



Lands Clauses Consolidation (Scotland) Act 1845

CHAPTER 19

LANDS CLAUSES CONSOLIDATION (SCOTLAND) ACT 1845

- [1.] This Act to apply to all undertakings authorized by Acts hereafter passed.

Interpretations in this Act

- 2 “special Act:” “prescribed:” “the works:” “promoters of the undertaking.”
3 Interpretations in this and the special Act. number: gender: “lands:” “lease:” “month:” “lord ordinary:” “sheriff:” “justices:” “owner:” “the Bank.”
4 Short title of the Act.
5 Form in which portions of this Act may be incorporated with other Acts.

Purchase of lands by agreement

- 6 Power to purchase lands by agreement.
7 Parties under disability enabled to sell and convey.
8 Parties under disability may exercise other powers.
9 Amount of compensation, in case of parties under disability, to be ascertained by valuation, and paid into the Bank.
10 Where vendor absolutely entitled, lands may be sold on feu duties, &c.
11 Payment of which to be charged on tolls.
12 Power to purchase lands required for additional accommodation.
13 Authority to sell and repurchase such lands.
14 Restraint on purchase from incapacitated persons.

- 15 Capital to be subscribed before compulsory powers of purchase put in force.
- 16 Certificate of sheriff evidence that capital has been subscribed.

Purchase of lands otherwise than by agreement

- 17 Notice of intention to take lands
- 18 Service of notices on owners and occupiers of lands.
- 19 If parties fail to treat, or in case of dispute, question to be settled as after mentioned.
- 20 Dispute, as to compensation may be referred to arbitration.
- 21 Settlement of claim not exceeding 50*l.*
- 22 Method of proceeding for settling disputes as to compensation by sheriff.
- 23 Where compensation claimed exceeds 50*l.*, it may be settled by arbitration if claimant so desire.
- 24 Appointment of arbiters when questions are to be determined by arbitration.
- 25 Vacancy of arbiter to be supplied.
- 26 Appointment of oversman.
- 27 Lord ordinary empowered to appoint an oversman on neglect of the arbiters.
- 28 In case of death of single arbiter, the matter to begin de novo.
- 29 If either arbiter refuse to act, the other to proceed ex parte.
- 30 If arbiters fail to make their award within 21 days the matter to go to the umpire.
- 31 Power of arbiters to call for books, &c.
- 32 Costs of arbitration how to be borne.
- 33 Award to be delivered to the promoters of the undertaking
- 34 Award not to be set aside for error in form.
- 35 Settlement of arbitration &c.
- 36 Party claiming compensation may require a jury to be summoned.
- 37 Promoters of the undertaking to give notice before summoning a jury.
- 38 Petition for summoning jury to be addressed to the sheriff.
- 39 Jurymen to be summoned.
- 40 Notice of inquiry.
- 41 Jury to be impannelled.
- 42 Sheriff to preside; jury may view
- 43 Penalty on jury for default.
- 44 Witnesses to be summoned.
- 45 Penalty on witnesses making default.
- 46 If the party make default the inquiry not to proceed.
- 47 Jury to be sworn.
- 48 Sums to be paid for purchase of lands and for damage, to be assessed separately.
- 49 Verdict and judgment to be recorded.
- 50 Expences of the inquiry how to be borne.
- 51 Particulars of the expences.
- 52 Payment of expences.
- 53—55
- 56 Compensation to absent parties to be determined by a valuator, appointed by the sheriff.
- 57 Sheriff to nominate a valuator.

- 58 Declaration to be made by the valuator.
- 59 Valuation, &c. to be produced to the owner of the lands, &c.
- 60 Promoters to bear expense.
- 61 Purchase money and compensation how to be estimated.
- 62 Compensation may be apportioned among different parties.
- 63 Where compensation to absent party has been determined by a valuator the party may have the same submitted to arbitration.
- 64 Question to be submitted to the arbiters.
- 65 If further sum awarded, promoters to pay or deposit same within 14 days.
- 66 Expences of the arbitration.

Application of compensation

- 67 Purchase money payable to parties under disability, amounting to 200*l.*, to be deposited in the Bank.
- 68 Order for application, and investment meanwhile.
- 69 Sums from 20*l.* to 200*l.* to be deposited, or paid to trustees.
- 70 Sums not exceeding 20*l.* to be paid to parties.
- 71 All sums payable under contract with persons not absolutely entitled to be paid into the Bank.
- 72 Court of Session may direct application of money in respect of leases or reversions as they may think just.
- 73 On the purchase of lands to be entailed, not necessary to insert the provisions verbatim.
- 74 Upon deposit being made, the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking, upon a notarial instrument being executed.
- 75 Where parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited.
- 76 Upon deposit being made, a receipt to be given, and the lands to vest upon a notarial instrument being executed.
- 77 Application of monies so deposited.
- 78 Party in possession to be deemed to be the owner.
- 79 Expences in cases of money deposited.

Conveyances

- 80 Form of conveyances.
- 81 Expences of conveyances.
- 82 Taxation of expences of conveyances

Entry on lands

- 83 Payment of price to be made previous to entry, except to survey, &c.
- 84 Promoters to be allowed to enter on lands before purchase, on making deposit by way of security and giving bond.
- 85 Deposit to be paid into Bank, and cashier to give a receipt.
- 86 Deposit to remain as a security, and to be applied under the direction of the court.
- 87 Penalty on the promoters of the undertaking entering upon lands without consent, before payment of the purchase money.
- 88 Decision of sheriff not conclusive, &c.
- 89 Proceedings in case of refusal to deliver possession of lands.

- 90 Parties not to be required to sell part of a house.

Intersected lands

- 91 Power to owners of intersected lands to insist on sale.
92 Power of promoters of the undertaking to insist on purchase where
expence of bridges, &c exceeds the value.

Common lands

- 93 Proceedings in regard to lands in commonty, &c.
94 Meeting to appoint a committee.
95 Committee to agree with promoters of the undertaking.
96 Disputes to be settled as in other cases.
97 If no committee be appointed, the amount to be determined by a
valuator.
98 Upon payment of compensation payable to commoners, the lands to
vest.

Lands in mortgage

- 99 Power to redeem veritable securities.
100 Deposit of money on refusal to accept redemption.
101 Sum to be paid when security exceeds value of lands.
102 Deposit of money when refused on tender.
103 Sum to be paid where part only of lands under security taken.
104 Deposit of money when refused on tender.
105 If sums secured paid off before the stipulated time, promoters to pay
expences incidental to reinvestment.
106 Compensation in respect of loss of interest.

Lands subject to rent-charges

- And with respect to any lands which shall be charged...
107 Company to continue the payment of feu duties, &c.
108 Discharge of lands from such charge.
109 Discharge of part of lands from charge.
110 Deposit in case of refusal to discharge.
111 Charge to continue on lands not taken.

Lands subject to leases

- 112 Where part only of lands under lease taken, the rent to be apportioned.
113 Tenants to be compensated.
114 Compensation to be made to tenants for a year, &c.
115 Where greater interest claimed than from year to year the lease or
missive to be produced.
116 Limit of time for compulsory purchase.

Interests omitted to be purchased

- 117 Promoters of the undertaking empowered to purchase interests in lands
the purchase whereof may have been omitted by mistake.
118 How value of such lands to be estimated.
119 Promoters of the undertaking to pay the expences of litigation as to such
lands.

Sale of superfluous lands.

- 120 Lands not wanted to be sold or in default to vest in owners of adjoining lands.
- 121 Lands to be offered to owner of lands from which they were severed, or to adjoining owners.
- 122 Right of pre-emption to be claimed within six weeks.
- 123 Differences as to price to be settled by arbitration
- 124 Lands to be conveyed to the purchasers.
- 125 Effect of word “dispone” in conveyances.
- 126 Superiorities not to be affected.
- 127 †Land tax and poor’s rate to be made good.

Notices

- 128 Service of notices upon the promoters of the undertaking.
- 129 Tender of amends.

Recovery of penalties

- 130 Penalties to be summarily recovered before the sheriff or two justices.
- 131 Penalties to be levied by poinding and sale.
- 132 Poinding, &c. against the treasurer.
- 133, 134
- 135 Application of penalties.
- 136, 137
- 138 †Proceedings not to be quashed for want of form, &c.
- 139 Power of appeal from sheriff substitute to sheriff,
- 140, 141

Access to special Act

- 142 Copies of special Act to be kept and deposited and allowed to be inspected.
- 143 Penalty on company failing to keep and deposit Act.
- 144

Schedules

SCHEDULE (A) — Form of Conveyance

I, of , in consideration of the sum of...

Note— In the case of a traditional document, subscription of...

SCHEDULE (B) — Form of Conveyance in consideration of Feu Duty or Rent-charge

...

SCHEDULE (C) —

Changes to legislation:

There are currently no known outstanding effects for the Lands Clauses Consolidation (Scotland) Act 1845.