



Railways Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 33 8 and 9 Vict

Recovery of damages and penalties

And with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, be it enacted as follows:

132 Provision for damages not otherwise provided for.

In all cases where any damages, charges, or expences are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by the sheriff; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by pointing and sale of the goods of the company or other party liable as aforesaid; and the sheriff shall, on application, issue his warrant accordingly.

133 F1

Textual Amendments
F1 Ss. 118-129, 133 repealed by [Transport Act 1962 \(c. 46\), s. 95\(3\)](#), [Sch. 12 Pt. I](#)

134 Method of proceeding before the sheriff or justices in questions of damages.

Where in this or the special Act, or any Act incorporated therewith, any question of damages, charges, expences, or other matter, is referred to the determination of any sheriff or justices, it shall be lawful for the sheriff or any justice, upon the application of either party, to order the other party to appear before such sheriff if the order shall

*Status: Point in time view as at 01/02/1991.**Changes to legislation: There are currently no known outstanding effects for the Railways Clauses Consolidation (Scotland) Act 1845, Cross Heading: Recovery of damages and penalties. (See end of Document for details)*

be issued by the sheriff, or before two justices if the order shall have been issued by a justice, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such sheriff or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the expences of every such inquiry shall be in the discretion of such sheriff or justices, and he or they shall determine the amount thereof.

135 F2

Textual Amendments

F2 S. 135 repealed by [Transport Act 1962 \(c. 46\)](#), [Sch. 12 Pt. II](#)

136 Penalty for defacing boards used for such publication.

If any person pull down or injure any board put up or affixed [^{F3}for the purpose of publishing any byelaw of the company or any penalty imposed by this or the special Act] , or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding [^{F4}level 1 on the standard scale] , and shall defray the expences attending the restoration of such board.

Textual Amendments

F3 Words substituted by [Transport Act 1962 \(c. 46\)](#), [s. 84\(4\)](#)

F4 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

Modifications etc. (not altering text)

C1 S. 136 extended by [Transport Act 1962 \(c. 46\)](#), [Sch. 2 Pt. IV](#) and [Transport Act 1968 \(c. 73\)](#), [Sch. 16 para. 1](#)

137 Penalties to be summarily recovered before the sheriff or two justices.

Every penalty or forfeiture imposed by this or the special Act, . . . ^{F5} the recovery of which is not otherwise provided for, may be recovered by summary proceeding before the sheriff or two justices; . . . ^{F6} and upon the appearance of the party complained against, or in his absence, after proof of the due service of such order, it shall be lawful for any sheriff or two justices to proceed to the hearing of the complaint; and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such sheriff or justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such expences attending the conviction as such sheriff or justices shall think fit.

Textual Amendments

F5 Words repealed by [Transport Act 1962 \(c. 46\)](#), [Sch. 12 Pt. II](#)

F6 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Railways Clauses Consolidation (Scotland) Act 1845, Cross Heading: Recovery of damages and penalties. (See end of Document for details)

138 Penalties may be levied by pointing and sale.

If forthwith . . . ^{F7} the amount of the penalty or forfeiture, and . . . ^{F7} expences . . . ^{F7} be not paid, the amount of such penalty and expences shall be levied by pointing and sale; . . . ^{F7}

Textual Amendments

F7 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

139 Imprisonment in default of sufficient pointing

It shall be lawful for any such sheriff or justices to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of pointing and sale to be issued for levying such penalty or forfeiture and expences, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the sheriff or justices, for his appearance before him or them on the day appointed for such return, such day not being more than eight days from the time of taking such security; but if before issuing such warrant of pointing and sale it shall appear to the sheriff or justices, by the admission of the offender or otherwise, that no sufficient pointing and sale can be had within the jurisdiction of such sheriff or justices whereon to levy such penalty or forfeiture and expences, he or they may, if he or they think fit, refrain from issuing such warrant; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the sheriff or justices, then such sheriff or justices shall, by warrant, cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture and expences be sooner paid and satisfied.

140, ^{F8}
141.

Textual Amendments

F8 Ss. 140, 141, 143, 145, 148, 151 and 152 repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

142 Application of penalties.

The sheriff or justices by whom any such penalty or forfeiture shall be imposed, where the application thereof is not otherwise provided for, may award not more than one half thereof to the informer, and [^{F9}the remainder shall be paid into the Exchequer].

Textual Amendments

F9 Words substituted by [S.I. 1952/1334](#) (1952 II, p. 2029), art. 2, Sch.

143 ^{F10}

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Railways Clauses Consolidation (Scotland) Act 1845, Cross Heading: Recovery of damages and penalties. (See end of Document for details)

Textual Amendments

F10 Ss. 140, 141, 143, 145, 148, 151 and 152 repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

144 Damage to be made good in addition to penalty.

..... **F11**

Textual Amendments

F11 S. 144 repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 8**

145 **F12**

Textual Amendments

F12 Ss. 140, 141, 143, 145, 148, 151 and 152 repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

146 Transient offenders.

It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall be found committing any offence against the provisions of this or the special Act, or any Act incorporated therewith, and whose name and residence shall be unknown to such officer or agent, and convey him with all convenient despatch before the sheriff or a justice, without any warrant or other authority than this or the special Act; and such sheriff or justice shall proceed with all convenient despatch in the matter of the complaint against such offender.

147 Proceedings by sheriff need not be in writing.

Any sheriff to whom any application is authorized to be made, and before whom any judicial proceeding shall in consequence take place or become necessary under or by virtue of this or the special Act, or any Act incorporated therewith, shall and he is hereby authorized and required summarily to call before him all parties who appear to him to be interested therein, and to proceed forthwith to hear vivâ voce, and pronounce judgment regarding the matters mentioned in such application or proceedings, or to do the several matters and things required by this Act to be done by him, without waiting the ordinary course of the roll of causes before him, and without written pleadings or a written record or reducing any evidence which may be led by either of the parties to writing, unless and except where the said sheriff shall consider that the matters mentioned in such application or proceedings can with more advantage be decided with written pleadings and with a written record, in which case he shall proceed to make up a record, and bring the said matters to a conclusion with all convenient despatch; and the orders and judgments of the said sheriff when pronounced without a record shall be final and conclusive, and not subject to review by suspension or advocacy, or to reduction, on any ground whatever.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Railways Clauses Consolidation (Scotland) Act 1845, Cross Heading: Recovery of damages and penalties. (See end of Document for details)

148^{F13}

Textual Amendments

F13 Ss. 140, 141, 143, 145, 148, 151 and 152 repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

149 Proceedings not to be quashed for want of form, &c.

No proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be . . .^{F14} removed by suspension or otherwise into any superior court.

Textual Amendments

F14 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Railways Clauses Consolidation (Scotland) Act 1845, Cross Heading: Recovery of damages and penalties.