply for authority to install or keep installed the electric line from the Divisional Secretary
- (e) However, it is advisable for the owners and occupiers of lands to be proactive and duly respond to any such notices or communications (verbal or written) received from licensees, requesting wayleave. Even, if the owners or occupiers of the land not responded to the notice, the licensee will further take reasonable efforts to obtain grant of wayleave from him/her. Owners and occupiers of lands are advised to make use of the opportunity to propose terms & conditions (subject to which he or she may be willing to grant wayleave) including the compensation in respect of

the grant of the wayleave. Such terms & conditions may be accepted by the licensees or may be considered by the Divisional Secretaries at any relevant inquiries. Please refer Part 4 above for particulars relating to granting of compensation with respect to wayleave.

- (f) When an owner or occupier of a land requires to get an electric line, which is already installed on, under or over a land removed, he or she may issue a notice to the licensee requiring the removal of such line - please refer item 2.2 for details. Upon receipt of such notice the licensee, upon making all reasonable efforts to secure the grant of wayleave (by agreement between parties), may apply for authority to keep installed the electric line from the Divisional Secretary.
- (g) It is in the best interest of an owner or occupier of any land to participate at any inquiry conducted by a Divisional Secretary, at which he or she will be given an opportunity of being heard. Also, the provision of all relevant information at any such hearing would assist the Divisional Secretary in making an informed decision which is fair by all the parties.

6.2 Felling or lopping of trees

- (a) If any tree is or will be in close proximity to an electric line or electrical plant which has been installed or is being or to be installed as to obstruct or interfere with the installation, maintenance or working of an electric line/plant or is a source of danger to public, such tree has to be felled or lopped or its roots be cut back so as to prevent it from having such effect.
- (b) As per the Electricity Act, the licensee is required to give a notice to occupier (if the occupier is not the owner to the owner) of the land on which the tree is growing, requiring him or her to fell or lop or cut back roots of a tree, referred to in (a) above.
- (c) If the occupier (if the occupier is not the owner the owner) of the land fails to comply with the requirements of a notice (issued by the licensee to fell or lop the tree or cut back roots of a tree) and has not given a counter-notice, within seven (7) working days of the notice, the licensee is empowered to fell or lop or cut back roots of such tree.
- (d) Therefore, if an occupier (if the occupier is not the owner the owner) of a land has any objection for felling or lopping or cutting back roots of a tree (as required by the licensee), he or she shall give a counter-notice to the licensee within seven (7) working days of a notice by the licensee to that effect. Upon receipt of a counter-notice, the licensee may refer the matter to the Divisional Secretary who will give an opportunity of being heard to the parties before making an order.
- (e) If the occupier (if the occupier is not the owner the owner) of the land complies with the requirements of the notice, the licensee will pay to him or her any expenses reasonably incurred in complying with the requirements of the notice.
- (f) The Divisional Secretary upon conducting an inquiry may make such order as he or she thinks just in the circumstances allowing the licensee to cause the tree to be

felled or lopped or its roots to be cut back to prevent it from having any effect referred to in (a) above.

- (g) If a licensee is empowered to fell or lop the tree or cut back roots of a tree, under (c) or (f) above, it shall comply with the requirement specified under paragraph 3.5 above.

Part 7 – General

7.1 For the licensees

- (a) The licensees shall make available a copy of these guidelines in all three languages (Sinhala, Tamil and English) at its area offices, branches and customer service centers (as applicable) for reference by general public during normal working hours.
- (b) The notices referred to in paragraphs 2.1(a) and 3.1 above would not be considered as delivered/received, unless acknowledged by the intended recipient. The periods specified in such notices would be counted with effect from the date of acknowledging the receipt of the same.
- (c) It is advisable to deploy the staff having good public relations/negotiations and communication skills in attempting to secure the wayleave from the owner or occupier of any land. It has been noted that, in many instances, the wayleave could have been obtained from the owners or occupiers of land itself, by using effective communication skills and by provision of required information to avoid any misunderstandings.
- (d) The installation of electric lines and electric plants shall be planned in a manner in which the economic usage of land is optimized and the disturbance to the general public is minimized. Any planned expansions in the distribution and transmission networks shall also be considered in determining the path of an electric line.

7.2 For the Divisional Secretaries

Adhering to the general guidelines specified below would ensure the legitimacy and dependability of the decisions made by the Divisional Secretaries with respect to the Parts 2, 3 and 4 above:

- (a) ensure that all inquiries, hearings, meetings, etc. held and decisions made by the Divisional Secretaries are arrived at by following a due process and based on the principles of natural justice.
- (b) All the relevant parties, specially the owner/s or occupier/s of the land, shall be duly informed of any inquiry, hearing or meeting to be conducted. It is advisable to obtain an acknowledgment of receipt of any notice and conduct such inspection, hearing or meeting on the same day in the presence of all relevant parties in order to avoid disputes and delays.
- (c) All the relevant parties, specially the owner/s or occupier/s of the land, shall be given an opportunity to express views and concerns at such inspections, hearings or meetings.
- (d) If it is revealed that the owner or occupier of the land has not received the notice or on receiving the notice had not been able to be present due to unavoidable circumstances, the Divisional Secretary may re-schedule such inspections, hearings or meetings with the participation of the owner or occupier of the land.

- (e) When determining on wayleave, compensation and conditions applied to parties, the Divisional Secretaries always have to retain all documents, submissions, notes on discussions, representations and record reasons for all their determinations. Divisional Secretary needs to record his/her decisions very precisely based on his/her judgements and conclusions, stating clearly the grounds, evidence, principles, arguments. Further he/she needs to collect sketches, drawings and maps where ever possible. Especially when issuing determinations, decisions and directives to licensees, directions are to be issued with clear and precise instructions and sketches. The minutes/records of all inquiries, hearings, meetings, etc. held under the paragraphs 2.1(e), 2.2 (c) (iii), 3.4 and part 4 shall be maintained and submitted to the Commission when requested to do so.
- (f) All efforts shall be made to optimize the usage of land which is a limited natural resource.
- (g) Even if the inquiries, hearings, meetings, etc. were conducted by an officer other than the Divisional Secretary, the final decision on the matter shall be taken by the Divisional Secretary him/herself.
- (h) Any decision made by a Divisional Secretary, including the basis on which it has been made, shall be duly informed to all parties concerned

Appendix I – NOTICE REQUIRING WAYLEAVE
(NOTICE – ‘W’)

To:
(name of the occupier of the land, if the occupier is not also the owner, name of the owner)

In terms of Item 3 of Schedule I of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended), a notice is hereby given requiring the grant of wayleave³ at the land located at:

.....
.....
(address of the land)

A description of the required wayleave is given below:

.....
.....
.....
.....
.....
.....
.....
.....
.....

You are kindly requested to respond to this notice within twenty-one (21) days from the date hereof. However, if no response is received within the said period, we will proceed to obtain wayleave in terms of the provisions of electricity act.

.....
Signature of authorized officer of the licensee

Name of authorized officer:
Contact number:
Address:

Date: dd/mm/yyyy *(date of notice)*

³ **'wayleave'** means such interest in the land as consists of a right of licensee, to install and keep installed, an electric line on, under, or over, that land and to have access to that land for the purpose of inspecting, maintaining, adjusting, repairing, altering, removing or replacing such electric line.

Appendix II – WAYLEAVE AGREEMENT

Parties:

(1) Name: (“**Owner / Occupier***”)

Address:

.....

.....

(2) Name: (“**Licensee**”)

Address:

.....

.....

Terms and conditions of the **owner / occupier*** of the land:

.....
.....
.....
.....
.....

Terms and conditions of the Licensee:

.....
.....
.....
.....
.....

We, the **owner / occupier*** of the land and the Licensee, agree to the above terms and conditions.

.....
Owner / Occupier* of the land

.....
Licensee

Date:

Date:

(*please strike off the inappropriate words)

Appendix III – APPLICATION REQUIRING AUTHORITY TO INSTALL/KEEP INSTALLED AN ELECTRIC LINE

To:
(The Divisional Secretary of the administrative district in which the land in which the wayleave is required)

1. Purpose of the application is to require authority to: (please mark '✓' where appropriate)

1.1 Install an electric line

In terms of paragraph (1) of item 3 of Schedule I of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended), a **notice / notices* was / were*** issued to the **landowner / landowners***, requesting wayleave for the purpose of installing an electric line (details are given under item 2 below). However, the said **landowner has / landowners have***: (mark '✓' where appropriate)

failed to give the wayleave before the end of the period specified in the notice

given the wayleave subject to terms and conditions which are not acceptable to us

1.2 Keep installed an electric line

In terms of paragraph (2) of item 5 of Schedule I of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended), the owner or occupier of the land has given notice to remove an electric line (details are given under item 2 below) from the land.

2. Details of the electric line:

.....

3. A **copy/copies* of notice/notices* issued by us/received by us***, containing the details of **landowner/landowners or occupier/occupiers*** are attached herewith. All efforts were made to secure the grant of wayleave subject to terms and conditions acceptable to us, but such efforts have been unsuccessful (evidences relating to efforts made to secure the grant of wayleave are attached herewith).

4. We hereby request the authority to **install / keep installed*** the electric line(s) in accordance with item 3 of Schedule I of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended).

.....
 Signature of authorized officer of the licensee

Name of authorized officer:

Contact number:

Address:

Date: (date of application)

(*please strike off the inappropriate words)

Appendix IV – RECOMMENDATION TO ACQUIRE WAYLEAVE

Date:

To: Chairman, Public Utilities Commission of Sri Lanka

We refer to the application made by (authorized officer of the licensee) dated

Given below is a summary of findings of the inquiry held with respect to the above application by the licensee:

.....
.....
.....
.....
.....

Based on the inquiry and above findings, I recommend the acquisition of the wayleave requested by the licensee referred to in the above application.

The required information/documents⁴ (as per annexure) are attached herewith.

.....
Signature

Divisional Secretary - (*administrative district*)

⁴ The completed annexure should be forwarded along with the recommendation. The relevant item numbers (as per annexure) should be indicated on top right hand corner of the documents forwarded. No recommendation will be considered successful/complete unless all the information/documents specified in the annexure are submitted to the commission.

(Annexure to Appendix IV - list of information/documents to be forwarded)

1. Application by the licensee to install/keep installed an electric line
2. Copy of the notice requiring wayleave
3. Proof of acknowledgement of receipt of the notice by landowner (Proof of notice sent by registered post or proof of notice with signature of the land owner that the notice was handed over etc.)
4. Terms and conditions not acceptable to the licensee (if any), subject to which the landowner has granted the wayleave
5. Copy of the notice received from the owner or occupier of the land requiring the licensee to remove the electricity line
6. Confirmation that the land is not covered by an authorized dwelling
7. Confirmation that planning permission has not been granted under the relevant laws for construction of a dwelling
8. Confirmation that the licensee has made all reasonable efforts to secure the grant of wayleave
9. Confirmation that the acquisition of the wayleave is necessary for the carrying on of the activities authorized by the license of the licensee
10. Evidence to prove that the landowner was given an opportunity of being heard
11. Details of the land and landowner:
 - (a) Full name and copy of NIC of the landowner
 - (b) Proof of legal ownership of the land
 - (c) Assessment number of the land
 - (d) Address of the land
 - (e) GN Division in which the land is located
 - (f) Confirmation that there is no dispute on the ownership of the land and that there is no legal impediment in acquiring the land
12. Details of the required wayleave:
 - (a) Map showing the proposed installation, extent of wayleave required, boundaries of the land, existing electric line(s)/plant(s) installed over, under or on the land, and buildings/structures constructed or being constructed on the land
 - (b) System map of the area showing the proposed electricity line and other existing electric lines installed around the locality
 - (c) Brief description of the work to be carried out on the land

**Appendix V – NOTICE REQUIRING TO FELL OR LOP A
TREE
(NOTICE – ‘T’)**

To:
(name of the occupier of the land, if the occupier is not also the owner, name of the owner)

In terms of Item 6 of Schedule I of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended), a notice is hereby given requiring to fell or to lop tree(s) or to cut back its roots at the land located at:

.....
.....
(address of the land)

The tree(s) (described below) growing on the above land has to be felled, lopped or its roots need to be cut back as it **is / will be*** in such close proximity to an **electric line / electrical plant / both*** which **has been installed / is being installed / is to be installed*** by us, as to:

(*strike off the inappropriate words)

- obstruct or interfere with the installation, maintenance or working of the line or plant
- constitute an unacceptable source of danger to public

(mark ‘✓’ where appropriate)

A description of the tree(s) to be felled or lopped or roots to be cut back is given below:

.....
.....
.....

Any expenses reasonably incurred by you in complying with the requirements of this notice would be paid by us. If you have any objections on the requirements contained in this notice, please communicate it to the undersigned within seven (7) working days from the date of this notice. However, if no response is received by us within the said period, we are authorized to cause the tree(s) described above to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned above.

.....
Signature of authorized officer of the licensee

Name of authorized officer:

Contact number:

Address:

Date: dd/mm/yyyy (date of notice)

Appendix VI – REFERRAL OF A MATTER RELATING TO FELLING OR LOPPING A TREE(S) TO A DIVISIONAL SECRETARY

To:
(The Divisional Secretary of the administrative district in which the land on which the tree is growing)

In terms of Item 6 of Schedule I of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended), a notice(s) was issued to the following landowner(s)/occupier(s) requesting to fell or to lop tree(s) or to cut back its roots at the land located at:

.....
.....

Name(s) and address(es) of the owner(s)/occupier(s) of the land(s):

- (1)
- (2)
- (3)
- (4)

The counter notice(s) issued, objecting the requirements of the notice(s) issued by us, by the owner(s)/occupier(s) is attached herewith.

We hereby request the authority to fell or to lop tree(s) or to cut back its roots in accordance with the item 6 of Schedule I of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended).

.....
Signature of authorized officer of the licensee

Name of authorized officer:

Contact number:

Address:

Date: dd/mm/yyyy (date of application)

Appendix VII – NOTICE OF INTENDED ENTRY TO A LAND OR PREMISES

(NOTICE – ‘E’)

To:.....
(name of the occupier)

In terms of Item 8 of Schedule II of the Sri Lanka Electricity Act, No. 20 of 2009 (as amended), a notice is hereby given on the intended entry by our authorized persons to the land/premises located at:

.....
(address of the land/premises)

Intended date of entry: dd/mm/yyyy

Intended time of entry: ... : ... a.m./p.m.

Nature and extent of the acts intended to be done:

.....
.....
.....
.....
.....
(state as fully as accurately as possible the nature and extent of the acts intended to be done)

Duration of stay:
(insert intended time taken)

No. of persons:

If any clarifications are required on the above or there is any inconvenience relating to the date and/or time proposed, please contact the undersigned.

.....
Signature of authorized officer of the licensee

Name of authorized officer:

Contact number:

Address:

Date: dd/mm/yyyy