



Commissioners Clauses Act 1847

1847 CHAPTER 16 10 and 11 Vict

Contracts

And with respect to the contracts to be entered into and the deeds to be executed by the commissioners, be it enacted as follows:

56 Power to commissioners to enter into contracts.

The commissioners may enter into contracts with any persons for the execution of any works directed or authorized by this and the special Act to be done by the commissioners, or for furnishing materials, or for any other things necessary for the purposes of this or the special Act, and every such contract for the execution of any work shall be in writing, and shall specify the work to be done, and the materials to be furnished and the price to be paid for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof; and the power hereby granted to the commissioners to enter into contracts may lawfully be exercised as follows; [^{F1}(that is to say,)

Any contract which if made between private persons would be by law required to be in writing and [^{F2}under seal[^{F2}executed as a deed]], or in Scotland by a probative deed, the commissioners may make in writing and under their common seal, if they be incorporated, or, if not incorporated, [^{F2}under the hands and seals[^{F2}executed as a deed by them]], or in Scotland under the hands, of the commissioners, or any two of them acting by the direction and on behalf of the commissioners, and in the same manner may vary or discharge the same]:

Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith the commissioners may make in writing, signed by the commissioners, or any two of their number acting by the direction and on behalf of the commissioners, and in the same manner may vary or discharge the same:

Any contract which if made between private persons would by law be valid, although made by parol only and not reduced into writing, the commissioners, or any two of them acting by the direction and on behalf of the commissioners, may make by parol only, without writing, and in the same manner may vary or discharge the same:

Status: Point in time view as at 29/12/2007.

Changes to legislation: There are currently no known outstanding effects for the Commissioners Clauses Act 1847, Cross Heading: Contracts. (See end of Document for details)

And all contracts made according to the provisions herein contained, being duly executed by the persons contracting to perform the works therein comprised respectively, shall be effectual in law, and shall be binding on the commissioners, and all other parties thereto, their successors, heirs, executors, or administrators, as the case may be, and in case of default in the execution of any such contract, either by the commissioners or by any other party thereto such actions or suits may be maintained thereon, and damages and costs recovered by or against the commissioners or the other parties failing in the execution thereof, as might have been maintained and recovered had the same contracts been made between private persons only.

Textual Amendments

- F1** Words in s. 56 repealed (S.) (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))
- F2** Words in s. 56 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. 7**; S.R. 2005/494, art. 2(1)(c)

Modifications etc. (not altering text)

- C1** S. 56 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), **art. 2**
S. 56 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), **art. 2**
S. 56 incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)
- C2** S. 56 incorporated (with modifications) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), arts. 1(1), **3(3)**, 3(4) (with arts. 78, 80, 81)

57 Notice to be given of contracts to the amount of 100 l. or upwards

[^{F3}Before any contract to the amount of one hundred pounds or upwards shall be entered into by the commissioners, ten days notice at the least shall be given in some one of the newspapers circulating within the limits of the special Act, expressing the purpose of such contract, and inviting any person willing to undertake the same to make proposals for that purpose to the commissioners, and the commissioners shall accept the proposal which upon a view of all the circumstances shall appear to them to be most advantageous, and shall take security for the due and faithful performance of every such contract.]

Textual Amendments

- F3** [S. 57](#) repealed (S.) (15.1.2007) by [Tarbert \(Loch Fyne\) Harbour Revision \(Constitution\) Order 2007 \(S.S.I. 2007/5\)](#), art. 1(1), **Sch. 3**

58 Commissioners may compound for breach of contract.

The commissioners may compound with any party who has entered into any such contract, or against whom any action or suit has been brought for any penalty contained in any such contract, or in any bond or other security for the performance thereof, or on account of any breach or non-performance of any such contract, bond, or security, for such sums of money or other recompence as the commissioners may think proper.

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Modifications etc. (not altering text)

- C3** S. 58 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), [art. 2](#)
S. 58 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), [art. 2](#)
S. 58 incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)
- C4** Ss. 58-60 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), [arts. 1\(1\), 3\(3\), 3\(4\)](#) (with [arts. 78, 80, 81](#))

59 As to the conveyance of lands by the commissioners. Receipt under seal to be a sufficient discharge.

Where by the special Act or any Act incorporated therewith the commissioners are authorized or required to sell or convey any lands vested in them, and no other mode of conveyance is provided, they may convey such lands, or such interest as the commissioners have therein, by deed under the common seal of the commissioners, if they be a corporation, or, if not a corporation, by deed executed by the commissioners, or any two of them acting by the authority of and on behalf of the commissioners; and a deed so executed, followed as to lands in Scotland by infeftment duly recorded, shall be effectual to vest the lands comprised therein, or such interest as the commissioners have therein, in the grantee or other person to whom the same shall be so conveyed; and a receipt under such common seal, or under the hands of two of the commissioners acting as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received.

[^{F4}(2) This section shall apply to Scotland as if—

- (a) for the words from “by deed under” to “recorded” there were substituted the words—

“by a document—

- (a) if they are a corporation, subscribed in accordance with section 7 of, and paragraph 5 of Schedule 2 to, the Requirements of Writing (Scotland) Act 1995;
(b) if they are not a corporation, subscribed in accordance with the said section 7 by the commissioners or any two of them acting by the authority of and on behalf of the commissioners;

and a document so subscribed, followed by infeftment duly recorded,”;

- (b) for the words from “under such” to “acting” there were substituted the word “subscribed”.]

Textual Amendments

- F4** S. 59(2) added (S.) (1.8.1995) by virtue of [1995 c.7, ss. 14\(1\), 15\(2\), Sch. 4 para. 4](#) (with [ss. 9\(3\)\(5\) \(7\), 13, 14\(3\)](#))

Modifications etc. (not altering text)

- C4** Ss. 58-60 incorporated (with modifications) (E.W.S.) (29.12.2007) by [Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), [arts. 1\(1\), 3\(3\), 3\(4\)](#) (with [arts. 78, 80, 81](#))
- C5** S. 59 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2184](#), [art. 2](#)
S. 59 incorporated (E.W.S) (18.6.2001) by [S.I. 2001/2185](#), [art. 2](#)
S. 59 incorporated (with modifications) (7.1.2003) by [2002 c. v, s. 3\(3\)\(4\)](#) (with s. 23)

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