



# Lands Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 19 8 and 9 Vict

## *Lands subject to rent-charges*

And with respect to any lands which shall be charged with any feu duty, ground annual, casualty of superiority, or any rent or other annual or recurring payment or incumbrance not herein-before provided for, be it enacted as follows:

**Modifications etc. (not altering text)**

- C1 Introductory words to ss. 107-111 applied (27.5.1997) by 1997 c. 8, ss. 195, 278(2), [Sch. 15 Pt. II para. 32\(4\)](#)

**107 Company to continue the payment of feu duties, &c.**

It shall be lawful for the promoters of the undertaking to enter upon and continue in possession of such lands without redeeming the charges thereon, provided they pay the amount of such annual or recurring payment when due, and otherwise fulfil all obligations accordingly, and provided they shall not be called upon by the party entitled to the charge to redeem the same.

**Modifications etc. (not altering text)**

- C2 S. 107 excluded by [Land Tenure Reform \(Scotland\) Act 1974 \(c. 38, SIF 74:1\)](#), [s. 6\(1\)](#)

**108 Discharge of lands from such charge.**

If any difference shall arise between the promoters of the undertaking and the party entitled to any such charge upon any lands required to be taken for the purposes of the special Act, respecting the consideration to be paid for the discharge of such lands therefrom, or from the portion thereof affecting the lands required for the

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purposes of the special Act, the same shall be determined as in other cases of disputed compensation.

**Modifications etc. (not altering text)**

- C3 S. 108 modified by [Land Compensation \(Scotland\) Act 1963 \(c. 51\)](#), s. **20(1)(2)**
- C4 S. 108 extended by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), s. 278, **Sch. 24 para. 32(2)(3)**
- C5 S. 108 modified (27.5.1997) by 1997 c. 8, ss. 195, 278(2), **Sch. 15 Pt. II para. 32(2)(3)**

**109 Discharge of part of lands from charge.**

If part only of the lands charged with any such feu duty, ground annual, casualty of superiority, or any rent, payment, or incumbrance, be required to be taken for the purposes of the special Act, the apportionment of any such charge may be settled by agreement between the party entitled to such charge and the owner of the lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement the same shall be settled by the sheriff; but if the remaining part of the lands so jointly subject be a sufficient security for such charge, then, with consent of the owner of the lands so jointly subject, it shall be lawful for the party entitled to such charge to discharge therefrom the lands required, on condition or in consideration of such other lands remaining exclusively subject to the whole thereof.

**Modifications etc. (not altering text)**

- C6 S. 109 amended by [Lands Tribunal Act 1949 \(c. 42\)](#), ss. **1(3)(c)**, (8)(a)
- C7 S. 109 extended by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#) s. 278, Sch. 24 para. 32(2)(3) and by [Land Tenure Reform \(Scotland\) Act 1974 \(c.38; SIF 74:1\)](#), s. 6(3)
- C8 S. 109 modified (27.5.1997) by 1997 c. 8, ss. 195, 278(2), **Sch. 15 Pt. II para. 32(2)(3)**

**110 Deposit in case of refusal to discharge.**

Upon payment or tender of the compensation so agreed upon or determined to the party entitled to any such charge as aforesaid, such party shall execute to the promoters of the undertaking a discharge thereof; and if he fail so to do, or if he fail to adduce a good title to such charge, it shall be lawful for them to deposit the amount of such compensation in the Bank, in the manner herein-before provided in like cases, and also, if they think fit, to expedite an instrument under the hands of a notary public, duly stamped, and to register the same in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the feu duty, ground annual, casualty of superiority, rent, payment or incumbrance, or the portion thereof in respect whereof such compensation shall so have been paid, shall cease and be extinguished.

**Modifications etc. (not altering text)**

- C9 S. 110 extended by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), s. 278, **Sch. 24 para. 32(2)(3)**
- C10 S. 110 modified (27.5.1997) by 1997 c. 8, ss. 195, 278(2), **Sch. 15 Pt. II para. 32(2)(3)**

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## **111 Charge to continue on lands not taken.**

If any such lands be so discharged from any such charge or incumbrance, or portion thereof, to which they were subject jointly with other lands, such last-mentioned lands shall alone be charged with the whole of such charge, or with the remainder thereof, as the case may be, and the party entitled to the charge shall have all the same rights and remedies over such last-mentioned lands, for the whole or for the remainder of the charge, as the case may be, as he had previously over the whole of the lands subject to such charge; and upon any such charge or portion of charge being so discharged the promoters of the undertaking, if required so to do, shall execute and grant in due form a probative deed or instrument, declaring what part of the lands originally subject to such charge shall have been purchased by virtue of the special Act, and if the lands be discharged from part of such charge, what proportion of such charge shall have been discharged, and how much thereof continues payable, or if the lands so required shall have been discharged from the whole of such charge, then that the remaining lands are thenceforward to remain exclusively charged therewith; and such deed or instrument shall be made and executed at the expence of the promoters of the undertaking, and shall be competent evidence in all courts and elsewhere of the facts therein stated.

### **Modifications etc. (not altering text)**

- C11** S. 111 extended by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), s. 278, [Sch. 24 para. 32\(2\)\(3\)](#) and by [Land Tenure Reform \(Scotland\) Act 1974 \(c.38, SIF 74:1\)](#), s. 6(3)
- C12** S. 111 modified (27.5.1997) by 1997 c. 8, ss. 195, 278(2), [Sch. 15 Pt. II para. 32\(2\)\(3\)](#)

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