



Land Clauses Consolidation Act 1845

1845 CHAPTER 18 8 and 9 Vict

Entry on lands

And with respect to the entry upon lands by the promoters of the undertaking, be it enacted as follows:

84 Payment of price to be made previous to entry, except to survey, &c.

The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special Act, until they shall either have paid to every party having any interest in such lands, or [F¹paid into the Supreme Court] in the manner herein mentioned, the purchase money or compensation agreed or awarded to be paid to such parties respectively for their respective interests therein: Provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than three nor more than fourteen days notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof.

Textual Amendments

F1 Words substituted by [Administration of Justice Act 1965 \(c. 2\)](#), S. 17, [Sch. 1](#)

Modifications etc. (not altering text)

- C1** S. 84: excluded by [Housing Act 1957 \(c. 56\)](#), [ss. 62\(2\)](#), 101(2) and [Park Lane Improvement Act 1958 \(c. 63\)](#), [s. 7\(2\)](#)
- C2** S. 84 modified by [Judicature \(Northern Ireland\) Act 1978 \(c. 23, SIF 38\)](#), s. 122(1), [Sch. 5 Pt. II](#) (as amended (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), Sch. 11 para. 6; S.I. 2009/1604, art. 2(d))

Status: Point in time view as at 15/11/2005.

Changes to legislation: There are currently no known outstanding effects for the Land Clauses Consolidation Act 1845, Cross Heading: Entry on lands. (See end of Document for details)

85 Promoters to be allowed to enter on lands before purchase, on making deposit by way of security and giving bond.

Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made or verdict given for the purchase money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking [^{F2}to pay into the Supreme Court] by way of security, as herein-after mentioned, either the amount of purchase money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed by two justices in the manner herein-before provided in the case of parties who cannot be found, be determined to be the value of such lands, or of the interest therein which such party is entitled to or enabled to sell and convey, and also to give to such party a bond, under the common seal of the promoters if they be a corporation, or if they be not a corporation [^{F3}under the hands and seals of][^{F3}executed by] the said promoters, or any two of them; with two sufficient sureties, to be approved of by two justices in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or [^{F2}for payment into the Supreme Court] for the benefit of the parties interested in such lands as the case may require, under the provisions herein contained, of all such purchase money or compensation as may in manner herein-before provided be determined to be payable by the promoters of the undertaking in respect of the lands so entered upon, together with interest thereon at the rate of five pounds per centum per annum from the time of entering on such lands until such purchase money or compensation shall be paid to such party, or [^{F2}paid into the Supreme Court] for the benefit of the parties interested in such lands, under the provisions herein contained; and upon [^{F2}such payment] by way of security being made as aforesaid, and such bond being delivered or tendered to such non consenting party as aforesaid, it shall be lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special Act.

Textual Amendments

- F2** Words substituted by Administration of Justice Act 1965 (c. 2), s. 17, **Sch. 1**
F3 Words in s. 85 substituted (N.I.) (15.11.2005) by The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/1452), art. 1(2), **Sch. 1 para. 5**; S.R. 2005/494, art. 2(1)(c)

Modifications etc. (not altering text)

- C3** S. 85: excluded by Housing Act 1957 (c. 56), **ss. 62(2)**, 101(2), Park Lane Improvement Act 1958 (c. 63), **s. 7(2)**, and Land Compensation Act 1961 (c. 33), **s. 32(1)**
C4 S. 85 excluded by Land Compensation Act 1973 (c. 26, SIF 28:1), **s. 52(10)(b)**
C5 S. 85 amended by Land Compensation Act 1973 (c.26, SIF 28:1), **s. 57(1)**
C6 S. 85 modified by Judicature (Northern Ireland) Act 1978 (c. 23, SIF 38), s. 122(1), **Sch. 5 Pt. II** (as amended (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 11 para. 6; S.I. 2009/1604, art. 2(d))
C7 S. 85 applied (E.W.) (25.9.1991) by Land Compensation Act 1973 (c. 26), **s. 52A(8)(9)**, (as inserted by Planning and Compensation Act 1991 (c. 34), **s. 63(2)**; S.I. 1991/2067, art. 3 (with art. 4, **Sch. 2**))
C8 S. 85 excluded (E.W.) (25.9.1991) by Land Compensation Act 1973 (c. 26), **s. 52A(8)(9)**, (as inserted by Planning and Compensation Act 1991 (c. 34), **s. 63(2)**; S.I. 1991/2067, art.3 (with art. 4, **Sch. 2**))

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- C9** S. 85 modified by Land Compensation Act 1961 (c 33), s. 5A(5)(6), (as inserted (31.10.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), s. 103(2); S.I. 2004/2593, art. 2(a))

[^{F4}86 Application of Funds in court.

Money paid under section 85 of this Act into the Supreme Court shall remain there by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and, if [^{F5}invested under section 38 of the Administration of Justice Act 1982]shall be accumulated; and upon the condition of such bond being fully performed the High Court may, on the application of the promoters, order it, or the proceeds of the securities in which it has been invested, together with the accumulation thereof, to be paid to the promoters of the undertaking, or if such condition shall not be fully performed it shall be lawful for the said Court to order the same to be applied, in such manner as it shall think fit, for the benefit of the parties for whose security the same shall have been paid.]

Textual Amendments

- F4** S. 86 substituted for ss. 86-88 (E.W.) by Administration of Justice Act 1965 (c. 2), s. 17, **Sch. 1**; s. 86 substituted (N.I.) for ss. 86-88 by Judicature (Northern Ireland) Act 1978 (c. 23, SIF 38), s. 122(1), **Sch. 5 Pt. II** (as amended (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 11 para. 6; S.I. 2009/1604, art. 2(d)), see s. 86 below
- F5** Words substituted by Administration of Justice Act 1982 (c. 53, SIF 34, 37, 38), **ss. 46(1)(a)(iii)**, 76(2)(a)

[^{F6}86 Application of Funds in court.

Money paid under section 85 of this Act into the Supreme Court shall remain there by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as herein-before mentioned, and, if dealt with under section 81 or 82 of the Judicature (Northern Ireland) Act 1978 shall be accumulated; and upon the condition of such bond being fully performed the High Court may, on the application of the promoters, order it, or the proceeds of the securities in which it has been invested, together with the accumulation thereof, to be paid to the promoters of the undertaking, or if such condition shall not be fully performed it shall be lawful for the said Court to order the same to be applied, in such manner as it shall think fit, for the benefit of the parties for whose security the same shall have been paid.]

Textual Amendments

- F6** S. 86 substituted (N.I.) for ss. 86-88 by Judicature (Northern Ireland) Act 1978 (c. 23, SIF 38), s. 112(1), **Sch. 5 Pt. II**

89 Penalty on the promoters of the undertaking entering upon lands without consent before payment of the purchase money.

If the promoters of the undertaking or any of their contractors shall, except as aforesaid, wilfully enter upon and take possession of any lands which shall be required

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to be purchased or permanently used for the purposes of the special Act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands or such deposit by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of ten pounds, over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before two justices; and if the promoters of the undertaking or their contractors shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of twenty-five pounds for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party, in possession of such lands . . . ^{F7} in any of the superior courts: Provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall bona fide and without collusion have paid the compensation agreed or awarded to be paid in respect of the said lands to any person to whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the Bank for the benefit of the parties interested in the lands, or made such deposit by way of security in respect thereof as herein-before mentioned, although such person may not have been legally entitled thereto.

Textual Amendments

F7 Words repealed by [Administration of Justice Act 1965 \(c. 2\)](#), s. 34, **Sch. 2**

Modifications etc. (not altering text)

C10 S. 89: excluded by [Housing Act 1957 \(c. 56\)](#), **ss. 62(2)**, 101(2) and [Park Lane Improvement Act 1958 \(c. 63\)](#), **s. 7(2)**

C11 S. 89 modified by [Judicature \(Northern Ireland\) Act 1978 \(c. 23, SIF 38\)](#), s. 122(1), **Sch. 5 Pt. II** (as amended (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), Sch. 11 para. 6; S.I. 2009/1604, art. 2(d))

90 Decision of justices not conclusive,&c.

On the trial of any action for any such penalty as aforesaid the decision of the justices under the provision herein-before contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking.

Modifications etc. (not altering text)

C12 S. 90: excluded by [Housing Act 1957 \(c. 56\)](#), **ss. 62(2)**, 101(2) and [Park Lane Improvement Act 1958 \(c. 63\)](#), **s. 7(2)**

91 Proceedings in case of refusal to deliver possession of lands.

If in any case in which, according to the provisions of this or the special Act, or any Act incorporated therewith, the promoters of the undertaking are authorized to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking

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to issue their warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the sheriff shall deliver possession of any such lands accordingly; and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession; and the amount of such costs shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to such party, or if no such compensation be payable to such party, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

92 Parties not to be required to sell part of a house.

And be it enacted, that no party shall at any time be required to sell or convey to the promoters of the undertaking a part only of any house or other building or manufactory, if such party be willing and able to sell and convey the whole thereof.

Modifications etc. (not altering text)

C13 S. 92 saved by [Town and Country Planning Act 1971 \(c. 78\), s. 202\(1\)](#)

C14 S. 92 excluded (27.6.1991) by [London Underground \(Victoria\) Act 1991 \(c. x\), s. 14\(3\)](#)

C15 S. 92 excluded (29.1.1993) by [1993 c. i, s. 14\(3\)](#)

S. 92 excluded (27.5.1993) by [1993 c. vii, s. 21\(3\)](#)

S. 92 excluded (1.7.1993) by [1993 c. ix, s. 16\(3\)](#)

S. 92 excluded (5.7.1994) by [1994 c. ix, s. 15\(3\)](#)

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