



# Crofters (Scotland) Act 1955

## 1955 CHAPTER 21

### *Administration of Crofts*

#### **15 Commission to obtain information and to compile register of crofts**

- (1) The Commission may by notice served on the owner or the occupier of any holding require him to furnish them with such information as may be specified in the notice with regard to the acreage, the rent and the tenure of the holding and with regard to such other matters relating to the ownership or the occupation of the holding as the Commission may reasonably require for the execution of their functions under this Act.
- (2) It shall be the duty of the Commission to compile, and from time to time to revise, a register of crofts in such form and containing such particulars as may be approved by the Secretary of State.
- (3) Where a landlord and a tenant agree, or where the Land Court decide, that the tenant of a holding is a crofter, it shall be the duty of the landlord in the case of such agreement, and of the Land Court in the case of such decision, forthwith to notify the Commission thereof.
- (4) In the absence of agreement between the landlord and the tenant of a holding and of any decision by the Land Court that the tenant is a crofter, the Commission may, on such information as is available to them, decide whether or not to enter the holding in the register kept by them under this section as a croft, and shall give notice of their decision to the landlord and to the tenant; and unless within two months after the giving of such notice the landlord or the tenant applies to the Land Court for a declarator as to the status of the tenant, the decision of the Commission shall be final and conclusive on the matter.
- (5) If any owner or occupier on whom a notice has been served under subsection (1) of this section—
  - (a) fails without reasonable cause or neglects to furnish to the Commission within three months after the service of the notice the information specified in the notice ; or

- (b) in furnishing such information as aforesaid knowingly or recklessly furnishes any information which is false in a material particular,  
he shall be liable on summary conviction to a fine not exceeding ten pounds.

## 16 Vacant crofts

- (1) Where—
- (a) the landlord of a croft receives from the crofter a notice of renunciation of his tenancy or obtains from the Land Court an order for the removal of the crofter; or
  - (b) for any other reason the croft has become vacant;
- the landlord shall within one month from the receipt of the notice or from the date on which the Land Court made the order or the vacancy came to his knowledge, as the case may be, give notice thereof to the Commission.
- (2) Where any croft is at the commencement of this Act vacant or the subject of a notice of renunciation or of an order of the Land Court for the removal of the crofter which has not yet taken effect, the landlord shall within three months after the commencement of this Act give notice to that effect to the Commission.
- (3) The landlord of a croft shall not, except with the consent in writing of the Commission, or, if the Commission withhold their consent, with the consent of the Secretary of State, let the croft or any part thereof to any person; and any letting of the croft otherwise than with such consent shall be null and void.
- (4) Where a croft is vacant the Commission may—
- (a) in the case of a croft which is vacant at the commencement of this Act, at any time after the expiry of one month from the date on which notice of the vacancy is given under subsection (2) of this section, or after the expiry of four months from the commencement of this Act, whichever is the earlier;
  - (b) in any other case, at any time after the expiry of one month from the occurrence of the vacancy ;
- give notice to the landlord requiring him to submit to them his proposals for re-letting the croft, whether as a separate croft or as an enlargement of another croft, and if, within a period of two months from the giving of such notice, no such proposals are submitted or such proposals are submitted but the Commission refuse to approve them, the Commission may, if they think fit, themselves let the croft to such person or persons and on such terms and conditions (including conditions as to rent) as may be fixed by the Commission after consultation with the landlord; and such let shall have effect in all respects as if it had been granted by the landlord:
- Provided that the Commission shall not themselves let the croft while an application to the Secretary of State under subsection (3) of this section for consent to let, or under subsection (9) thereof for a direction that the croft shall cease to be a croft, is under the consideration of the Secretary of State.
- (5) Where a croft has been let on terms and conditions fixed by the Commission, the landlord may within one month from the date of the letting apply to the Land Court for a variation of the terms and conditions so fixed, and any variation made in pursuance of such application shall have effect as from the date of the letting.
- (6) Where the Commission have under subsection (4) of this section let a vacant croft as an enlargement of another croft, and any of the buildings on the vacant croft thereby

cease to be required in connection with the occupation of the croft, the Commission shall give notice to that effect to the landlord, and thereupon—

- (a) the buildings shall cease to form part of the croft; and
- (b) the landlord may, at any time within six months after the giving of such notice, give notice to the Secretary of State requiring him to purchase the buildings.

(7) Where a croft has, in consequence of the making of an order under subsection (1) of section seventeen of this Act or under subsection (5) of section twenty-one thereof, become vacant and has remained unlet for a period of six months beginning with the date on which the croft so became vacant, the Secretary of State shall, if the landlord, at any time within three months after the expiry of the period aforesaid, gives notice to the Secretary of State requiring him so to do, direct that the croft shall cease to be a croft and shall purchase the buildings on the croft.

(8) Where a notice has been duly given under paragraph (b) of subsection (6) of this section or under the last foregoing subsection, the Secretary of State shall be deemed to be authorised to purchase the buildings compulsorily and to have served notice to treat in respect thereof on the date on which the notice aforesaid was given:

Provided that the consideration payable by the Secretary of State in respect of the purchase of the buildings shall be such sum as may be agreed by the Secretary of State and the landlord, or, failing agreement, as may be determined by the Land Court to be equal to the amount which an out-going tenant who had erected or paid for the erection of the buildings would have been entitled to receive by way of compensation for permanent improvements in respect of the buildings as at the date on which notice was given as aforesaid to the Secretary of State requiring him to purchase the buildings.

(9) Where a croft is vacant, the landlord may apply to the Secretary of State to direct that it shall cease to be a croft; and if the Secretary of State directs under this subsection or under subsection (7) of this section that a croft shall cease to be a croft, the provisions of this Act shall cease to apply to the croft, without prejudice, however, to the subsequent exercise of any powers conferred by any enactment for the constitution of new crofts or the enlargement of existing crofts.

(10) Any person who, being the landlord of a croft, fails to comply with the requirements of subsection (1) or subsection (2) of this section shall be liable on summary conviction to a fine not exceeding ten pounds.

(11) For the purposes of this section a croft shall be taken to be vacant at the commencement of this Act notwithstanding that it is occupied, if it is occupied otherwise than by a crofter and the consent of the Secretary of State to such occupation has not been obtained.

(12) The provisions of subsections (1) and (10) of this section shall not apply to a croft which the Commission have in the exercise of any power conferred on them by this Act declared to be vacant.

## **17 Absentee crofters**

(1) If the Commission determine in relation to a croft—

- (a) that the crofter is not ordinarily resident on, or within two miles of, the croft; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) that it is in the general interest of the crofting community in the district in which the croft is situate that the tenancy of the crofter should be terminated and the croft let to some other person or persons;

then, subject to the provisions of this section, they shall have power to make an order terminating the tenancy of the crofter and requiring him to give up his occupation of the croft at a term of Whitsunday or Martinmas not earlier than three months after the making of such order.

- (2) Before making an order under the foregoing subsection the Commission shall take into consideration all the circumstances of the case, including the extent, if any, to which the croft is being worked and, where the croft is being worked by a member of the crofter's family, the nature of the arrangements under which it is being so worked, and shall give to the crofter and to the landlord, not less than six months before the term at which the proposed order will take effect, notice that they propose to make such an order and shall afford to the crofter and the landlord an opportunity of making representations to them against the making of the proposed order.

Where the Commission make such an order, they shall, not less than three months before the term at which the order takes effect, give notice to the crofter and to the landlord of the making of the order.

- (3) Where an order has been made under subsection (1) of this section and the crofter has failed to give up his occupation of the croft on or before the day on which the order takes effect, the sheriff on the application of the Commission shall, except on cause shown to the contrary, grant warrant for ejection of the crofter. The Commission may recover from the crofter the expenses incurred by them in any application under this subsection and in the execution of any warrant granted thereon.
- (4) Where an order has been made under subsection (1) of this section in respect of a croft and the Commission are satisfied—
- (a) that the crofter or any of his predecessors in the tenancy has provided or paid for the whole or the greater part of the dwelling-house thereon and that the crofter is entitled on the termination of his tenancy to compensation therefor as for an improvement; and
- (b) that the dwelling-house will not be required after the termination of the tenancy in connection with any future occupation of the croft,

the Commission shall give notice to that effect to the crofter and to the landlord; and thereupon the crofter shall be entitled, if, not later than one month before the term at which the order takes effect, he gives notice in that behalf to the Commission and to the landlord, to obtain a conveyance in feu (under reservation of minerals) of the dwelling-house together with such suitable garden ground and such rights of access as the Commission may determine to be reasonable and on such terms as to feuduty and otherwise as may be agreed by the crofter and the landlord, or, failing agreement, as may be determined by the Commission to be reasonable.

- (5) If the landlord does not within such period as the Commission may consider reasonable execute and deliver to the Commission at his own expense a conveyance for the purposes of the last foregoing subsection, or if he requests the Commission to prepare such a conveyance, the Commission shall themselves prepare the conveyance and shall submit it to the landlord for execution; and if the landlord for any reason fails within one month after the conveyance is so submitted to him to execute it and to return it to the Commission, the Commission may themselves in place of the landlord execute the conveyance. Any conveyance executed under this subsection shall be recorded by

the Commission on behalf of the crofter in the appropriate Register of Sasines, and a conveyance executed as aforesaid by the Commission shall, on being so recorded, have the like force and effect in all respects as if it had been executed by the landlord.

A landlord shall have power to execute a valid conveyance under this subsection notwithstanding that he may be under any such disability as is mentioned in section seven of the Lands Clauses Consolidation (Scotland) Act, 1845.

- (6) For the purposes of the last foregoing subsection the Commission may require the landlord or any other person having them in his possession to deliver to the Commission such documents as they may consider necessary for the preparation of the conveyance; and, if the landlord or such other person fails to deliver such documents, the sheriff may on the application of the Commission make an order for the delivery of such documents to the Commission.

Where a person other than the landlord is infert in the subjects to be conveyed, references in the last foregoing subsection and in this subsection to the landlord shall be construed as references to the landlord and such other person for their respective interests.

- (7) Where a conveyance is executed and recorded under this section, any heritable security which immediately before the execution of such conveyance burdened the subjects conveyed shall, as from the date of recording, cease to burden the *dominium utile* of the subjects conveyed and shall burden only the superiority thereof; and, unless the creditors in right of any such security otherwise agree, the landlord shall pay to them according to their respective rights and preferences any sum paid to him in addition to feuduty as consideration under the next following subsection.

In this subsection the expression " heritable security " has the like meaning as in the Conveyancing (Scotland) Act, 1924, except that it includes a security constituted by *ex facie* absolute disposition.

- (8) The consideration payable by the crofter in respect of the conveyance to him under this section of the dwelling-house and other pertinents shall be, in addition to any feuduty thereby exigible, such sum as may be agreed by the crofter and the landlord or, failing agreement, as may be determined by the Land Court to be the value to an incoming tenant as at the termination of the crofter's tenancy of any assistance or consideration given by the landlord or any of his predecessors in title in respect of the dwelling-house ; and, where the dwelling-house and other pertinents are so conveyed to him, the crofter shall not be entitled to receive from the landlord on the termination of his tenancy any compensation for the dwelling-house as for an improvement.
- (9) Subject to the provisions of the last foregoing subsection, a crofter shall, on the termination of his tenancy by an order made under subsection (1) of this section, be entitled to the like rights to, and subject to the like liabilities in respect of, compensation as if he had renounced his tenancy at the term at which the order takes effect.
- (10) Where a crofter who has become entitled under subsection (4) of this section to obtain a conveyance of his dwelling-house is at the termination of his tenancy under any liability to the Secretary of State in respect of any loan, the amount outstanding in respect of such liability shall, if the Secretary of State on the application of the crofter so determines, be deemed as from the recording of the conveyance to be a loan by the Secretary of State to him, and the provisions of the Third Schedule to this Act shall apply in relation to any such loan.

**18 Aged crofters**

- (1) Where on the application of a crofter and after consultation with the landlord the Commission are satisfied—
- (a) that the crofter is unable through illness or old age or infirmity properly to work his croft;
  - (b) that he is willing to renounce the tenancy of his croft subject to the conditions that he shall retain the occupation of the dwelling-house on the croft and that the ownership thereof shall become vested in him; and
  - (c) that it is in the general interest of the crofting community in the district in which the croft is situate that he should be authorised to renounce the tenancy of his croft subject to the conditions aforesaid;

the Commission may authorise him to renounce his tenancy accordingly. The Commission shall give notice to the landlord of any authorisation so granted.

- (2) Where in pursuance of an authorisation under the foregoing subsection a crofter renounces his tenancy, he shall be entitled, if, not later than one month before the term at which the renunciation takes effect, he gives notice in that behalf to the Commission and to the landlord, to obtain a conveyance in feu (under reservation of minerals) of the dwelling-house with the like pertinents and on the like terms and conditions and in the like manner as if an order terminating his tenancy had been made under subsection (1) of the last foregoing section, and subsections (5) to (10) of that section shall, subject to any necessary modifications, apply accordingly.

- (3) Where a conveyance in feu has been granted under this section the person to whom it is granted and the wife or husband of that person shall not, so long as either of them continues to occupy the subjects conveyed, be liable to pay by way of any rate levied by a county or town council in respect thereof any larger sum than would have been so payable if the subjects had continued to form part of the croft of which they formed part when the authorisation aforesaid was granted:

Provided that nothing in this subsection shall affect the liability of any person in respect of any domestic water rate leviable under the Water (Scotland) Act, 1949.

- (4) Where a conveyance in feu has been granted under this section the person to whom it is granted and the wife or husband of that person shall, so long as either of them continues to occupy the subjects conveyed, continue to enjoy any right to cut and take peats for the use of those subjects which they enjoyed when the authorisation aforesaid was granted.

**19 Reorganisation schemes**

- (1) If the Commission, whether on representations made to them by crofters resident in the township or otherwise and after making such inquiries as they may think fit, are satisfied that any township is in such a state of disorganisation or decay that it ought to be reorganised, they may, after consultation with any landlord proposed to be affected thereby, prepare a draft of a scheme (in this Act referred to as a "reorganisation scheme") for the reorganisation of the township.
- (2) A reorganisation scheme shall provide for the re-allocation of the land in the township in such manner as is, in the opinion of the Commission, most conducive to the proper and efficient use thereof and to the general benefit of the township, so, however, that—

- (a) any crofter ordinarily resident in the township shall be entitled, if he so wishes, to continue to occupy a croft which includes the dwelling-house occupied by him as a crofter at the time at which the scheme comes into effect; and
- (b) no crofter ordinarily resident in the township who is able and willing to cultivate a croft shall be provided under the scheme with a croft of less value than the croft of which he is tenant at the time at which the scheme comes into effect;

and shall show in detail the effects of the scheme on each of the crofts constituting the township to which the scheme applies and on any common grazings attached thereto.

- (3) A reorganisation scheme may, if the Commission think fit, make provision with respect to all or any of the following matters, that is to say—
- (a) the apportionment of all or of any part of any common grazing for the exclusive use of individual crofts;
  - (b) the inclusion in the scheme of any land in the vicinity of the township which in the opinion of the Commission ought to be used for the enlargement of crofts in the township;
  - (c) the admission into the township of new crofters and the allocation to them of shares in the common grazing ;
  - (d) the omission from any share in the re-allocation of the land in the township of any crofter not ordinarily resident therein;
  - (e) any other matters incidental to or consequential on the provisions of the scheme ;

and where, in the opinion of the Commission, the carrying-out of any works involving capital expenditure will be required for the purpose of giving proper effect to the scheme, the scheme shall specify such works.

- (4) Where the Commission are satisfied as mentioned in subsection (1) of this section with respect to a township, they shall prepare a list showing the crofts in the township, the names of the persons who are respectively the tenants and the landlords of those crofts, and which of the persons entered as tenants are ordinarily resident in the township, and shall serve a copy of the list on each of such tenants and landlords and shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area in which the township is situate a notice—
- (a) stating that the list has been prepared and the general effect thereof;
  - (b) specifying a place in or near the township where a copy of the list may be seen at all reasonable hours; and
  - (c) specifying the period (not being less than twenty-one days) within which and the manner in which objections to the list may be made.

- (5) If within the period specified under paragraph (c) of the last foregoing subsection an objection is duly made to the Commission by any person affected by the list, they shall afford to that person an opportunity of making representations to them, and may thereafter confirm the list, with or without modifications, and shall publish in the manner specified in the last foregoing subsection a notice stating that the list has been confirmed and specifying a place in or near the township where a copy of the list may be seen at all reasonable hours.

Subject to the next following subsection, the list as so confirmed shall, for the purposes of the proceedings to be taken under the following provisions of this section with respect to the scheme, be final and conclusive as to the matters contained in such list.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Any person aggrieved by reason of his not being shown in the list as so confirmed as the tenant of a croft in the township or as being ordinarily resident in the township may, within one month after the first publication of the notice mentioned in the last foregoing subsection, appeal to the sheriff. The decision of the sheriff on the matter shall be final and conclusive, and the Commission shall make any modification in the list which may be necessary to give effect to the decision.
- (7) The Commission shall submit to the Secretary of State the draft scheme prepared by them as aforesaid, together with such maps, plans, documents and other information as they may deem necessary, or as the Secretary of State may require, for the purpose of informing the Secretary of State of the general purport and effect of the scheme and in particular of the effect of the scheme on each of the crofts in the township to which it applies.
- (8) The Secretary of State shall serve a copy of the draft scheme submitted to him as aforesaid on each of the landlords proposed to be affected thereby and on the owner and the occupier of any land proposed to be used for the enlargement of crofts and shall afford to any such landlord, owner or occupier an opportunity of making representations to him with respect to the scheme, and if—
- (a) the draft scheme contains provisions for the inclusion in the scheme of land in the vicinity of the township for the enlargement of crofts in the township, or for the carrying out of works involving capital expenditure ; and
  - (b) objection to such provisions is made within one month after the service on him of a copy of the draft scheme by any such landlord, owner or occupier and is not withdrawn ;

shall cause a public local inquiry to be held, and shall take into consideration the objection and the report of the person who held the inquiry, and thereafter may approve the draft scheme with or without modifications. The provisions of subsections (2) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947, shall apply in relation to a local inquiry under this subsection as they apply in relation to inquiries under that section.

- (9) If the Secretary of State approves the draft scheme he shall remit it to the Land Court to assess the sums which, if the scheme is put into effect, will become payable—
- (a) to each crofter by way of compensation for permanent improvements on the termination of the tenancy of his croft on the coming into effect of the scheme ;
  - (b) by each person (whether or not he was the tenant of a croft in the township immediately before the coming into effect of the scheme) who becomes the tenant of a croft under the scheme in respect of the permanent improvements on the croft; and
  - (c) by way of rent in respect of each of the new crofts to be formed by the re-allocation proposed by the draft scheme.

Any assessment made under this subsection shall be provisional only and shall, after the scheme has been put into effect, be subject to adjustment by the Land Court on the application of any interested party.

- (10) Where the Secretary of State has approved the draft scheme, the Commission shall serve on each of the persons appearing from the list confirmed under subsection (5) of this section to be the landlord or the tenant of a croft in the township a copy of the draft scheme together with a notice—
- (a) specifying the sums assessed under the last foregoing subsection which will, subject to the provisions of that subsection, be payable to or by the crofter



under paragraphs (a) and (b) of that subsection and by way of rent in respect of the croft proposed to be allocated to the crofter ; and

- (b) requiring each crofter ordinarily resident in the township within two months after the date of the service on him of the notice to intimate to the Commission whether he is in favour of the scheme or not.

- (11) If within the period of two months aforesaid a majority of the crofters ordinarily resident in the township have intimated to the Commission that they are in favour of the scheme, the Commission shall report accordingly to the Secretary of State, and thereupon the Secretary of State may by order confirm the scheme.
- (12) For the purposes of the last foregoing subsection any crofter ordinarily resident in the township on whom a copy of the draft scheme has been served shall, unless within two months after the date of such service he intimates to the Commission that he objects to the scheme, be deemed to have intimated that he is in favour of the scheme.

## **20 Provisions as to putting into effect of reorganisation schemes**

- (1) Where a reorganisation scheme confirmed by the Secretary of State provides for the carrying out of any works involving capital expenditure, the Secretary of State shall serve on every owner of land on which such works are to be carried out a copy of the scheme and of the order confirming it together with a notice requiring him within two months to enter into an undertaking that he will at his own expense carry out such works within such period as may be specified in the notice.
- (2) If an owner on whom a notice has been served under the foregoing subsection fails within two months to enter into such an undertaking as aforesaid or, having entered into such an undertaking, fails to carry out within the period specified in the notice such works to the reasonable satisfaction of the Secretary of State, the Secretary of State shall be deemed to be authorised to purchase compulsorily any land belonging to that owner to which the scheme applies.
- (3) Where a reorganisation scheme confirmed by the Secretary of State provides for the inclusion in the scheme of land in the vicinity of the township for the enlargement of crofts in the township, the Secretary of State shall serve a copy of the scheme and of the order confirming it on the owner and the occupier of such land, and shall also serve on the owner of such land a notice requiring him within two months to enter into an undertaking that he will within such period as may be specified in the notice let the land in accordance with the provisions of the scheme.
- (4) Where a copy of the scheme and of the order confirming it and such a notice as aforesaid have been served under the last foregoing subsection, then—
  - (a) where the occupier of such land is not the owner thereof, the interest of the occupier in the land shall terminate on the expiry of three months from the date on which a copy of the scheme and of the order confirming it were served on him, and he shall be entitled to receive from the Secretary of State the like compensation as if his interest in the land had been compulsorily acquired by the Secretary of State ; and
  - (b) if the owner of such land fails within two months to enter into such an undertaking as aforesaid or, having entered into such an undertaking, fails within the period specified in the notice to let the land in accordance with the provisions of the scheme, the Secretary of State shall be deemed to be authorised to purchase the land compulsorily.

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- (5) Where a reorganisation scheme has been confirmed by the Secretary of State it shall be the duty of the Commission to put the scheme into effect, and the Commission may, subject to the provisions of this Act and to any directions in that behalf given to them by the Secretary of State, do all such things as may be required for that purpose.
- (6) The Commission may put into effect the provisions of a reorganisation scheme on such date as they may appoint, and different dates may be appointed for different provisions.
- (7) For the purpose of putting into effect the provisions of a reorganisation scheme with respect to the re-allocation of the land in the township, the Commission shall serve on the tenant and on the landlord of every croft to which the scheme applies a notice specifying the effect of the provisions of the scheme and the date on which the provisions of the scheme with respect to re-allocation are to take effect; and where such notices have been served—
- (a) every crofter shall be deemed to have duly given notice terminating the tenancy of his croft as at the date specified in the notice ; and
  - (b) on that date each person to whom a croft is allocated under the scheme shall become the tenant of the croft so allocated to him.
- (8) Where—
- (a) a crofter is by a reorganisation scheme omitted from any share in the re-allocation of land in the township ; and
  - (b) the crofter or any of his predecessors in the tenancy has provided or paid for the whole or the greater part of the dwelling-house occupied by him and is entitled on the termination of his tenancy to compensation therefor as for an improvement; and
  - (c) the dwelling-house occupied by the crofter will not under the provisions of the scheme be required in connection with the future occupation of a croft in the township;
- the crofter shall be entitled, if, not later than one month before the date specified in the notice served on him under the last foregoing subsection as the date on which the provisions of the scheme with respect to re-allocation are to take effect, he gives notice in that behalf to the Commission and to the landlord, to obtain a conveyance in feu (under reservation of minerals) of the dwelling-house with the like pertinents and on the like terms and conditions and in the like manner as if an order terminating his tenancy had been made under subsection (1) of section seventeen of this Act, and subsections (5) to (10) of that section shall, subject to any necessary modifications, apply accordingly.
- (9) Where any buildings situate on land subject to a reorganisation scheme will, on the putting into effect of the scheme, cease to be required in connection with the occupation of that land, the Commission shall give notice to that effect to the landlord, and thereupon, subject to the provisions of the last foregoing subsection, the provisions of subsections (6) and (8) of section sixteen of this Act shall apply in relation to such buildings as they apply in relation to the buildings mentioned in the said subsections.
- (10) The owner of any land which is subject to any provision contained in a reorganisation scheme may within two months after the date on which notice is served under subsection (7) of this section with respect to the land give notice to the Secretary of State requiring him to purchase the land, and thereupon the Secretary of State shall be deemed to be authorised to purchase the land compulsorily and to have served notice to treat in respect thereof on the date on which notice was given as aforesaid by the owner.

Any purchase of land under this subsection shall be deemed to be completed immediately before the date on which the scheme is put into effect or, where different days are appointed for the putting into effect of different provisions, immediately before the first of such dates, and the Secretary of State shall accordingly as the landlord of such land be liable to pay and entitled to receive any compensation for permanent improvements which may become payable on the putting into effect of the scheme.

## **21 Duty of crofter to work croft in accordance with rules of good husbandry**

- (1) It shall be the duty of every crofter to work his croft in accordance with the rules of good husbandry and to provide such fixed equipment on his croft as may be necessary to enable him to do so.
- (2) The provisions of the Fourth Schedule to this Act shall have effect for the purpose of determining for the purposes of this section whether a crofter is fulfilling his duty to work his croft in accordance with the rules of good husbandry.
- (3) Where the Commission are satisfied that a crofter is not fulfilling the duty imposed on him by subsection (1) of this section, they may, after affording to him an opportunity of making representations to them, serve on him a notice (in this section referred to as a "warning notice") to that effect. A warning notice shall specify the general grounds on which the Commission are satisfied as aforesaid; and so long as such notice continues in force the Commission may from time to time by notice served on the crofter give to him such directions as they are satisfied are required to secure that he fulfils the duty imposed on him by subsection (1) of this section.
- (4) While a warning notice is in force the Commission shall within twelve months from the date on which it was served and thereafter at intervals of not more than twelve months while it is in force review the working of the croft, and if they are satisfied that it is no longer necessary that the warning notice should continue in force, they shall withdraw it and shall give notice to the crofter that they have done so, or if they are not so satisfied they shall give notice to the crofter that the warning notice is to continue in force:

Provided that the withdrawal of the warning notice shall not affect any direction given thereunder in so far as it is in force immediately before the withdrawal of the notice.

- (5) Where a warning notice is and has for an immediately preceding period of not less than twelve months been in force in relation to a croft, and the Commission are satisfied that the working of the croft has not shown satisfactory improvement, they shall have power to make an order terminating the crofter's tenancy of the croft at the next following term of Whitsunday or Martinmas not earlier than six months after the date of such order.
- (6) The Commission shall not make an order under the last foregoing subsection until, after affording to the crofter an opportunity of making representations to them, they have given to the crofter notice of the proposal to make the order together with such particulars as appear to them requisite for informing the crofter of the general grounds on which they are satisfied as mentioned in the said subsection.

A crofter to whom notice of a proposal is given under this subsection may require that the proposal shall be referred to the Land Court, and the provisions of section seventy-one of the Agriculture (Scotland) Act, 1948, and of any regulations made thereunder

shall apply to a reference under this section as they apply to a reference under that Act, with the substitution, however, for references to the Secretary of State of references to the Commission.

- (7) Before making an order under subsection (5) of this section the Commission shall take into consideration the general circumstances of the crofter, including his employment, if any, in one or more of the occupations commonly followed as subsidiary or auxiliary to the cultivation of a croft, and the need of the crofter for the croft as a place of residence.
- (8) The Commission shall forthwith give notice of the making of an order under this section to the crofter, and thereupon the like consequences shall ensue as if the crofter had duly given notice terminating his tenancy of the croft as at the term specified in the order ; and if the crofter fails to give up his occupation of the croft in accordance with an order made under this section subsection (3) of section seventeen of this Act shall apply as it applies where a crofter fails to give up the occupation of a croft in accordance with an order made under subsection (1) of that section.
- (9) The Commission shall send to the landlord of a croft a copy of any notice given by them under this section to the tenant of the croft.

## **22 Power of Secretary of State to give financial assistance to crofters**

- (1) For the purpose of aiding and developing agricultural production on crofts the Secretary of State may, after consultation with the Commission and with the approval of the Treasury, make schemes for providing grants and loans to crofters, and any such schemes may provide for the administration of such grants and loans through the agency of the Commission.

Any scheme under this subsection shall be embodied in a statutory instrument which shall be laid before Parliament after being made.

- (2) The Secretary of State may, in accordance with arrangements made by him with the approval of the Treasury, provide assistance by way of grants or loans or by the supply for payment in cash of building or other materials towards the erection or improvement or rebuilding of dwelling-houses and other buildings for crofters.
- (3) The Secretary of State may, in accordance with arrangements made by him with the approval of the Treasury, provide assistance by way of loan to the incoming tenant of a croft to enable him to pay to the outgoing tenant of the croft or to the landlord thereof the compensation for permanent improvements due to such outgoing tenant.
- (4) Regulations shall be made by the Secretary of State—
  - (a) for securing that, where a grant has been made towards the erection, improvement or rebuilding of a dwelling-house or other building, conditions with respect to the occupation and maintenance thereof shall apply thereto for such period from the completion of the work (not being longer than forty years) as may be specified in the regulations;
  - (b) for securing that in the event of a breach of any of the conditions the Secretary of State may recover from such person as may be specified in the regulations a sum bearing the same proportion to the grant made as the period between the date of the breach of the condition and the expiration of the period specified under paragraph (a) of this subsection bears to the last-mentioned period, together with interest on such sum from the date on which the grant was made at such rate as may be specified in the regulations;

- (c) for providing that the conditions applied by the regulations to, a dwelling-house or building shall cease to apply on payment to the Secretary of State by such person as may be specified in the regulations of such amount as may be so specified;
  - (d) for applying, subject to any necessary modifications, in relation to a dwelling-house or building towards the erection, improvement or rebuilding of which a grant has been made under this section, the provisions of subsections (1) to (3) of section one hundred and three of the Housing (Scotland) Act, 1950 (which restrict the compensation payable in respect of improvements, and prohibit increases in the rents of houses in respect of which assistance has been granted under section one hundred of that Act);
  - (e) for securing that, where any conditions apply to a dwelling-house or building by virtue of the regulations, the Secretary of State shall cause to be recorded in the appropriate Register of Sasines a notice in a form prescribed by the regulations specifying the conditions which by virtue of the regulations apply to the dwelling-house or building ; and that, where such conditions cease so to apply, the Secretary of State shall cause to be so recorded a notice in a form prescribed as aforesaid stating that the conditions no longer apply to the dwelling-house or building;
  - (f) for such other incidental and supplementary matters as appear to the Secretary of State to be requisite or expedient for the purposes aforesaid.
- (5) No assistance by way of grant shall be given under subsection (2) of this section towards the erection, improvement or rebuilding of any dwelling-house or other building if assistance out of public moneys by way of grant or subsidy has been given under any other enactment towards such erection, improvement or rebuilding.
- (6) For the purposes of subsection (2) of this section the occupier of a holding constituted under the Congested Districts (Scotland) Act, 1897, on land acquired by the Congested Districts (Scotland) Commissioners, who is also the owner of the holding, shall be deemed to be a crofter.
- (7) A person shall not be disqualified for receiving assistance under subsection (2) of this section by reason only that after he has applied for and the Secretary of State has undertaken to provide such assistance he has become the owner of the croft in respect of which the application was made.
- (8) Subsection (8) of section one hundred and subsection (6) of section one hundred and eleven of the Housing (Scotland) Act, 1950, and subsection (5) of section three of the Housing (Scotland) Act, 1952 (which subsections prohibit the giving of assistance under the said sections in respect of the provision or improvement of a house if assistance has been given in respect thereof under any of the enactments respectively mentioned in the said subsections), shall have effect as if any reference therein to section seventy-seven of the Agriculture (Scotland) Act, 1948, included a reference to subsection (2) of this section.

## **23 Supplementary provisions as to loans**

- (1) Where assistance is given under subsection (2) or subsection (3) of the last foregoing section by way of loan, the following provisions of this section shall have effect.
- (2) The Secretary of State shall give notice to the landlord of the giving of any such assistance as aforesaid.

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*Status: This is the original version (as it was originally enacted).*

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- (3) The agreement for the loan shall be recorded in the Crofters Holdings Book and as recorded shall have the effect of transferring to the Secretary of State all rights of the crofter and his statutory successors to compensation for permanent improvements up to the amount of any outstanding liability to the Secretary of State.
- (4) Any amount due by virtue of subsection (3) of this section to the Secretary of State by the landlord may, if the Secretary of State on the application of the landlord so determines, be deemed to be a loan by the Secretary of State to the landlord, and the provisions of the Third Schedule to this Act shall apply in relation thereto.
- (5) Where the outgoing tenant of a croft is under any liability to the Secretary of State in respect of a loan made to him, the Secretary of State and the incoming tenant may agree that the latter shall assume such liability, and if they so agree the amount thereof shall be deemed to be a loan made to the incoming tenant under subsection (3) of the last foregoing section, and this section shall have effect accordingly.
- (6) The provisions of the Third Schedule to this Act shall apply in relation to any loan made by virtue of subsection (6) or subsection (7) of the last foregoing section.