



Crofting Reform (Scotland) Act 1976

1976 CHAPTER 21

1 New rights of crofters and cottars to acquire their subjects

- (1) A crofter may, failing agreement with the landlord as to the acquisition by the crofter of croft land tenanted by him, apply to the Land Court for an order authorising him to make such acquisition.
- (2) A crofter shall be entitled to a conveyance of the site of the dwelling-house on or pertaining to the croft tenanted by him, and a cottar shall be entitled to a conveyance of the site of the dwelling-house on or pertaining to his subject, and the crofter or cottar may, failing agreement with the landlord, apply to the Land Court for an order requiring the landlord to grant such a conveyance.
- (3) In this Act "croft land" includes any land being part of a croft, other than—
 - (a) the site of the dwelling-house on or pertaining to the croft;
 - (b) any land, comprising any part of a common grazing, unless the land has been apportioned under section 27(4) of the Act of 1955 and is either—
 - (i) adjacent or contiguous to any other part of the croft, or
 - (ii) arable machair;
 - (c) any right to mines, metals or minerals or salmon fishings (not being salmon fishings in Orkney or Shetland) pertaining to the croft.
- (4) In this Act, "the site of the dwelling-house" includes any building thereon and such extent of garden ground as, failing agreement with the landlord, may be determined by the Land Court by order under section 4(1) of this Act to be appropriate for the reasonable enjoyment of the dwelling-house as a residence but does not include—
 - (a) any right to mines, metals or minerals pertaining thereto; or
 - (b) where there is more than one dwelling-house on or pertaining to a croft or, as the case may be, the subject of a cottar, the site of more than one dwelling-house; or
 - (c) where the site of the dwelling-house on or pertaining to a croft has been acquired by the crofter after the passing of this Act, the site of any dwelling-house erected after such acquisition on or pertaining to the remainder of the croft.

2 Authorisation by Land Court of acquisition of croft land

- (1) The Land Court, on an application made to them under section 1(1) of this Act, may make an order—
 - (a) authorising the crofter to acquire such croft land as may be specified in the order, subject to such terms and conditions as, failing agreement with the landlord, may be so specified, and requiring the landlord to convey the land to the crofter or his nominee in accordance with such terms and conditions; or
 - (b) refusing the application.
- (2) The Land Court shall not make an order in accordance with subsection (1)(a) above where they are satisfied by the landlord as to either or both of the following matters—
 - (a) that, in all the circumstances pertaining to the landlord and having regard to the extent of land owned by him to which the Act of 1955 applies, the making of such an order would cause a substantial degree of hardship to the landlord;
 - (b) that the making of such an order would be substantially detrimental to the interests of sound management of the estate of the landlord of which the croft land to which the application relates forms part.
- (3) The Land Court, in making an order in accordance with subsection (1)(a) above, may provide that the authorisation to acquire is conditional on the crofter granting a lease to the landlord of the shooting rights over or the fishing rights pertaining to the croft land and shall so provide where they are satisfied that if such a lease were not granted the interests of the landlord in the shooting or fishing rights of which the rights being acquired by the crofter form part would be materially affected ; and any such lease shall be at such nominal annual rent, for such period of not less than 20 years and subject to such other terms and conditions as the Land Court may specify.
- (4) The Land Court, in making an order in accordance with subsection (1)(a) above, may include the condition that the crofter shall grant a standard security in favour of the landlord to secure any sum which may become payable to him or his personal representative under section 3(3) of this Act in the event of disposal of the croft land or any part thereof.
- (5) Where the Land Court propose to make an order authorising the crofter to acquire—
 - (a) land comprising any part of a common grazing which has been apportioned under section 27(4) of the Act of 1955; or
 - (b) land held runrig which has been apportioned under section 27(7) of that Act, and they are satisfied that the apportionment has been made subject to conditions imposed by the Commission under section 15(5) of the Act of 1961, or, as the case may be, the said section 27(7), they shall have regard to the conditions so imposed.

3 Consideration payable in respect of acquisition of croft land

- (1) Where the Land Court make an order in accordance with section 2(1)(a) of this Act and the crofter and the landlord have failed to reach agreement about the consideration payable in respect of the acquisition, the consideration shall, subject to subsection (3) below, be the crofting value of the croft land specified in the order as determined by the Land Court under subsection (2) below.
- (2) The crofting value of the croft land, as determined by the Land Court for the purposes of subsection (1) above, shall be 15 years' purchase of such amount as the Land Court

may determine to be the proportion attributable to the croft land of the current rent payable for the croft of which the croft land forms part:

Provided that the Land Court, on an application made to them by the landlord at any time before they make a final order under section 2(1) of this Act, may determine a fair rent for the croft which shall be deemed to be the current rent for the purposes of this subsection; and section 5(4) of the Act of 1955 shall apply for the purposes of this proviso as if for the word " parties " there were substituted the words " landlord and the crofter ".

- (3) If the person who has acquired croft land by virtue of section 2(1) of this Act (" the former crofter ") or a member of the former crofter's family who has obtained the title to that land either—
- (i) as the nominee of the former crofter, or
 - (ii) from the former crofter or his nominee,
- disposes of that land or any part of it (" the relevant land ") to anyone who is not a member of the former crofter's family, by any means other than by a lease for crofting or agricultural purposes, forthwith or at any time within five years of the date of its acquisition by the former crofter then, subject to subsection (6) below, the person disposing of the relevant land shall pay to the landlord referred to in the said section 2(1) or to his personal representative a sum equal to one half of the difference between—
- (a) the market value of the relevant land (on the date of such disposal) which, failing agreement between the parties concerned, shall be as determined by the Land Court under subsection (4) below on the application of such landlord or personal representative ; and
 - (b) the consideration which was paid under subsection (1) above in respect of the relevant land.
- (4) The market value of the relevant land as determined by the Land Court shall be the amount which the land, if sold in the open market by a willing seller (not being an authority as defined in section 1(1)(b) of the Community Land Act 1975), might be expected to realise assuming that on the date of the disposal—
- (a) there were no improvements on the land which, if the land were let to a crofter, would be permanent improvements in respect of which the crofter would be entitled to compensation under section 14 of the Act of 1955 on renunciation of the tenancy of the croft of which the land formed part;
 - (b) no other development had been carried out on the land (not being development carried out on the land, when it was subject to the tenancy of the former crofter or any of his predecessors in the tenancy, by a person other than that crofter or any of such predecessors); and
 - (c) no development of the land which consisted of the making of such an improvement as is referred to in paragraph (a) above were or would be permitted in pursuance of the Town and Country Planning (Scotland) Act 1972.
- (5) If the relevant land comprises only part of the land which was acquired under section 2(1) of this Act, the Land Court may, failing agreement between the parties concerned, on an application made to them by the person disposing of the relevant land or the landlord referred to in the said section 2(1) or his personal representative, determine for the purposes of subsection (3)(b) above the proportion of the amount of the consideration which was paid under subsection (1) above in respect of the relevant land.

- (6) No payment shall be made under subsection (3) above in respect of the disposal of the relevant land in a case where payment is made in respect of such disposal in accordance with an agreement entered into between the landlord and the person disposing of that land.

4 Determination by Land Court of terms and conditions for conveyance of the site of the dwelling-house

- (1) The Land Court, on an application made to them under section 1(2) of this Act, may make an order requiring the landlord to convey the site of the dwelling-house to the crofter or cottar or his nominee with such boundaries and subject to such terms and conditions as, failing agreement, may be specified in the order.
- (2) Where the parties have failed to reach agreement about the consideration payable in respect of the conveyance the consideration shall be—
- (a) the amount as determined by the Land Court which the site, if sold in the open market by a willing seller, might be expected to realise assuming that—
 - (i) there were or would be no buildings on the site;
 - (ii) the site were available with vacant possession ;
 - (iii) the site were not land to which the Crofters (Scotland) Acts 1955 and 1961 apply; and
 - (iv) no development of the site were or would be permitted in pursuance of the Town and Country Planning (Scotland) Act 1972 ;
 and in addition, in a case where the landlord has provided fixed equipment on the site—
 - (b) an amount equal to one half of the proportion attributable to that fixed equipment, as determined by the Land Court, of the value of the site, such value being the amount as so determined which the site, if sold as aforesaid, might be expected to realise making the assumptions referred to in subparagraphs (ii), (iii) and (iv) of paragraph (a) above.
- (3) The Land Court in making an order under subsection (1) above may determine that any of the expenses of the conveyance of the site and other expenses necessarily incurred by the landlord in relation thereto shall be borne by the crofter or cottar :

Provided that where the order relates to the conveyance of the site of the dwelling-house on or pertaining to a croft, any such determination shall be subject to the condition that the conveyance is not included in a deed which also provides for the conveyance of croft land.

- (4) Failing agreement between the parties as to the amount of such expenses, the auditor of the Land Court may, on the application of either party, determine such amount; and may determine that the expenses of taxing such expenses shall be borne by the parties in such proportion as he thinks fit.

5 Provisions relating to conveyance

- (1) A landlord shall have power to execute a valid conveyance in pursuance of the foregoing provisions of this Act, notwithstanding that he may be under any such disability as is mentioned in section 7 of the Lands Clauses Consolidation (Scotland) Act 1845.

- (2) Where the Land Court are satisfied, on the application of the crofter or cottar or his nominee that the landlord has failed to execute a conveyance of land in favour of such person in compliance with an order under section 2(1) or 4(1) of this Act within such time as the Land Court consider reasonable, they shall make an order authorising their principal clerk to execute the conveyance and such other deeds as adjusted at his sight as may be necessary to give effect to the order; and a conveyance executed by the principal clerk under this subsection shall have the like force and effect in all respects as if it had been executed by the landlord.
- (3) Where the principal clerk of the Land Court has executed a conveyance in pursuance of subsection (2) above, the Land Court may make such order as they think fit with regard to the payment of the consideration in respect of the conveyance and in particular providing for the distribution of the sum comprised in the consideration according to the respective estates or interests of persons making claim to such sum.
- (4) Notwithstanding that the Land Court have made an order under section 2(1) or 4(1) of this Act determining the terms and conditions on which land is to be conveyed, the crofter or, as the case may be, the cottar and the landlord may arrange for the conveyance of the land on any other terms and conditions that they may agree.
- (5) Where a person other than the landlord is infeft in the subjects to be conveyed, the second references in sections 1(2) and 2(1) of this Act and the reference in the said section 4(1) and in the foregoing provisions of this section to the landlord shall be construed as references to the landlord and such other person for their respective rights.
- (6) The Land Court in specifying in an order under the said section 2(1) or 4(1) the terms and conditions on which land is to be conveyed shall have regard to any existing land obligations as defined in section 1(2) of the Conveyancing and Feudal Reform (Scotland) Act 1970 relating to such land.
- (7) Where the landlords are the National Trust for Scotland, they shall not be required to convey land by an order of the Land Court under the said section 2(1) or 4(1) otherwise than by a grant in feu; but section 4(2) of the Order confirmed by the National Trust for Scotland Order Confirmation Act 1947 (which requires the consent of the Lord Advocate to grants in feu by the Trust exceeding 20 acres) shall not apply to such a grant.
- (8) Where the Land Court are satisfied, on the application of the landlord, that the crofter or his nominee has failed to execute a standard security in favour of the landlord in compliance with a condition imposed by the Land Court under section 2(4) of this Act within such time as the Land Court consider reasonable, they shall make an order authorising their principal clerk to execute the standard security; and a standard security executed by the principal clerk under this subsection shall have the like force and effect in all respects as if it had been executed by the crofter or his nominee.

6 Provisions supplementary to sections 2 and 4

- (1) An order of the Land Court under section 2(1)(a) or 4(1) of this Act shall have effect for a period of two years from the date of intimation of the order or for such other period as may at any time be agreed to in writing by the crofter or, as the case may be, the cottar and the landlord or as may be determined by the Land Court on the application of either party.

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

- (2) Where an order has been made by the Land Court under the said section 2(1)(a) or 4(1) in relation to croft land or the site of the dwelling-house on or pertaining to a croft or under the said section 4(1) in relation to the site of the dwelling-house on or pertaining to the subject of a cottar, then, so long as the order has effect—
- (a) the crofter shall not be entitled under section 14(1) of the Act of 1955 to compensation for any permanent improvement made on the croft land or site; and
 - (b) the landlord of the croft shall not be entitled under section 14(6) of that Act to recover from the crofter compensation for any deterioration of, or damage to, any fixed equipment provided by the landlord in respect of the croft land or site ; or
 - (c) the cottar shall not be entitled under section 28(1) of that Act to compensation for any permanent improvement made on the site,
- being compensation to which the crofter and the landlord or, as the case may be, the cottar would be entitled but for this subsection.
- (3) Any condition or provision to the effect that—
- (a) the superior of any feu shall be entitled to a right of pre-emption in the event of a sale thereof or any part thereof by the proprietor of the feu, or
 - (b) any other person with an interest in land shall be entitled to a right of pre-emption in the event of a sale thereof or of any part thereof by the proprietor for the time being,
- shall not be capable of being enforced where the sale is by a landlord to a crofter or his nominee of croft land or to a crofter or a cottar or his nominee of the site of the dwelling-house on or pertaining to the croft or the subject of the cottar in pursuance of an order under the said section 2(1) or, as the case may be, 4(1).
- (4) Where the landlords are the National Trust for Scotland, the Land Court, in making an order under the said section 2(1) or 4(1), shall have regard to the purposes of the Trust.
- (5) A compulsory purchase order which authorises the compulsory purchase of land, being land which was held inalienably by the National Trust for Scotland on the date of the passing of this Act and was acquired from the Trust by a crofter in pursuance of an order under section 2(1) or 4(1) of this Act, shall in so far as it so authorises be subject to special parliamentary procedure in any case where an objection has been duly made by the Trust under the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 and has not been withdrawn; and in this subsection " held inalienably " has the same meaning as in section 7(1) of the said Act of 1947.
- (6) Where the site of the dwelling-house on or pertaining to a croft has been acquired after the passing of this Act by a person, who immediately before the acquisition was the tenant of the croft, that person and the wife or husband of that person may, so long as either of them continues to occupy the subjects conveyed, enjoy any right to cut and take peats for the use of those subjects which that person enjoyed immediately before the acquisition.
- (7) Any person acquiring croft land shall, unless and until the land ceases to be a croft by a direction of the Commission under section 16(9) of the Act of 1955, be required to give notice to the Commission of the change of ownership of the land.

7 Adjustment of rent for remainder of croft where part conveyed to crofter

Where a crofter acquires the site of the dwelling-house on or pertaining to his croft or any croft land forming part of his croft, then, notwithstanding that it is less than seven years since the term at which the existing rent for the croft first became payable, the Land Court may, on the application of the crofter or his landlord, determine a fair rent for the part of the croft which remains subject to the tenancy of the crofter, and accordingly subsections (3) and (4) of section 5 of the Act of 1955 shall apply for the purposes of such a determination as if the provisos to subsection (3) were omitted; but thereafter the said provisos shall apply to a rent so determined.

8 Provisions relating to existing loans and heritable securities

(1) Where—

- (a) a crofter who acquires the site of the dwelling-house on or pertaining to his croft is on the date of the acquisition under any liability to the Secretary of State or the Highlands and Islands Development Board, or
- (b) a cottar who acquires the site of the dwelling-house on or pertaining to his subject is on the date of the acquisition under any liability to the Secretary of State,

in respect of any loan, the amount outstanding in respect of such liability shall be deemed, as from the last day on which the crofter or cottar was liable to pay rent in respect of that site or on which the cottar was entitled to occupy the site as a cottar, to be a loan by the Secretary of State to the crofter or cottar or, as the case may be, by the Board to the crofter, and the provisions of Schedule 3 to the Act of 1955 (provisions as to security, etc., of loans) shall apply in relation to any such loan by the Secretary of State and, subject to any necessary modifications, to any such loan by the Board.

- (2) Any question arising under subsection (1) above as to the day from which the outstanding amount is deemed to be a loan shall be determined by the Land Court.
- (3) Any rights of the Board created under subsection (1) above shall be postponed to any rights, whensoever constituted, of the Secretary of State under that subsection; and such rights of the Secretary of State and the Board shall have priority over any other loan in respect of which the crofter or the cottar or his nominee as owner of the site of the dwelling-house is under any liability and shall be postponed only to such items as are referred to in heads (i), (ii) and (iii) of paragraph 4(b) of Schedule 2 to the Housing (Scotland) Act 1969.
- (4) Any heritable security which immediately before the execution of a conveyance in pursuance of the foregoing provisions of this Act burdened the subjects conveyed shall, as from the date of recording of the conveyance in the Register of Sasines—
 - (a) in the case of a conveyance in feu, cease to burden the dominium utile of the subjects conveyed and burden only the superiority thereof;
 - (b) in the case of a conveyance otherwise than in feu where the heritable security burdened only the subjects conveyed, cease to burden those subjects ;
 - (c) in the case of a conveyance otherwise than in feu where the heritable security also burdened other land, burden only that other land ;

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 by the crofter or cottar as consideration for the subjects conveyed.

9 Crofter's right to share in value of land resumed by landlord

- (1) Where the Land Court authorise the resumption of a croft or a part thereof under section 12 of the Act of 1955, the crofter shall be entitled to receive from the landlord, in addition to any compensation payable to him under that section, a share in the value of the land so resumed the amount whereof shall be one half of the difference between, subject to subsection (5) below, the market value of the land (on the date on which resumption thereof is so authorised) as determined by the Land Court in accordance with subsections (2) and (3) below (less any compensation payable as aforesaid) and the crofting value thereof.
- (2) Where the resumption of the land is so authorised for some reasonable purpose which has been or is to be carried out by the landlord or by any person not being an authority possessing compulsory purchase powers, the market value for the purposes of subsection (1) above shall be a sum equal to the amount which the land, if sold in the open market by a willing seller (not being an authority as defined in section 1(1)(b) of the Community Land Act 1975) might be expected to realise.
- (3) Where the resumption is so authorised for some reasonable purpose which has been or is to be carried out by an authority possessing compulsory purchase powers (not being the landlord) on the acquisition by them of the land so resumed, the market value for the purposes of subsection (1) above shall be a sum equal to the amount of compensation payable by the authority to the landlord in respect of the acquisition:

Provided that, where the land so resumed forms part only of the land acquired from the landlord by the authority, the market value shall be a sum equal to such amount as the Land Court may determine to be the proportion of the amount of compensation so payable by the authority which relates to the land so resumed.
- (4) Where the land so resumed forms or forms part of a common grazing, the share of the value of that land payable to the crofters sharing in the common grazing shall be apportioned among such crofters according to the proportion that the right in the common grazing of each such crofter bears to the total of such rights; and any sum so apportioned to such a crofter shall be deemed to be the share in the value of such land resumed to which he is entitled under subsection (1) above.
- (5) For the purposes of this section, where any development has been carried out by any person, other than the crofter or any of his predecessors in the tenancy, on the land which the Land Court have authorised the landlord to resume before such authorisation, there shall be deducted from the market value such amount thereof as, in the opinion of the Land Court, is attributable to that development.
- (6) In this section—
 - " crofting value ", in relation to land resumed, has the same meaning as it has in section 3 of this Act in relation to croft land ;
 - " reasonable purpose " has the same meaning as in section 12(2) of the Act of 1955.

10 Crofter's right to share in value of land taken possession of compulsorily

- (1) Where in pursuance of any enactment providing for the acquisition and taking of possession of land compulsorily by any person (in this section referred to as an " acquiring authority "), an acquiring authority acquire and take possession of a croft or a part thereof from a crofter, the crofter shall be entitled to receive from the acquiring authority, in addition to any compensation payable to him under section 114 of the

Lands Clauses Consolidation (Scotland) Act 1845, a share in the value of the land of which possession has been taken, the amount whereof shall be one half of the difference between, subject to subsection (4) below, the market value of the land (on the date on which such possession is taken) as determined by the Land Court in accordance with subsection (2) below (less any compensation payable as aforesaid) and the crofting value thereof.

- (2) The market value for the purposes of subsection (1) above shall be a sum equal to the amount which the land, if sold in the open market by a willing seller (not being an authority as defined in section 1(1)(b) of the Community Land Act 1975) might be expected to realise assuming that the land were not land to which the Crofters (Scotland) Acts 1955 and 1961 apply.
- (3) Section 9(4) of this Act shall apply to land which has been taken possession of compulsorily by an acquiring authority as it applies to land of which the Land Court have authorised resumption.
- (4) For the purposes of this section, where any development has been carried out by any person, other than the crofter or any of his predecessors in the tenancy, on the land referred to in subsection (1) above before the land has been acquired by and taken possession of by the acquiring authority, there shall be deducted from the market value such amount thereof as, in the opinion of the Land Court, is attributable to that development.
- (5) In this section "crofting value", in relation to land which has been taken possession of compulsorily, has the same meaning as it has in section 3 of this Act in relation to croft land.

11 Protection of interests of crofters and cottars from planning blight

The interests qualifying for protection under sections 181 to 196 of the Town and Country Planning (Scotland) Act 1972 and sections 64 to 77 of the Land Compensation (Scotland) Act 1973 (planning blight) shall include the interest of a crofter in his croft or a cottar in his subject; and accordingly the aforesaid enactments shall have effect subject to the amendments set out in Schedule 1 to this Act.

12 Financial assistance to crofters, cottars and certain owner occupiers

- (1) The Secretary of State may provide assistance under section 22(2) of the Act of 1955 but not in respect of buildings other than dwelling-houses to—
 - (a) a person, being a crofter who has acquired the site of the dwelling-house on or pertaining to his croft after the passing of this Act;
 - (b) the nominee of such a person, being a member of his family, to whom the site was conveyed by the landlord of the croft;
 - (c) a member of such a person's family who has acquired the title to the site from that person or such nominee ;
 - (d) a person, being a cottar who has acquired the site of the dwelling-house on or pertaining to his subject after the passing of this Act;for a period of seven years from the date of the acquisition from the landlord.
- (2) The Secretary of State may provide assistance under the said section 22(2) or under section 31(1) of the Act of 1955 (building grants and loans to owner-occupiers of like

economic status as crofters) towards the provision or improvement of roads, or water or electricity or gas supplies.

- (3) The provisions of Schedule 3 to the Act of 1955 (provisions as to security etc. of loans) shall apply in relation to any loan made under the said section 22(2) by virtue of subsection (1) above.
- (4) Where a person other than the landlord was infert in the site of the dwelling-house immediately before the conveyance, the reference in subsection (1)(b) above to the landlord shall be construed as a reference to the landlord and such other person for their respective rights.
- (5) If any person, for the purpose of obtaining for himself or any other person, a grant or loan under a scheme made under section 22(1) of the Act of 1955 or under the said section 22(2), knowingly or recklessly makes a false statement he shall be liable on summary conviction to a fine not exceeding £400.
- (6) Any scheme made under the said section 22(1) may be varied or revoked by a subsequent scheme made in like manner.

13 Provision as respects removal of land from crofting tenure

- (1) For subsection (7) of section 16 of the Act of 1955 (vacant crofts) there shall be substituted the following subsection—
 - “(7) Where a croft has, in consequence of the making of an order under section 17(1) of this Act, become vacant and has remained unlet for a period of six months beginning with the date on which the croft so became vacant, the Commission shall, if the landlord at any time within three months after the expiry of the period aforesaid gives notice to the Commission requiring them to do so, direct that the croft shall cease to be a croft; and if the landlord within one month after the issuing of such a direction gives notice to the Secretary of State requiring him to purchase the buildings on the croft, the Secretary of State shall purchase such buildings.”
- (2) For subsection (9) of the said section 16 there shall be substituted the following subsections—
 - “(9) Where a croft is vacant, the Commission may, on the application of the landlord, direct that the croft shall cease to be a croft or refuse to grant the application; and if the Commission direct under this subsection or under subsection (7) above that a croft shall cease to be a croft, the provisions of this Act and, subject to subsection (9A) below, the Crofters (Scotland) Act 1961 shall cease to apply to the croft, without prejudice, however, to the subsequent exercise of any powers conferred by any enactment for the enlargement of existing crofts.
 - (9A) The coming into effect of a direction given by the Commission by virtue of section 16A(4) of this Act shall not affect the powers contained in the proviso to section 13(3) of the said Act of 1961 (subleases).”.
- (3) After the said section 16 there shall be inserted the following section—

“16A Provisions supplementary to s. 16(9).

- (1) The Commission shall give a direction under section 16(9) of this Act that a croft shall cease to be a croft if—
 - (a) subject to subsection (2) below, they are satisfied that the applicant has applied for the direction in order that the croft may be used for or in connection with some reasonable purpose within the meaning of section 12(2) of this Act and that the extent of the land to which the application relates is not excessive in relation to that purpose; or
 - (b) the application is made in respect of a part of a croft, which consists only of the site of the dwelling-house on or pertaining to the croft and in respect of which a crofter is entitled at the time of the application, or has been entitled, to a conveyance by virtue of section 1 (2) of the Crofting Reform (Scotland) Act 1976, and they are satisfied that the extent of garden ground included in that part is appropriate for the reasonable enjoyment of the dwelling-house as a residence.
- (2) Without prejudice to subsection (1)(b) above, the Commission, in determining whether or not to give such a direction, shall have regard to the general interest of the crofting community in the district in which the croft is situated and in particular to the demand, if any, for a tenancy of the croft from persons who might reasonably be expected to obtain that tenancy if the croft were offered for letting on the open market on the date when they are considering the application.
- (3) Where the Commission give such a direction on being satisfied as mentioned in subsection (1)(a) above, they may in the direction impose such conditions as appear to them requisite for securing that the land to which the direction relates is used for the proposed use; and if at any time they are satisfied that there has been a breach of any such condition, they may make a further direction that the land in respect of which there has been such a breach shall be a vacant croft.
- (4) The Commission may, on the application of a crofter who is proposing to acquire croft land or the site of the dwelling-house on or pertaining to his croft, give a direction under the said section 16(9) as if the land were a vacant croft and the application were made by the landlord, that in the event of such acquisition of the land it shall cease to be a croft, or refuse the application; but such a direction shall not have effect until the land to which it relates has been acquired by the crofter or his nominee and unless the acquisition is made within five years of the date of the giving of the direction.
- (5) A direction under the said section 16(9) may be given taking account of such modification of the application in relation to which the direction is given as the Commission consider appropriate.
- (6) The Commission shall advertise all applications under the said section 16(9) or subsection (4) above (except an application made in respect of a part of a croft consisting only of the site of the dwelling-house on or pertaining to the croft) in one or more newspapers circulating in the district in which the croft to which the application relates is situated, and before disposing of such an application shall, if requested by the applicant, afford a hearing to the applicant and to such other person as they think fit.

- (7) The Commission shall give notice in writing to the applicant of their proposed decision on an application made to them under the said section 16(9) or subsection (4) above, specifying the nature of and the reasons for such decision.
- (8) The applicant may within 21 days of receipt of the notice under subsection (7) above, and the owner of land to which a further direction under subsection (3) above relates may within 21 days of the making of that further direction, appeal against the proposed decision or further direction to the Land Court who may hear or consider such evidence as they think fit in order to enable them to dispose of the appeal.
- (9) The Commission shall give effect to the determination of the Land Court on an appeal under subsection (8) above.”.

14 Extension of section 3 of Act of 1955

Section 3 of the Act of 1955 (definition of croft and crofter) shall have effect as if for subsection (5) there were substituted the following subsections—

- “(5) For the purposes of this Act, the Crofters (Scotland) Act 1961 and the Crofting Reform (Scotland) Act 1976, 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, and any land comprising any part of a common grazing which has been apportioned for the exclusive use of a crofter under section 27(4) of this Act and any land held runrig which has been apportioned under section 27(7) of this Act, shall be deemed to form part of the croft.
- (6) For the purposes of the aforesaid Acts, where—
 - (a) a crofter has acquired his entire croft other than any such right or land as is referred to in subsection (5) above, or
 - (b) any person, not being a crofter, has obtained an apportionment of any land under the said section 27,
 then the person referred to in paragraph (a) or (b) above shall be deemed to hold the right or land referred to therein in tenancy until held otherwise and that right or land shall be deemed to be a croft.”.

15 Assignment of croft

- (1) Section 8 of the Act of 1955 (assignment of croft) shall apply to a part of a croft, being a part consisting of any right in pasture or grazing land deemed by virtue of section 3(5) of that Act to form part of a croft, as it applies to a croft.
- (2) A crofter, who proposes to assign his croft or such a part as is referred to in subsection (1) above to a member of his family, shall not, if he obtains the consent of his landlord, be required to obtain the consent of the Commission under the said section 8; and a landlord who has given such consent shall notify the Commission of the assignment and the name of the assignee.

16 Amendment of law with respect to common grazings

- (1) At the end of section 24 of the Act of 1955 (appointment, etc., of grazings committee) there shall be added the following subsection—

- “(9) A grazings committee shall pay such annual remuneration to the clerk appointed under subsection (6) or (8) of this section as they may determine ; and they may recover from the crofters sharing in the common grazings all expenditure incurred by them in paying such remuneration.”.
- (2) Nothing in paragraph (a) or (b) of section 25(1) of the Act of 1955 shall preclude a grazings committee from performing the duties therein specified on land other than the common grazings.
- (3) After subsection (1) of the said section 25 there shall be inserted the following subsections—
- “(1A) The grazings committee shall give notice to each crofter sharing in the common grazings of any proposals to carry out works in pursuance of the duty imposed by subsection (1)(b) above and the proposed allocation of the expenditure to be incurred in respect of those works among such crofters ; and any such crofter may within one month of the date of such notice make representations in respect of the proposals or the proposed allocation to the Commission who may approve the proposals or proposed allocation with or without modifications or reject them.
- (1B) Notwithstanding section 13(2) of the Act of 1961 (which provides that where a right in common grazings is sublet the subtenant comes in place of the crofter in relation to any matter which concerns such right), subsection (1A) above shall have effect in a case where such a right is sublet as if any reference to a crofter included a reference to a crofter in whose place a subtenant has come ; but no liability to meet expenditure incurred by a grazings committee in the performance of the duties imposed on them by subsection (1)(b) above shall be imposed on such a crofter in respect of any period during which such a subtenancy subsists.”.
- (4) For section 26 (2) (b) of the Act of 1955 (common grazings regulations) there shall be substituted the following paragraph—
- “(b) the recovery by the grazings committee from such crofters of all expenses incurred by the committee in the performance of the duties imposed on them by section 25(1) (b) of this Act according to the proposed allocation of expenditure referred to in subsection (1A) of the said section 25 or, as the case may be, that allocation as approved or modified by the Commission under that subsection;”.
- (5) Section 27(7) of the said Act (apportionment by the Commission of lands held runr(g) shall have effect as if after the word " manner " there were inserted the words " and subject to such conditions " .

17 Extension of powers of Land Court

- (1) An order or determination of the Land Court may be enforced as if it were a decree of the sheriff having jurisdiction in the area in which the order or determination is to be enforced; and accordingly section 25(6) of the Small Landholders (Scotland) Act 1911 (enforcement of Land Court orders) shall cease to have effect.
- (2) The books called the " Crofters Holdings Book " and the " Landholders Holdings Book " kept in pursuance of section 27 of the Crofters Holdings (Scotland) Act 1886 shall

be kept by the principal clerk of the Land Court; and accordingly the said section 27 shall cease to have effect.

18 Pensions and compensation for members of Commission

Schedule 1 to the Act of 1955 (provisions as to the Crofters Commission) shall have effect as if after paragraph 4 there were inserted the following paragraphs—

“4A The Secretary of State shall, in the case of any member of the Commission to whom he may with the approval of the Minister for the Civil Service determine that this paragraph applies, pay such pension, allowance or gratuity to or in respect of the member on his retirement or death, or make such payments towards the provision of such a pension, allowance or gratuity, as he may, with the like approval, determine.

4B If a person ceases to be a member of the Commission and it appears to the Secretary of State that there are special circumstances which makes it right that that person should receive compensation he may, with the approval of the said Minister, pay to that person a sum of such amount as he may, with the like approval, determine.”.

19 Application of Act to Crown

- (1) This Act shall apply to land an interest in which belongs to Her Majesty in right of the Crown and land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department; but in its application to any land an interest in which belongs or is held as aforesaid this Act shall have effect subject to such modifications as may be prescribed by regulations made by the Secretary of State.
- (2) Any regulations made by the Secretary of State under this section shall be embodied in a statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

20 Financial provisions

- (1) There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under section 3(10) of the Small Landholders (Scotland) Act 1911 and the Act of 1955.
- (2) All sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

21 Interpretation

- (1) Expressions used in this Act and the Act of 1955 have the same meanings in this Act as in that Act.
- (2) In this Act—
 - " the Act of 1955 " means the Crofters (Scotland) Act 1955 ;
 - " the Act of 1961 " means the Crofters (Scotland) Act 1961;
 - " authority possessing compulsory purchase powers " has the same meaning as in the Town and Country Planning (Scotland) Act 1972;

" cottar " has the same meaning as in section 28 of the Act of 1955;

" croft land " has the meaning assigned to it by section 1(3) of this Act;

" development " has the same meaning as in section 19 of the Town and Country Planning (Scotland) Act 1972, except that it includes the operations and uses of land referred to in paragraphs (a) and (e) of subsection (2) of that section;

" landlord ", in relation to the site of the dwelling-house on or pertaining to the subject of a cottar, means—

(a) where the cottar is the tenant of the subject, the landlord thereof, and

(b) where the cottar is the occupier of the subject who pays no rent, the owner thereof;

" National Trust for Scotland " means the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935 ;

" the site of the dwelling-house " has the meaning assigned to it by section 1(4) of this Act.

- (3) Any reference in this Act to a member of a person's or crofter's or former crofter's family is a reference to the wife or husband of that person or crofter or former crofter or his son-in-law or daughter-in-law or anyone who would be, or would in any circumstances have been, entitled to succeed to his estate on intestacy by virtue of the Succession (Scotland) Act 1964.
- (4) Any reference in this Act to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, extended or applied by any other enactment including this Act.

22 Minor and consequential amendments, repeals and savings

- (1) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments respectively specified in that Schedule, being minor amendments or amendments consequential on the provisions of this Act.
- (2) The enactments set out in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The repeal by this Act of part of section 17 of the Act of 1955 and of sections 18 of that Act and 7 of the Act of 1961 shall not affect anything done or any right established under any such provision before the passing of this Act.

23 Short title and extent

- (1) This Act may be cited as the Crofting Reform (Scotland) Act 1976.
- (2) This Act extends to Scotland only.