



Lands Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 19 8 and 9 Vict

Purchase of lands by agreement

And with respect to the purchase of lands by agreement, be it enacted as follows:

6 Power to purchase lands by agreement.

Subject to the provisions of this and the special Act, it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special Act authorized to be taken, and which shall be required for the purposes of such Act, and with all parties having any right or interest in such lands, or by this or the special Act enabled to sell and convey the same, for the absolute purchase of any such lands, or such parts thereof as they shall think proper, and for the purchase of all rights and interests in such lands of what kind soever.

7 Parties under disability enabled to sell and convey.

It shall be lawful for all parties, being possessed of any lands, or any such right or interest therein, to contract for, sell, convey, and dispose of such lands, or of such right therein, to the promoters of the undertaking, and to enter into all necessary agreements for these purposes; and particularly it shall be lawful for the parties following so to do; (that is to say,) all corporations, heirs of entail, life-renters, or persons holding any other partial or qualified estate or interest, married women seised in their own right or entitled to terce or dower, or any other right or interest husbands, [^{F1}persons who, within the meaning of Part I of the Children (Scotland) Act 1995, are entitled to act as the legal representatives of a child,] tutors, curators, and other guardians for ^{F2}. . . [^{F3}persons suffering from mental disorder within the meaning of the ^{M1}Mental Health (Scotland) Act 1960], or for persons under any other disability or incapacity, judicial factors, trustees or feoffees in trust for charitable or other purposes, executors, and administrators; and the power so to contract for, sell, convey, and dispose of as aforesaid may lawfully be exercised by all such parties, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but

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also for and on behalf of every person entitled in reversion or expectancy after them, and as to such married women as if they were sole, and as to such [^{F4}legal representatives,] tutors, curators, guardians, judicial factors, and trustees, on behalf of those for whom they respectively act, whether ^{F2}. . . issue unborn, bankrupts, [^{F3}persons suffering from mental disorder within the meaning of the ^{M2}Mental Health (Scotland) Act 1960], married women, or other incapacitated persons, and that to the same extent as such ^{F2}. . . bankrupts, [^{F3}persons suffering from mental disorder within the meaning of the Mental Health (Scotland) Act 1960], married women, and other incapacitated persons respectively could have exercised the same power under the authority of this and the special Act if they had respectively been under no disability.

Textual Amendments

- F1** Words in s. 7 inserted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 1(2)(a)**; S.I. 1996/2203, art. 3(3), **Sch.**
- F2** Words in s. 7 repealed (1.11.1996) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 1(2)(b)(c)(e)**, **Sch. 5** (with **Sch. 3 paras. 4, 6**); S.I. 1996/2203, art. 3(3), **Sch.** (which repealed words were substituted for words originally enacted by 1991 c. 50, **Sch. 1 para. 3**)
- F3** Words substituted by **Mental Health (Scotland) Act 1960 (c. 61)**, **Sch. 4**
- F4** Words in s. 7 inserted (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 1(2)(d)** (with **Sch. 3 paras. 4, 6**); S.I. 1996/2203, art. 3(3), **Sch.**

Modifications etc. (not altering text)

- C1** S. 7 excluded by **Crofting Reform (Scotland) Act 1976 (c. 21, SIF 2:4)**, s. **5(1)**
- C2** S. 7 excluded (5.1.1994) by 1993 c. 44, s. **16(1)**, 64(2)

Marginal Citations

- M1** 1960 c. 61
- M2** 1960 c. 61

8 Parties under disability may exercise other powers.

The power herein-after given to discharge any lands from feu duties or casualties of superiority, as well as every other power required to be exercised by any superior pursuant to the provisions of this or the special Act, or any Act incorporated therewith, and the power to discharge lands from any rent, payment, charge, feu duties, ground annuals, or other real burdens or incumbrances, and to agree for the apportionment of any such rent, payment, charge, feu duties, ground annuals, or other real burdens and incumbrances, shall extend to and may lawfully be exercised by every party herein-before enabled to contract for, sell, dispose of, or convey lands or rights or interests therein to the company.

9 Amount of compensation, in case of parties under disability, to be ascertained by valuation, and paid into the Bank.

The purchase money or compensation to be paid for any lands, or any rights or interest therein, to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands, or rights or interests therein, except under the provisions of this or the special Act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the sheriff, or by the verdict of a jury, or by arbitration, or by the valuation of a valuator appointed by the sheriff under the provision herein-

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after contained, be less than shall be determined by the valuation of two able practical valuers, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party, and if such two valuers cannot agree in the valuation, then by such third valuator as the sheriff shall, upon application of either party, after notice to the other party, for that purpose nominate; and each of such two valuers, if they agree, or if not, then the valuator nominated by the said sheriff, shall annex to the valuation a declaration in writing, subscribed by them or him, of the correctness thereof; and all such purchase money or compensation shall be deposited in the Bank, for the benefit of the parties interested, in manner herein-after mentioned.

Modifications etc. (not altering text)

C3 S. 9 applied with modifications by [Lands Clauses Consolidation Acts Amendment Act 1860 \(c. 106\)](#), s. 4

10 Where vendor absolutely entitled, lands may be sold on feu duties, &c.

It shall be lawful for all parties entitled to dispose of absolutely any lands authorized to be purchased for the purposes of the special Act to convey such lands or any part thereof unto the promoters of the undertaking in consideration of an annual feu duty or ground annual payable by the promoters of the undertaking.

Modifications etc. (not altering text)

C4 S. 10 extended by [Lands Clauses Consolidation Acts Amendment Act 1860 \(c. 106\)](#), s. 3

11 Payment of which to be charged on tolls.

The feu duties or ground annuals stipulated by any such conveyance shall be charged on the tolls or rates, if any, payable under the special Act, and shall be otherwise secured in such manner as shall be agreed between the parties, and shall be paid by the promoters of the undertaking as such feu duties or ground annuals become payable; and if at any time the same be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such feu duties or ground annuals shall be payable may either recover the same from the promoters of the undertaking, with expences of suit, by action in any competent court, or it shall be lawful for him to levy the same by poinding and sale of the goods and effects of the promoters of the undertaking.

12 Power to purchase lands required for additional accommodation.

In case the promoters of the undertaking shall be empowered by the special Act to purchase land for extraordinary purposes, it shall be lawful for all parties who, under the provisions herein-before contained, would be enabled to sell, feu, and convey lands, to sell, feu, and convey the lands so authorized to be purchased for extraordinary purposes.

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13 Authority to sell and repurchase such lands.

It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking for the purposes aforesaid shall not exceed the prescribed quantity.

14 Restraint on purchase from incapacitated persons.

The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes, purchase or acquire more than the prescribed quantity from any party under legal disability, or who would not be able to sell or convey such lands except under the powers of this and the special Act; and if the promoters of the undertaking purchase or acquire the said quantity of land from any party under such legal disability, and afterwards sell or dispose of the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell or convey to the promoters of the undertaking any other lands in lieu of the land so sold or disposed of by them.

15 Capital to be subscribed before compulsory powers of purchase put in force.

Where the undertaking is intended to be carried into effect by a capital to be subscribed by means of the promoters of the undertaking, the whole of the capital of the company or estimated sum for defraying the expences of the undertaking shall be subscribed under contract binding the parties thereto, their heirs, executors, and administrators, for the payment of the several sums by them respectively subscribed, before it shall be lawful to put in force any of the powers of this or the special Act, or any Act incorporated therewith, in relation to the compulsory taking of land for the purposes of the undertaking.

16 Certificate of sheriff evidence that capital has been subscribed.

A certificate under the hands of the sheriff, certifying that the whole of the prescribed sum has been subscribed, shall be sufficient evidence thereof; and on the application of the promoters of the undertaking, and the production of such evidence as such sheriff thinks proper and sufficient, such sheriff shall grant such certificate accordingly.

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