



# Crofters (Scotland) Act 1955

## 1955 CHAPTER 21

### *Crofting Tenure*

#### **3 Definition of "croft" and "crofter", and conditions of tenure of crofter**

- (1) In this Act the expression "croft" means—
  - (a) as from the commencement of this Act, every holding (whether occupied by a landholder or not) situate in the crofting counties which was, immediately before the commencement of this Act, a holding to which any of the provisions of the Landholders Acts relating to landholders applied;
  - (b) as from the commencement of this Act, every holding situate as aforesaid which was, immediately before the commencement of this Act, a holding to which the provisions of the Landholders Acts relating to statutory small tenants applied;
  - (c) as from the date of registration, every holding situate as aforesaid which is constituted a croft by the registration of the tenant thereof as a crofter under section four of this Act.
- (2) In this Act the expression "crofter" means the tenant of a croft.
- (3) A crofter shall not be subject to be removed from the croft of which he is tenant except—
  - (a) where one year's rent of the croft is unpaid;
  - (b) in consequence of the breach of one or more of the conditions set out in the Second Schedule to this Act (in this Act referred to as "the statutory conditions"), other than the condition as to payment of rent; or
  - (c) in pursuance of any enactment, including any enactment contained in this Act.
- (4) Any contract or agreement made by a crofter by virtue of which he is deprived of any right conferred on him by any provision of this Act shall to that extent be void unless the contract or agreement is approved by the Land Court.
- (5) For the purposes of this Act any right in pasture or grazing land held or to be held by the tenant of a croft, whether alone or in common with others, shall be deemed to form part of the croft.

#### 4 Registration of crofters

- (1) The landlord and the tenant of any holding of which the annual rent does not exceed fifty pounds or of which the area does not exceed fifty acres (exclusive of any common pasture or grazing held or to be held therewith) may make joint application to the Land Court for the registration of the tenant of the holding as a crofter, and on such application the tenant shall be so registered; and where any such holding as aforesaid is constituted under any enactment authorising the Secretary of State to constitute new holdings and the Secretary of State makes application to the Land Court for the registration of the tenant of the holding as a crofter, the tenant shall be so registered.
- (2) Not more than one person shall be registered as a crofter in respect of any holding.
- (3) The procedure in connection with applications under this Act for registration as a crofter shall be such as may be provided by rules of the Land Court.
- (4) Registration of a crofter under this Act shall be constituted by an order of the Land Court authorising his registration duly recorded, with the application on which it proceeds, in the Crofters Holdings Book.

#### 5 Rent

- (1) The rent payable by a crofter as one of the statutory conditions shall be the yearly rent, including money and any prestations other than money, payable for the year current at the commencement of this Act or, in the case of a croft let after the commencement of this Act, fixed at the date of the letting, unless and until that rent is altered in accordance with the provisions of this Act.
- (2) The rent may be altered by agreement in writing between the landlord and the crofter to such amount and for such period as may be so agreed; and thereupon the rent so agreed shall be the rent payable by the crofter so long as the agreement subsists and thereafter so long as—
  - (a) no new agreement between the landlord and the crofter shall have been made ;  
or
  - (b) no different rent shall have been fixed by the Land Court under this Act.
- (3) The Land Court may, on the application of the crofter or the landlord, determine what is a fair rent to be paid by the crofter to the landlord for the croft, and may pronounce an order accordingly; and the rent so fixed by the Land Court shall be the rent payable by the crofter as from the first term of Whitsunday or Martinmas next succeeding the decision of the Land Court:  
  
Provided that—
  - (a) where the rent payable for the croft has been fixed by the Land Court it shall not be altered, except by mutual agreement between the crofter and the landlord, for a period of seven years from the term at which it first became payable ; and
  - (b) where a croft is let after the commencement of this Act, the rent shall not be altered by the Land Court for a period of seven years from the term at which it first became payable or for such longer period as may have been agreed upon between the crofter and the landlord.
- (4) Before determining what is a fair rent for a croft, the Land Court shall hear the parties and shall take into consideration all the circumstances of the case, of the croft and of the district, and in particular shall take into consideration any permanent or unexhausted

improvements on the croft and suitable thereto which have been executed or paid for by the crofter or his predecessors in the tenancy.

## **6 Record of croft**

- (1) The Land Court shall, on the application of the landlord or the crofter, make a record of the condition of the cultivation of a croft and of the buildings and other permanent improvements thereon, and by whom the permanent improvements have been executed or paid for.
- (2) Any application under this section shall be intimated by the Land Court to the other party concerned and each party shall be given an opportunity of being heard on any matter affecting the record of the croft.

## **7 Renunciation of tenancy**

- (1) A crofter shall be entitled, on one year's notice in writing to the landlord, to renounce his tenancy as at any term of Whitsunday or Martinmas.
- (2) If a crofter renounces his tenancy the landlord shall be entitled to set off all rent due or to become due against any sum found to be due to the crofter or to the Secretary of State by way of compensation for permanent improvements made on the croft.

## **8 Assignment of croft**

- (1) A crofter shall not, except with the consent in writing of the Commission, assign his croft.
- (2) A crofter wishing to assign his croft shall make application to the Commission for their consent to the assignation of his croft and shall at the same time inform his landlord in writing of his application.
- (3) The Commission shall give notice to the landlord of any application made to them for their consent to the assignation of a croft and before giving their consent shall afford to the crofter and to the landlord an opportunity of making representations to them.
- (4) In considering any application made as aforesaid the Commission shall take into account the family and other circumstances of the crofter and of the proposed assignee of the croft and the general interests of the township in which the croft is situated, and, where they give their consent, may give it subject to such terms and conditions, if any, as may to them seem fit.
- (5) Where a crofter assigns his croft otherwise than with the consent in writing of the Commission, or, where such consent is given subject to terms and conditions, otherwise than in accordance with such terms and conditions, such assignation and any deed purporting so to assign the croft shall be null and void and the Commission may declare the croft to be vacant.

## **9 Sub-division of croft**

A crofter shall not, except with the consent in writing of the landlord and of the Commission, subdivide his croft, and any sub-division of a croft otherwise than with such consent shall be null and void.

## 10 Bequest of croft

- (1) A crofter may, by will or other testamentary writing, bequeath the tenancy of his croft to any one person; but where the power conferred by this subsection is exercised in favour of a person not being a member of the crofter's family, the bequest shall be null and void unless the Commission, on application made to them by the legatee, otherwise determine.
- (2) A person to whom the tenancy of a croft is bequeathed as aforesaid (in this section referred to as " the legatee ") shall, if he accepts the bequest, give notice of the bequest to the landlord within two months after the death of the crofter, unless he is prevented by some unavoidable cause from giving such notice within that time, and in that event he shall give such notice within a further period of four months. If no such notice is given in accordance with the provisions of this subsection the bequest shall become null and void.

The giving of such notice shall import acceptance of the bequest and, unless the landlord intimates objection to the Commission under the next following subsection, the legatee shall come into the place of the deceased crofter in the croft as from the date of the death of the deceased crofter, and the landlord shall notify the Commission accordingly.

- (3) Where notice has been given as aforesaid to the landlord he may within one month after the giving of the notice intimate to the legatee and to the Commission that he objects to receive the legatee as tenant of the croft and shall state the grounds of his objection.
- (4) If, after affording to the legatee and to the landlord an opportunity of making representations to them, the Commission are satisfied that the objection is reasonable, they shall declare the bequest to be null and void, and shall notify the landlord and the legatee accordingly. If they are not so satisfied they shall notify the landlord and the legatee to that effect, and the legatee shall thereupon come into the place of the deceased crofter in the croft as from the date of the death of the deceased crofter.
- (5) If the bequest becomes null and void under this section, the right to the croft shall thereupon devolve upon the heir-at-law of the deceased crofter.
- (6) Subject to the foregoing provisions of this section, any question arising with respect to the validity or effect of the bequest shall be determined by any court having jurisdiction to determine the validity and effect of the whole testamentary writings of the deceased crofter.
- (7) In this section the expression " member of the crofter's family " means the wife or husband of the crofter or his son-in-law or daughter-in-law or any person who, failing nearer heirs, would be entitled to succeed in case of intestacy to the tenancy of the croft.

## 11 Succession to croft

- (1) Where, owing to the failure of a crofter to bequeath the tenancy of his croft or of such a bequest to receive effect, the right to the tenancy of the croft devolves upon the heir-at-law of the crofter, the landlord shall, subject to the provisions of subsection (2) of this section, accept as successor to the tenancy any heir of the deceased crofter, being a person who, failing nearer heirs, would be entitled to succeed to the tenancy, who within three months from the date on which the right to the croft devolved upon the

heir-at-law makes application to the landlord to be accepted as tenant; and the landlord shall notify the Commission accordingly:

Provided that the landlord shall not under this subsection accept any person as successor to the tenancy unless he is satisfied that there is no nearer heir who desires to succeed to the tenancy.

- (2) In the event of the landlord not being satisfied as to any matter as to which he is required under this section to be satisfied or of any dispute arising thereunder with respect to the right of any person to be accepted as successor to the tenancy, the landlord shall, and any other person having an interest may, refer the question to the Commission for their determination, and the Commission shall determine it accordingly.
- (3) If at the expiry of three months from the date on which the right to the croft devolved upon the heir-at-law no person has been accepted by the landlord as successor to the tenancy, the landlord shall forthwith notify the Commission to that effect.
- (4) If at the expiry of the three months aforesaid it appears to the Commission, whether from a notification under the last foregoing subsection or otherwise, that no person has been accepted by the landlord as successor to the tenancy, the Commission shall give notice in such manner as they may think proper, whether by advertisement or otherwise, to persons who may claim to be entitled to succeed to the tenancy requiring them if they desire so to succeed to give intimation accordingly to the Commission before such date as may be specified in the notice, being a date not earlier than six months after the date on which the right to the croft devolved as aforesaid; and the Commission shall nominate as successor to the tenancy that one of the persons who have so given intimation who appears to them to be the nearest heir of the deceased crofter. The Commission shall give notice to the landlord of the person so nominated by them and the landlord shall accept that person as successor to the tenancy:

Provided that the Commission shall not, before the date specified in the notice given by them under this subsection, nominate any person as successor to the tenancy unless they are satisfied that there is no nearer heir who desires to succeed to the tenancy.

- (5) If no person is duly nominated under the last foregoing subsection by the Commission as successor to the tenancy, the Commission shall declare the croft to be vacant and shall notify the landlord accordingly.
- (6) Where the Commission have under the foregoing provisions of this section nominated a person as successor to the tenancy or, as the case may be, have declared the croft to be vacant, the rights of all heirs (other than any heir so nominated) to succeed to the tenancy shall be extinguished.
- (7) Where a croft has been declared under subsection (5) of this section to be vacant, the landlord shall be liable—
  - (a) if the deceased crofter was at the date of his death under any liability to the Secretary of State in respect of any loan, to pay to the Secretary of State the whole or so much of the value of the improvements on the croft as will discharge the liability of the deceased crofter, and to pay to the executor of the deceased crofter, if a claim is made in that behalf not later than twelve months after the date on which the croft was declared to be vacant, any balance of the value aforesaid ;
  - (b) if at the date of his death the deceased crofter was not under any such liability to the Secretary of State and a claim is made in that behalf as aforesaid, to

pay to the executor of the deceased crofter the value of the improvements on the croft.

In this subsection the expression " the value of the improvements on the croft" means such sum as may be agreed, or as, failing agreement, may be determined by the Land Court, to be the sum which would have been due by the landlord by way of compensation for permanent improvements if the deceased crofter had immediately before his death renounced his tenancy.

- (8) In this section any reference to the heir-at-law of a crofter includes a reference to any person entitled to succeed to the tenancy of the croft by virtue of the provisions of the Intestate Husband's Estate (Scotland) Acts, 1911 and 1919, or of section five of the Law Reform (Miscellaneous Provisions) (Scotland) Act, 1940.
- (9) In the event of the heirs-at-law of a crofter being heirs portioners, the eldest of such heirs portioners shall be entitled to succeed to the tenancy without division.

## **12 Resumption of croft or part of croft by landlord**

- (1) The Land Court may, on the application of the landlord and on being satisfied that he desires to resume the croft, or part thereof, for some reasonable purpose having relation to the good of the croft or of the estate or to the public interest, authorise the resumption thereof by the landlord upon such terms and conditions as they may think fit, and may require the crofter to surrender his croft, in whole or in part, to the landlord accordingly, upon the landlord making adequate compensation to the crofter either by letting to him other land of equivalent value in the neighbourhood or by compensation in money or by way of an adjustment of rent or in such other manner as the Land Court may determine.
- (2) For the purposes of the foregoing subsection the expression " reasonable purpose " shall include the using, letting or feuing of the land proposed to be resumed for the building of dwellings, or for small allotments, or for harbours, piers, boat shelters or other like buildings, or for churches or other places of religious worship, or for schools, or for halls or community centres, or for planting, or for roads practicable for vehicular traffic from the croft or township to the public road or to the seashore, and the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.
- (3) Where an application is made, with the consent of a majority of the persons sharing in a common grazing and with the approval of the Commission, for authority to resume any land forming part of the common grazing for the purpose of using, letting or otherwise disposing of it for the planting of trees, the Land Court shall not withhold their authority for such resumption.

## **13 Provisions as to removal of crofter**

- (1) When—
  - (a) one year's rent of a croft is unpaid, or
  - (b) a crofter has broken one or more of the statutory conditions (other than the condition as to payment of rent),the Land Court may, on the application of the landlord and after considering any objections stated by the crofter, make an order for the removal of the crofter.

- (2) When a crofter whose rights to compensation for permanent improvements have been transferred in whole or in part to the Secretary of State under section twenty-three of this Act—
- (a) has abandoned his croft; or
  - (b) has broken any of the statutory conditions (other than the condition as to payment of rent); or
  - (c) has broken any of the conditions of repayment of a loan contained in the agreement for the loan ;
- the Land Court may, on the application of the Secretary of State and after considering any objections stated by the crofter or the landlord, make an order for the removal of the crofter.
- (3) If a crofter is removed from his croft, the landlord shall be entitled to set off all rent due or to become due against any sum found to be due to the crofter or to the Secretary of State for permanent improvements made on the croft.

#### **14 Compensation for improvements and compensation for deterioration or damage**

- (1) When a crofter renounces his tenancy or is removed from his croft, he shall, subject to the provisions of this Act, be entitled to compensation for any permanent improvement made on the croft if—
- (a) the improvement is suitable to the croft; and
  - (b) the improvement was executed or paid for by the crofter or any of his predecessors in the tenancy ; and
  - (c) either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the crofter was bound to execute the improvement or, if the improvement was executed in pursuance of such an agreement, the crofter has not received, by way of reduction of rent or otherwise, fair consideration for the improvement.
- (2) Where—
- (a) a person on becoming the tenant of a croft has with the consent of the landlord paid to the outgoing tenant any compensation due to him in respect of any permanent improvement and has agreed with the Secretary of State to assume any outstanding liability to the Secretary of State of the outgoing tenant in respect of any loan made to him ; or
  - (b) on a person becoming the tenant of a croft the Secretary of State on his behalf has paid to the landlord a sum representing the value to such person of an existing improvement on the croft;

such person shall for the purposes of the foregoing subsection be deemed to have executed or paid for the improvement.

For the purposes of paragraph (a) of this subsection a landlord who has not paid the compensation due either to the outgoing tenant or to the Secretary of State and has not applied to the Secretary of State to determine under subsection (4) of section twenty-three of this Act that any amount due by him to the Secretary of State by virtue of subsection (3) of that section shall be deemed to be a loan by the Secretary of State to him shall be deemed to have given his consent.

- (3) The provisions of subsection (1) of this section shall not apply to any buildings erected by a crofter in contravention of any interdict or other judicial order.

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

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- (4) An improvement shall be valued under this Act at such sum as fairly represents the value of the improvement to an incoming tenant.
- (5) In fixing the amount of compensation payable under subsection (1) of this section for improvements there shall be taken into account and deducted from the compensation the value of any assistance or consideration which may be proved to have been given by the landlord or any of his predecessors in title in respect of any of the improvements.
- (6) Where a crofter renounces his tenancy or is removed from his croft the landlord shall be entitled to recover from him compensation for any deterioration of, or damage to, any fixed equipment provided by the landlord committed or permitted by the crofter.
- (7) The amount of the compensation payable under the last foregoing subsection shall be the cost, as at the date of the crofter's quitting the croft, of making good the deterioration or damage ; and the landlord shall be entitled to set off the amount so payable against any compensation payable in respect of permanent improvements.
- (8) The amount of the compensation payable under subsection (1) or subsection (6) of this section shall, failing agreement, be fixed by the Land Court.
- (9) Where a crofter has given notice of renunciation of his tenancy, the Land Court may, on the joint application of the crofter and the landlord or, where the crofter's rights to compensation for permanent improvements have been transferred in whole or in part under section twenty-three of this Act to the Secretary of State, on the joint application of the Secretary of State and the landlord, assess prior to the renunciation the amounts which will on renunciation become due under this section by the landlord by way of compensation for permanent improvements and by the crofter by way of compensation for deterioration or damage; and the amounts so assessed shall, on renunciation, become due accordingly.
- (10) Nothing in this Act shall affect the provisions of the Agricultural Holdings (Scotland) Act, 1949, with respect to the payment to outgoing tenants of compensation for improvements:  
Provided that—
  - (a) where any improvements are valued under that Act with a view to the payment of compensation to a crofter, the valuation shall, unless the landlord and the crofter otherwise agree in writing, be made by the Land Court; and
  - (b) compensation shall not be payable under that Act for an improvement for which compensation is payable under this Act.
- (11) Notwithstanding anything in this section, a crofter who immediately before the commencement of this Act was a statutory small tenant or the statutory successor of such a crofter shall not be entitled, in respect of any permanent improvement made or begun before the commencement of this Act, to any compensation to which he would not have been entitled if his tenancy had expired immediately before the commencement of this Act.