



Lands Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 19 8 and 9 Vict

Sale of superfluous lands.

And with respect to lands acquired by the promoters of the undertaking under the provisions of this or the special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof, be it enacted as follows:

120 Lands not wanted to be sold or in default to vest in owners of adjoining lands.

Within the prescribed period, or if no period be prescribed within ten years after the expiration of the time limited by the special Act for the completion of the works, the promoters of the undertaking shall absolutely sell and dispose of all such superfluous lands in such manner as they may deem most advantageous, and apply the purchase money arising from such sales to the purposes of the special Act; and in default thereof all such superfluous lands remaining unsold at the expiration of such period shall thereupon vest in and become the property of the owners of the lands adjoining thereto, in proportion to the extent of their lands respectively adjoining the same.

Modifications etc. (not altering text)

C1 S. 120 incorporated by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 8(11)(a)

121 Lands to be offered to owner of lands from which they were severed, or to adjoining owners.

Before the promoters of the undertaking dispose of any such superfluous lands they shall, unless such lands be situate within a town, or be lands built upon, or be used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed; or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands

*Status: Point in time view as at 01/11/1996.**Changes to legislation: There are currently no known outstanding effects for the Lands Clauses Consolidation (Scotland) Act 1845, Cross Heading: Sale of superfluous lands.. (See end of Document for details)*

so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands; and where more than one such person shall be entitled to such right of pre-emption such offer shall be made to such persons in succession, one after another, in such order as the promoters of the undertaking shall think fit.

Modifications etc. (not altering text)

C2 S. 121 incorporated by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 8(11)(a)

122 Right of pre-emption to be claimed within six weeks.

If any such persons be desirous of purchasing such lands, then within six weeks after such offer of sale they shall signify their desire in that behalf to the promoters of the undertaking; or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease; and a declaration in writing made before the sheriff by some person not interested in the matter in question, stating that such offer was made, and was refused, or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the country, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such lands, shall in all courts be sufficient evidence of the facts therein stated.

Modifications etc. (not altering text)

C3 S. 122 incorporated by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 8(11)(a)

123 Differences as to price to be settled by arbitration

If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the promoters of the undertaking do not agree as to the price thereof, then such price shall be ascertained by arbitration, and the expences of such arbitration shall be in the discretion of the arbiters.

Modifications etc. (not altering text)

C4 S. 123 incorporated by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 8(11)(a)

124 Lands to be conveyed to the purchasers.

Upon payment or tender to the promoters of the undertaking of the purchase money so agreed upon or determined as aforesaid they shall convey such lands to the purchasers thereof, by deed under the common seal of the promoters of the undertaking, if they be a corporation, or if not a corporation under the hands of the promoters of the undertaking, or any two of the directors or managers thereof, acting by the authority of the body; and a deed so executed shall be effectual to vest the lands comprised therein in the purchaser of such lands for the estate which shall so have been purchased by him; and a receipt under such common seal, or under the hands of two of the directors or managers of the undertaking, as aforesaid, shall be a sufficient discharge to the

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purchaser of any such lands for the purchase money in such receipt expressed to be received.

Modifications etc. (not altering text)

C5 S. 124 incorporated by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 8(11)(a)

125 Effect of word “dispone” in conveyances.

And be it enacted, that in every conveyance of lands to be made by the promoters of the undertaking under this or the special Act the word “dispone” shall operate as a clause of absolute warrandice by the promoters of the undertaking, for themselves and their successors, or for themselves, their heirs, executors, administrators, and assigns, as the case may be, to the respective disponees therein named, and the successors, heirs, executors, administrators, and assigns of such disponees, according to the quality or nature of such conveyances and of the estate or interest therein expressed to be thereby conveyed, except so far as the same shall be restrained or limited by express words contained in such conveyance.

Modifications etc. (not altering text)

C6 S. 125 incorporated by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 8(11)(a)

126 Superiorities not to be affected.

And be it enacted, that the rights and titles to be granted in manner herein mentioned in and to any lands taken and used for the purposes of this Act shall, unless otherwise specially provided for, in nowise affect or diminish the right of superiority in the same, which shall remain entire in the person granting such rights and titles; but in the event of the lands so used or taken being a part or portion of other lands held by the same owner under the same titles, the said company shall not be liable for any feu duties or casualties to the superiors thereof, nor shall the said company be bound to enter with the said superiors: Provided always, that before entering into possession of any lands full compensation shall be made to the said superiors for all loss which they may sustain by being deprived of any casualties, or otherwise by reason of any procedure under this Act.

127 †Land tax and poor’s rate to be made good.

And be it enacted, that if the promoters of the undertaking become possessed by virtue of this or the special Act, or any Act incorporated therewith, of any lands . . . ^{F1} liable to be assessed to the . . . ^{F2} prison assessment, they shall from time to time, until the works shall be completed and assessed to such . . . ^{F3} prison assessment, be liable to make good, the deficiency in the several assessments for . . . ^{F3} prison assessment by reason of such lands having been taken or used for the purposes of the work; and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special Act; and on demand of such deficiency the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively . . . ^{F1}

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Textual Amendments

- F1** Words repealed by [Finance Act 1949 \(c. 47\)](#), [Sch. 11 Pt. VI](#)
- F2** Words repealed by [National Assistance Act 1948 \(c. 29\)](#), [Sch. 7 Pt. III](#)
- F3** Words repealed by [National Assistance Act 1948 \(c. 29\)](#), [Sch. 7 Pt. III](#) and [Finance Act 1949 \(c. 47\)](#), [Sch. 11 pt. VI](#)
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Modifications etc. (not altering text)

- C7** A dagger appended to a marginal note means that it is no longer accurate
- C8** [S. 127](#) excluded by [Railways \(Valuation for Rating\) Act 1930 \(c. 24\)](#), [s. 22\(7\)](#)

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