



# Railways Clauses Consolidation (Scotland) Act 1845

1845 CHAPTER 33 8 and 9 Vict

*Works for accommodation and protection of lands*

And with respect to works for the accommodation of lands adjoining the railway, be it enacted as follows:

**60 Works to be erected for the accommodation of adjoining lands.**

The company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway; (that is to say,)

Such and so many convenient gates, bridges, arches, culverts, and passages, over, under, or by the sides of or leading to or from the railway, as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made; and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof:

Also sufficient posts, rails, hedges, ditches, mounds, or other fences, for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout, by reason of the railway, together with all necessary gates, made to open towards such adjoining lands, and not towards the railway, and all necessary stiles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be:

Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be; and such works shall be made from time to time as the railway works proceed:

Also proper watering places for cattle, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to

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their former watering places; and such watering places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the railway had not been made, or as nearly so as may be; and the company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places:

Provided always, that the company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, and that the company may, in lieu of such accommodation works, make compensation to the owners and occupiers of the lands for the want thereof, in such manner as may be agreed upon between the company and such owners and occupiers, nor to make any accommodation works with respect to which the owners, lessees, and occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of the making of them.

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

- C1** S. 60 excluded by [Transport Act 1968 \(c. 73\)](#), s. 124(2)
- C2** S. 60 incorporated (21.5.1992) by [S.I. 1992/1267](#), art. 4(1)
- C3** S. 60 incorporated (28.12.2012) by [The Banchory and Crathes Light Railway Order 2012 \(S.S.I. 2012/345\)](#), arts. 1, 5(1)

**61 Differences as to accommodation works to be settled by sheriff or justices.**

If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining thereof, the same shall be determined by the sheriff or two justices; and such sheriff or justices shall also appoint the time within which such works shall be commenced and executed by the company.

**62 Execution of works by owners on default by the company.**

If for seven days next after the time appointed by such sheriff or justices for the commencement of any such works the company shall fail to commence such works, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs; and the reasonable expences thereof shall be repaid by the company to the party by whom the same shall so have been executed; and if there be any dispute about such expences the same shall be settled by the sheriff or two justices: Provided always, that no such owner or occupier or other person shall obstruct or injure the railway, or any of the works connected therewith, for a longer time, nor use them in any other manner, than is unavoidably necessary for the execution or repair of such accommodation works.

**63 Power to owners of land to make additional accommodation works.**

If any of the owners or occupiers of lands affected by such railway shall consider the accommodation works made by the company, or directed by such sheriff or justices to be made by the company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at his own expence, to make such further works for that purpose as he shall think necessary, and as shall be agreed

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to by the company, or, in case of difference, as shall be authorized by the sheriff or two justices.

**64 Works to be constructed under the superintendence of the company's engineer.**

If the company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of their engineer, and according to plans and specifications to be submitted to and approved by such engineer; nevertheless the owners or occupiers of lands shall not be entitled to require either that plans should be adopted which would involve a greater expence than that incurred in the execution of similar works by the company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the company.

**65 Accommodation works not to be required after five years.**

The company shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the railway after the expiration of the prescribed period, or, if no period be prescribed, after five years from the opening of the railway for public use.

**66 Owners to be allowed to cross until accommodation works made.**

Until the company shall have made the bridges or other proper communications which they shall under the provisions herein or in the special Act, or any Act incorporated therewith, contained have been required to make between lands intersected by the railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses, and other animals, directly (but not otherwise) across the part of the railway made in or through their respective lands, solely for the purpose of occupying the same lands, or for the exercise of such right of way, and so as not to obstruct the passage along the railway, or to damage the same; nevertheless, if the owner or occupier of any such lands have in his arrangements with the company received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

**67 Materials, &c. to vest in company for purposes of prosecution.**

During the execution of any contract made with the company the works in course of being done under such contract, and all the materials of every description brought upon or near such works for the purpose of being used in the execution of such contract, shall, in all proceedings instituted by them for the purpose of protecting the same, or by the public prosecutor for the purpose of punishment on account of offences committed against the same, be held to be the property of the company.

**68 Penalty on persons omitting to fasten gates.**

If any person omit to shut and fasten any gate [<sup>F1</sup>or to lower any barrier]set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriage, cattle, or other animals under his care have passed

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through the same, he shall forfeit for every such offence any sum [<sup>F2</sup>not exceeding level 3 on the standard scale.].

**Textual Amendments**

- F1** Words in s. 68 inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\), s.49\(1\)\(2\)](#); S.I. [1992/1347, art. 2](#),Sch.
- F2** Words in s. 68 substituted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\), s.49\(1\)\(3\)](#); S.I. [1992/1347, art. 2](#),Sch.

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

- C4** S. 68 incorporated (21.5.1992) by [S.I. 1992/1267](#),art. 4(1)  
S. 68 applied (8.11.1995) by [1995 c. viii, s. 2](#)
- C5** [S. 68](#) incorporated (28.12.2012) by [The Banchory and Crathes Light Railway Order 2012 \(S.S.I. 2012/345\)](#), arts. 1, [5\(1\)](#)

**69** .....<sup>F3</sup>

**Textual Amendments**

- F3** Ss. 38, 69, 82 repealed by [Transport Act 1962 \(c. 46\)](#), s. 95(3), [Sch. 12 Pt. I](#)

**Changes to legislation:**

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