



Land Clauses Consolidation Acts Amendment Act 1860

1860 CHAPTER 106 23 and 24 Vict

An Act to amend the Lands Clauses Consolidation Acts, 1845, in regard to sales and compensation for land by way of a rentcharge, annual feu duty or ground annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the powers and provisions contained in the same Acts. [20th August 1860]

Editorial Information

- X1** Act incorporated subject to modifications with Acts listed in Chronological Table of the Statutes
- X2** This Act in its application to Northern Ireland has effect subject to any amendments enacted by the Parliament of Northern Ireland

Modifications etc. (not altering text)

- C1** Preamble omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)
- C2** Words of enactment repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)
- C3** Acts cited or referred to by their short titles under authority of [Statute Law Revision Act 1893 \(c. 14\)](#), [s. 3](#)
- C4** Power to apply Act conferred (E.W.) by [Agriculture Act 1947 \(c. 48\)](#), [s. 93](#)
- C5** Act incorporated (with modifications) by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 113:2\)](#), [s. 79](#)
Act incorporated by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\)](#), [s. 11\(5\)](#)
and by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [s. 110\(5\)](#)
Act incorporated by [Housing Associations Act 1985 \(c. 69, SIF 61\)](#), [s. 88\(4\)\(a\)](#)
Act incorporated by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), [s. 2\(4\)](#) and [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\)](#), [s. 38\(3\)](#) and by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), [s. 8\(11\)\(a\)](#)
Act incorporated (S.) (27.7.1993) by [1993 c. xii, s. 1](#), [Sch. s. 3\(1\)](#)
Act incorporated (S.) (5.1.1994) by [1993 c. 44, ss. 57\(1\), 64\(2\), 58\(1\)\(4\)](#), (with [s. 30\(5\)](#)).
Act incorporated in part (with modifications) (S.) (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), [s. 46\(3\)](#); [S.S.I. 2002/118, art. 2\(3\)](#)
- C6** Act applied (with modifications) by [Electricity Act 1979 \(c. 11, SIF 44:1\)](#), [s. 11\(2\)](#)
- C7** Act applied (S.) by [Airports Act 1986 \(c. 31, SIF 9\)](#), [s. 59\(2\)\(b\)](#)

Status: Point in time view as at 24/07/2006.

Changes to legislation: There are currently no known outstanding effects for the Land Clauses Consolidation Acts Amendment Act 1860. (See end of Document for details)

- Act applied by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\), s. 36\(3\)](#)
Act applied (1.5.1994) by [1894 c. 60 \(as amended by 1993 c. 22, S. 8\(3\), Sch. 4 para. 38; S.I. 1993/3137, art. 3\(2\), Sch. 2\)](#)
- C8** Act applied (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 4 para. 9\(3\)](#) (with Sch. 18); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1 \(with art. 3\)](#) (as amended by [S.I. 2003/3142, arts. 1\(3\), 3\(2\)](#) (with art. 11))
- C9** Act extended (S.) (2.4.2004) by [The Highland Council \(Inverie\) Harbour Empowerment Order 2004 \(S.S.I. 2004/171\), arts. 12, 13](#) (with arts. 28, 29)
- C10** Act incorporated (S.) (2.4.2004) by [The Highland Council \(Inverie\) Harbour Empowerment Order 2004 \(S.S.I. 2004/171\), art. 4\(1\)\(2\)](#) (with arts. 28, 29)
- C11** Act applied (with modifications) (S.) (11.8.2004) by [Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004 \(asp 10\), s. 14\(5\)\(6\)](#) (with s. 33)
- C12** Act incorporated (S.) (11.8.2004) by [Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004 \(asp 10\), s. 37\(1\)\(a\)](#) (with s. 33)
- C13** Act applied (S.) (11.8.2004) by [Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004 \(asp 10\), s. 25\(3\)](#) (with s. 33)
- C14** Act incorporated (with modifications) (S.) (18.1.2006) by [The Highland Council \(Raasay\) Harbour Revision Order 2006 \(S.S.I. 2006/17\), art. 3](#) (with art. 35)
- C15** Act incorporated (S.) (27.4.2006) by [Edinburgh Tram \(Line Two\) Act 2006 \(asp 6\), s. 80\(1\)\(3\)](#) (with s. 75)
- C16** Act applied (S.) (27.4.2006) by [Edinburgh Tram \(Line Two\) Act 2006 \(asp 6\), s. 24\(5\)](#) (with ss. 40, 75)
- C17** Act applied (S.) (8.5.2006) by [Edinburgh Tram \(Line One\) Act 2006 \(asp 7\), s. 24\(5\)](#) (with ss. 76, 84)
- C18** Act incorporated (S.) (8.5.2006) by [Edinburgh Tram \(Line One\) Act 2006 \(asp 7\), s. 81\(1\)\(3\)](#) (with ss. 76, 84)
- C19** Act incorporated (with modifications) (S.) (24.7.2006) by [Waverley Railway \(Scotland\) Act 2006 \(asp 13\), ss. 14\(5\)\(6\), 52](#) (with ss. 50(2), 51)
- C20** Act applied in part (S.) (24.7.2006) by [Waverley Railway \(Scotland\) Act 2006 \(asp 13\), s. 25\(3\)](#) (with ss. 50(2), 51)

Commencement Information

- II** Act wholly in force at Royal Assent.

[^{F1}1 Part of Sect. 10 of recited Act repealed.

So much of the tenth section of the ^{M1}Lands Clauses Consolidation Act, 1845, as provides that, save in the case of lands of which any person is seised in fee or entitled to dispose absolutely for their own benefit, the consideration to be paid for any lands, or for any damage done thereto, shall be in a gross sum, is hereby repealed.]

Textual Amendments

- F1** [S. 1](#) repealed by [Statute Law Revision Act 1875 \(c. 66\)](#) but reproduced for the purpose of construing the Act-

Marginal Citations

- M1** [1845 c. 18.](#)

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2 Sects. 10 and 11 of recited Act, as to power to sell lands, &c. extended to all sales, etc.

[^{F2}the powers to recover any rentcharge]provided by the eleventh section of the said Act are hereby extended to all cases of sale and purchase or compensation under the said Act where the parties interested in such sale, or entitled to such compensation, are under any disability or incapacity, and have no power to sell or convey such lands or to receive such compensation, except under the provisions of the said Act.

Textual Amendments

F2 Words substituted by [Rentcharges Act 1977 \(c. 30, SIF 98:1\)](#), [Sch. 1 para. 2](#) (subject to a saving in s. 17(4) in relation to applications for apportionment or redemption made before 22.8.1977)

Modifications etc. (not altering text)

C21 [S. 2](#) amended by [Administration of Justice Act 1965 \(c. 2\)](#), [s. 17\(2\)](#)

^{F3}3 Similar proviso with regard to lands sold under 8 & 9 Vict. c. 19, s. 10.

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Textual Amendments

F3 [S. 3](#) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

4 Amount of rentcharge to be settled in manner directed in the 9th section of recited Acts.

In every case of such sale or compensation by any parties other than parties seised in fee or entitled to dispose absolutely of the lands so sold or damaged, the amount of such rentcharge ^{F4}... , herein-before mentioned, shall be settled in the manner directed in the ninth section of each of the said Acts respectively: Provided, that the amount of such annual rentcharge ^{F4}... , shall in no case be less than one-fourth part greater than the net annual rent received by the parties beneficially interested in such lands, upon an average of the last seven years; and that a charge of five per cent. on the gross sum estimated or fixed as aforesaid by way of compensation for any damage that may be done to the said lands shall in all such cases be added to and shall form a part of the said rentcharge ^{F4}...; and that no fine, foregift, grassum, premium, or other consideration in the nature thereof, shall be paid or taken in respect of the lands so sold or damaged, other than the annual rentcharge ^{F4}... , made payable for such lands: Provided also, that such rentcharge shall be and remain upon and for the same uses, trusts, and purposes as those upon which the rents and profits of the land so conveyed stood settled or assured at or immediately before the conveyance thereof, and shall be a first charge on the tolls and rates, if any, payable under the special Act.

Textual Amendments

F4 Words in s. 4 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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5 If lands purchased by way of rentcharge, borrowing powers to be reduced proportionally.

In case the promoters of the undertaking shall be empowered, by any Act or Acts relating thereto, to be passed after the passing of this Act, to borrow money to an amount not exceeding a prescribed sum, then in the event of the promoters of the undertaking agreeing at any time after the passing of this Act with any person, under the powers of this Act and of either of the Acts herein-before mentioned, or of either of the said Acts only, for the purchase of any lands in consideration of the payment of a rentcharge ^{F5}... , the powers of the promoters of the undertaking for borrowing money shall be reduced by an amount equal to twenty years purchase of any rentcharge ^{F5}... , so for the time being payable.

Textual Amendments

F5 Words in s. 5 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

6 ^{F6}

Textual Amendments

F6 S. 6 repealed by [Statute Law Revision Act 1892](#) (c. 19)

7 Power to Secretary for War to use the powers given to promoters of undertakings by 8 & 9 Vict.c. 18.

For the purchase or acquisition of any messuages, lands, tenements, and hereditaments wanted for the service of the Admiralty or of the War Department or for the defence of the realm, it shall be lawful for Her Majesty’s Principal Secretary of State for the War Department for the time being to use all or any of the powers and provisions by the Lands Clauses Consolidation Act, 1845, and by the Lands Clauses Consolidation (Scotland) Act, 1845, given to promoters of the undertaking, as therein mentioned; and for such purposes the said Principal Secretary shall be deemed and taken to be the promoters of an undertaking within the meaning of the said Act; and all the powers and provisions thereof shall, if used by Her Majesty’s Principal Secretary of State for the War Department, be treated as if they were contained in the ^{M2}Defence Act, 1842, for the purpose of being used and made available by the principal officers of Her Majesty’s Ordnance, and had been transferred to the said Principal Secretary for the time being by the ^{M3}Ordnance Board Transfer Act, 1855, for the purposes aforesaid: Provided always, that nothing herein contained shall authorize any purchase otherwise than by agreement of any land, except according to the provisions of the twenty-third section of the Defence Act, 1842, or prejudice or affect the powers and authorities of the said Principal Secretary for the time being under the said last-mentioned statutes, or either of them.

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Modifications etc. (not altering text)

- C22** S. 7 applied with modifications by Requisitioned Land and War Works Act 1945 (c. 43), s. 32, **Sch.**, Land Powers (Defence) Act 1958 (c. 30), s. 13, **Sch. 2 para. 13** and S.I. 1965/1536; extended by Defence (Transfer of Functions) Act 1964 (c. 15), **s. 2(3)**; amended by S.I. 1964/488
- C23** Functions of Admiralty and of War Department now exercisable by a Secretary of State: Defence (Transfer of Functions) Act 1964 (c. 15), **s. 1(2)**
- C24** Functions of H.M. Ordnance now exercisable by Secretary of State for Defence: Ordnance Board Transfer Act 1855 (c. 117) and S.I. 1964/488
- C25** Power to apply with modifications conferred by Supply Powers Act 1975 (c. 9, SIF 57), s. 2, **Sch. 1 Pt. I**

Marginal Citations

- M2** 1842 c. 94.
M3 1855 c. 117.

8 This Act and 8 & 9 Vict. cc. 18 and 19 to be construed together.

This Act shall be read and construed as part of the said Lands Clauses Consolidation Act, 1845 ^{F7}... ; and in citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression of “The Lands Clauses Consolidation Acts Amendment Act, 1860.”

Textual Amendments

- F7** Words in s. 8 repealed (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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