



Lands Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 19 8 and 9 Vict

Interests omitted to be purchased

And with respect to interest in lands which have by mistake been omitted to be purchased, be it enacted as follows:

117 Promoters of the undertaking empowered to purchase interests in lands the purchase whereof may have been omitted by mistake.

If at any time after the promoters of the undertaking shall have entered upon any lands which under the provisions of this or the special Act, or any Act incorporated therewith, they were authorized to purchase, and which shall be permanently required for the purposes of the special Act, any party shall appear to be entitled to any ^{F1}... right, or interest in or charge affecting such lands which the promoters of the undertaking shall through mistake or inadvertency have failed or omitted duly to purchase or to pay compensation for, then, whether the period allowed for the purchase of lands shall have expired or not, the promoters of the undertaking shall remain in the undisturbed possession of such lands, provided within six months after notice of such ^{F1}... right, interest, or charge, in case the same shall not be disputed by the promoters of the undertaking, or in case the same shall be disputed then within six months after the right thereto shall have been finally established by law in favour of the party claiming the same, the promoters of the undertaking shall purchase or pay compensation for the same, and shall also pay to such party, or to any other party who may establish a right thereto, full compensation for profits or interest which would have accrued to such parties respectively in respect thereof during the interval between the entry of the promoters of the undertaking thereon and the time of the payment of such purchase money or compensation by the promoters of the undertaking, so far as such profits or interest may be recoverable in law; and such purchase money or compensation shall be agreed on or awarded and paid in like manner as according to the provisions of this Act the same respectively would have been agreed on or awarded and paid in case the promoters of the undertaking had purchased such ^{F1}... right, interest, or charge before their entering upon such land, or as near thereto as circumstances will admit.

Status: Point in time view as at 08/05/2006.

Changes to legislation: There are currently no known outstanding effects for the Lands Clauses Consolidation (Scotland) Act 1845, Cross Heading: Interests omitted to be purchased. (See end of Document for details)

Textual Amendments

- F1** Words in s. 117 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), [sch. 12 para. 4\(18\)](#), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C1** S. 117 applied with modifications by [Gas Act 1972](#) (c. 60, SIF 44:2), s. 6(5), [Sch. 2 para. 29](#)
- C2** S. 117 excluded by [Town and Country Planning \(Scotland\) Act 1972](#) (c. 52, SIF 123:2), s. 278, [Sch. 24 para. 31](#)
S. 117 excluded (27.5.1997) by 1997 c. 8, ss. 195, 278(2), [Sch. 15 Pt. II para. 31](#)
- C3** S. 117 modified by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 9(3), [Sch. 3 Pt. III para. 27](#)
- C4** S. 117 modified by [Agriculture \(Miscellaneous Provisions\) Act 1968](#) (c. 34), s. 14(3), Sch. 4 paras. 4, 5
- C5** S. 117 modified (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991](#) (c. 55, SIF 2:3), ss. 57(4), 89(2), [Sch. 8 para. 6\(a\)](#)(with s. 45(3), Sch. 12 para. 3)

118 How value of such lands to be estimated.

In estimating the compensation to be given for any such last-mentioned lands, or any [^{F2}right or interest] in the same, or for any profits thereof, the jury, or arbiters, or sheriff, as the case may be, shall assess the same according to what they shall find to have been the value of such lands, [^{F3}right, or interest] , and profits, at the time such lands were entered upon by the promoters of the undertaking, and without regard to any improvements or works made in the said lands by the promoters of the undertaking, and as though the works had not been constructed.

Textual Amendments

- F2** Words in s. 118 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), [sch. 12 para. 4\(19\)\(a\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F3** Words in s. 118 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), [sch. 12 para. 4\(19\)\(b\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C6** S. 118 applied with modifications by [Gas Act 1972](#) (c. 60, SIF 44:2), s. 6(5), [Sch. 2 para. 29](#)
- C7** S. 118 excluded by [Town and Country Planning \(Scotland\) Act 1972](#) (c. 52, SIF 123:2), s. 278, [Sch. 24 para. 31](#)
S. 118 excluded (27.5.1997) by 1997 c. 8, ss. 195, 278(2), [Sch. 15 Pt. II para. 31](#)
- C8** S. 118 modified by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 9(3), [Sch. 3 Pt. III](#)

119 Promoters of the undertaking to pay the expences of litigation as to such lands.

In addition to the said purchase money, compensation, or satisfaction, and before the promoters of the undertaking shall become absolutely entitled to any such [^{F4}right] , interest, or charge, or to have the same merged or extinguished for their benefit, they shall, when the right to any such [^{F4}right] , interest, or charge shall have been disputed by the company, and determined in favour of the party claiming the same, pay the full expences of any proceedings at law or in equity for the determination or recovery of the same to the parties with whom any such litigation in respect thereof shall have

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taken place; and such expences shall, in case the same shall be disputed, be settled by the proper officer of the court in which such litigation took place.

Textual Amendments

F4 Words in s. 119 substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 4\(20\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C9 S. 119 applied with modifications by [Gas Act 1972 \(c. 60, SIF 44:2\)](#), [s. 6\(5\) Sch. 2 para. 29](#)

C10 S. 119 excluded by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), s. 278, [Sch. 24 para. 31](#)

S. 119 excluded (27.5.1997) by [1997 c. 8, ss. 195, 278\(2\)](#), [Sch. 15 Pt. II para. 31](#)

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