



Lands Tribunal Act 1949

1949 CHAPTER 42 12 13 and 14 Geo 6

3 ^{F1} Procedure, appeals, costs and fees [^{F1}in the Lands Tribunal for Scotland].

- (1) Subject to the provisions of this Act, the jurisdiction of the Lands Tribunal [^{F2}for Scotland]^{F2} may be exercised by any one or more of its members, and references in this Act to the Lands Tribunal [^{F2}for Scotland]^{F2} shall be construed accordingly.
- (2) The member or members who is or are to deal with any case shall be selected as follows:—
 - (a) the President may select a member or members to deal with a particular case or class or group of cases; or
 - (b) the President may select for a class or group of cases members from amongst whom a member or members to deal with any particular case shall be selected, and the selection from amongst those members of a member or members to deal with a particular case shall then be made either by the President or, if he so directs, by one of those members appointed by the President to be their chairman.

This subsection shall apply to the selection of a member of the Lands Tribunal [^{F2}for Scotland]^{F2} for the purposes of subsection (6) of section one of this Act as if the case were one to be dealt with by the Lands Tribunal [^{F2}for Scotland]^{F2}.

- (3) Where a case is dealt with by two or more members of the Tribunal—
 - (a) if the President is one of them he shall preside at the hearing and, if he is not, one of them shall be nominated to preside at the hearing by the person selecting them to deal with the case;
 - (b) a decision shall be taken, in the event of a difference between the members dealing with the case, by the votes of the majority and, in the event of an equality of votes, the person presiding at the hearing shall be entitled to a second or casting vote.
- (4) ^{F3}
- (5) Subject to the following provisions of this section, the Lands Tribunal [^{F2}for Scotland]^{F2} may order that the costs of any proceedings before it incurred by any party

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shall be paid by any other party and may tax or settle the amount of any costs to be paid under any such order or direct in what manner they are to be taxed.

- (6) Subject to the provisions of this Act, rules may be made for regulating proceedings before the Lands Tribunal [^{F2}for Scotland]^{F2} and, subject to the approval of the Treasury, the fees chargeable in respect of those proceedings, and may in particular—

- (a) make provision—
 - (i) as to the form in which any decision of the Tribunal is to be given, and as to the amendment of any such decision in pursuance of any directions which may be given by the court dealing with an appeal under this section;
 - (ii) as to the time within which any proceedings before the Tribunal are to be instituted;
 - (iii) as to the evidence which may be required or admitted in any such proceedings;
- (b) provide for the Tribunal to [^{F4}be assisted by] assessors when dealing with cases calling for special knowledge and, subject to the approval of the Treasury, for making payments to the assessors as part of the expenses of the Tribunal;
- [^{F5}(c) make provision—
 - (i) requiring persons to attend to give evidence and produce documents;
 - (ii) authorising the administration of oaths to witnesses;
 - (iii) granting to any person such recovery of documents as might be granted by the Court of Sessions.]

[^{F6F5}(6A) It is hereby declared that this section authorises the making of rules which allow the Tribunal to determine cases without an oral hearing.

- (6B) The rules shall require that the determination without an oral hearing of any disputed claim for compensation which—

- (a) is payable in respect of a compulsory acquisition of land, or
- (b) depends directly or indirectly on the value of any land,

shall require the consent of the person making the claim.

- (6C) Where the Tribunal [^{F7}determines]^{F7} a case without an oral hearing, subsection (3) of this section shall apply subject to such modifications as may be prescribed by the rules.]

(7) ^{F8}

(8) ^{F3}

- (9) Subject to this Act, any rules made by the Reference Committee under the Acquisition of Land Act, or by the Reference Committee under the ^{M1}Finance (1909-10) Act 1910, which are in force immediately before the commencement of this Act shall, so far as they relate to matters with respect to which there is power to make rules under this section, have effect with any necessary modifications as if made in the exercise of that power; and any instrument prescribing the fees chargeable under either of the said Acts which is then in force shall also have effect as aforesaid.

Subject to this Act any reference to rules made by either of the said Committees or to any such instrument as aforesaid shall, unless the context otherwise requires, include a reference to the rules made or having effect under this section.

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- (10) Rules made under this section shall provide for preserving, so far as appears to the rule-making authority to be practicable, the effect of things done before the commencement of this Act in or for the purposes of the exercise of any jurisdiction transferred by this Act to the Lands Tribunal [^{F2}for Scotland]^{F2}, and those rules may exclude the operation of this Act, in whole or in part, in relation to any proceedings pending at the commencement of this Act.
- (11) ^{F3}
- (12) In relation to the Lands Tribunal for Scotland, the following provisions shall have effect:—
- (a) ^{F3}
 - (b) ^{F3}
 - (c) any person who without reasonable excuse fails to comply with any requirement imposed by rules under this section in accordance with paragraph (c) of subsection (6) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F9}level 3 on the standard scale] or imprisonment for a term not exceeding three months or both;
 - (d) any [^{F10}extract of an order] of the Tribunal may be recorded for execution in the Books of Council and Session and shall be enforceable accordingly;
 - (e) the rule-making authority for the purposes of this Act shall be [^{F11}The Lord Advocate].

Subordinate Legislation Made

P1 [S. 3](#): s. 3 power exercised by [S.I. 1991/658](#).

For previous exercises of power see Index to Government Orders.

Textual Amendments

- F1** Words in [s. 3](#) heading inserted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), [Sch. 1 para. 13\(a\)](#) (with art. 5)
- F2** Words in [s. 3\(1\)\(2\)\(5\)\(6\)\(10\)](#) inserted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), [Sch. 1 para. 13\(b\)](#) (with art. 5)
- F3** [S. 3\(4\)\(8\)\(11\)\(12\)\(a\)\(b\)](#) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), [Sch. 1 para. 13\(c\)](#) (with art. 5)
- F4** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\)](#), s. 193, [Sch. 33 para. 3\(3\)](#)
- F5** [S. 3\(6\)\(c\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), [Sch. 1 para. 13\(d\)](#) (with art. 5)
- F6** [S. 3\(6A\)–\(6C\)](#) inserted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\)](#), s. 193, [Sch. 33 para. 3\(2\)](#)
- F7** Word in [s. 3\(6C\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), [Sch. 1 para. 13\(e\)](#) (with art. 5)
- F8** [Ss. 1\(7\), 3\(7\), 5, Sch. 1](#) repealed by [Land Compensation Act 1961 \(c. 33\)](#), [Sch. 5](#) and [Land Compensation \(Scotland\) Act 1963 \(c. 51\)](#), [Sch. 4](#)
- F9** Words substituted (S.) for “£50” by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)
- F10** Words substituted retrospectively by [Land Tenure Reform \(Scotland\) Act 1974 \(c. 38\)](#), [s. 19](#)
- F11** Words substituted by [S.I. 1972/2002](#), [art 3\(3\)\(c\)](#)

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Modifications etc. (not altering text)

- C1** [S. 3](#): functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by [S.I. 1999/678](#), [arts. 2, 3](#), [Sch.](#) (with [art. 7](#))
- C2** [S. 3](#) applied (with modifications) (S.) (1.11.2003) by [2000 asp 5](#), ss. 21, 77(4); [S.S.I. 2003/455](#), [art. 2\(a\)](#)
- C3** [S. 3\(6\)](#) extended (E.W.) by [Rights of Light Act 1959 \(c. 56\)](#), s. 2(5)
- C4** [S. 3\(6\)](#) function transferred by 2003 c. 21, Sch. 3A para. 106 (as inserted (22.11.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 1](#) (with [Sch. 2](#)); [S.I. 2017/1136](#), reg. 2)

Marginal Citations

- M1** 1910 c. 8.

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