



Lands Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 19 8 and 9 Vict

Lands subject to leases

And with respect to lands subject to leases, be it enacted as follows:

112 Where part only of lands under lease taken, the rent to be apportioned.

If any lands shall be comprised in a lease or missive of lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special Act, the rent payable in respect of the lands comprised in such lease or missive of lease shall be apportioned between the lands so required and the residue of such lands; and such apportionment may be settled by agreement between the lessor and lessee of such 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 between the parties such apportionment shall be settled by the sheriff; and after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the special Act; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease or missive of lease; and all the obligations, conditions and agreements of such lease or missive of lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special Act, in the same manner as they would have been in case such part only of the land had been included in the lease or missive of lease.

Modifications etc. (not altering text)

- C1 S. 112 extended with modifications by [Town and Country Planning \(Scotland\) Act 1972 \(c.52, SIF 123:2\)](#), s. 278, [Sch. 24 para. 33](#)
- C2 S. 112 modified (27.5.1997) by [1997 c. 8](#), ss. 195, 278(2), [Sch. 15 Pt. II para. 33](#)

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

113 Tenants to be compensated.

Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works.

114 Compensation to be made to tenants for a year, &c.

If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by any incoming tenant, and for any loss or injury he may sustain, or if a part only of such lands be required, compensation for the damage done to him [^{F1}by severing] lands held by him, or otherwise injuriously affecting the same; and the amount of such compensation shall be determined by the sheriff, in case the parties differ about the same; and upon payment or tender of the amount of such compensation all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special Act.

Textual Amendments

- F1** Words in s. 114 substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 79, **Sch. 17 Pt. 1 para. 1** (with s. 84(5)); S.I. 1991/2092, **art. 3**

Modifications etc. (not altering text)

- C3** S. 114 modified by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 14(3), Sch. 4 paras. 4, 5
- C4** S. 114 applied with modifications by Gas Act 1972 (c. 60, SIF 44:2), s. 6(5), **Sch. 2 para. 28**
- C5** S. 114 modified by Land Compensation (Scotland) Act 1973 (c. 56, SIF 28:2), **ss. 43(1)**, 53(1), 55(2)(a), 56(2)(a), (8), 57(3), 58(3), and Sch. 1
- C6** S. 114 incorporated by Offshore Petroleum Development (Scotland) Act 1975 (c. 8, SIF 86), **s. 12(2)**
- C7** S. 114 excluded by Offshore Petroleum Development (Scotland) Act 1975 (c. 8, SIF 86), s. 1, **Sch. 2 para. 2(2)**
- C8** S. 114 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 9(3), **Sch. 3 Pt. III para. 26**
- C9** S. 114 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)

115 Where greater interest claimed than from year to year the lease or missive to be produced.

If any party, having a greater interest than as tenant for a year, or from year to year, claim compensation in respect of any unexpired term or interest under any lease, missive of lease, or grant of any such lands, the promoters of the undertaking may require such party to produce the lease, missive of lease, or grant in respect of which such claim shall be made, or other legal evidence thereof in his power; and if, after demand made in writing by the promoters of the undertaking, such lease, missive of lease, or grant, or other legal evidence thereof, be not produced within twenty-one

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days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

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Modifications etc. (not altering text)

- C10** S. 115 modified by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\)](#), s. 14(3), [Sch. 4 paras. 4, 5](#)
- C11** S. 115 applied with modifications by [Gas Act 1972 \(c. 60, SIF 44:2\)](#), s. 6(5), [Sch. 2 para. 28](#)
- C12** S. 115 modified by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s.9(3), [Sch. 3 Pt. III para. 26](#)
- C13** S. 115 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](#))

116 Limit of time for compulsory purchase.

And be it enacted, that the powers of the promoters of the undertaking for the compulsory purchase or taking of lands for the purposes of the special Act shall not be exercised after the expiration of the prescribed period, and if no period be prescribed not after the expiration of three years from the passing of the special Act.

[^{F2}For the purposes of this section no account shall be taken of any period during which an authority are, by virtue of Schedule 7 to the Housing (Scotland) Act 1987 (which relates to buildings in housing action areas) prevented from serving notice to treat under section 17 to this Act.]

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Textual Amendments

- F2** Words added by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 93, [Sch. 7 para. 14](#)

Changes to legislation:

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