



Lands Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 19 8 and 9 Vict

Entry on lands

89 Proceedings in case of refusal to deliver possession of lands.

If in any case in which, according to the provisions of this or the special Act, or any Act incorporated therewith, the promoters of the undertaking are authorized to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person, refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to apply by petition to the sheriff for possession of the same, and upon such application the sheriff may authorize and order possession of any such lands accordingly; and the expences accruing by reason of such application, to be settled and decerned for by the sheriff, shall be paid by the person wrongfully refusing to give or hindering possession; and the amount of such expences shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to such party, or if no such compensation be payable to such party, or if the same be less than the amount of such expences, then such expences, or the excess thereof beyond such compensation, if not paid on demand, may be levied by poinding and sale, and the sheriff may issue his warrant accordingly.

Modifications etc. (not altering text)

- C1 S. 89 saved by [Rent Act 1965 \(c. 75\), s. 35\(4\)](#)
- C2 S. 89 excluded by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c. 8, SIF 86\), s. 1, Sch. 1 para. 2\(3\)](#)
- C3 Ss. 83-89 restricted (11.8.2004) by [Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004 \(asp 10\), s. 24\(3\)](#) (with s. 33)
- C4 S. 89 applied (with modifications) (11.4.2017) by [The Network Rail \(Glasgow Queen Street Station\) Order 2017 \(S.S.I. 2017/100\), arts. 1, 27\(8\)](#) (with art. 37)

Changes to legislation:

There are currently no known outstanding effects for the Lands Clauses Consolidation (Scotland) Act 1845, Section 89.