



# Crofters (Scotland) Act 1955

1955 CHAPTER 21 3 and 4 Eliz 2

An Act to make provision for the reorganisation, development and regulation of crofting in the crofting counties of Scotland; to authorise the making of grants and loans for the development of agricultural production on crofts and the making of grants and loans towards the provision of houses and buildings for crofters, cottars and others of like economic status; to re-enact the provisions of the Landholders Acts with respect to cottars; and for purposes connected with the matters aforesaid. [6th May 1955]

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

C1 Act extended by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), ss. 2(2)-(4), 15(6), [Sch. 1 Pt. II para. 8](#); excluded by [Agriculture Act 1967 \(c. 22\)](#), s. 29(5)

**Commencement Information**

II Act wholly in force at 1.10.1955 see s. 40(2)

*Establishment of Crofters Commission*

**1 Constitution and general functions of Crofters Commission.**

- (1) There shall be constituted a Commission to be called “the Crofters Commission” (hereafter in this Act referred to as “the Commission”) which shall have the functions of reorganising, developing and regulating crofting in the crofting counties of Scotland, of promoting the interests of crofters there and of keeping under review matters relating to crofting, and such other functions as are conferred on them by or under this Act [<sup>F1</sup>and the <sup>M1</sup>Crofting Reform (Scotland) Act 1976].
- (2) The Commission shall carry out their functions in accordance with such directions of a general character as may be given by the Secretary of State and in carrying out their functions shall have regard to local circumstances and conditions.
- (3) The Commission shall consist of not more than [<sup>F2</sup>nine] members appointed by the Secretary of State, and of the members one shall be appointed by the Secretary of State to be chairman of the Commission.

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*Status: Point in time view as at 01/04/1992.*

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- (4) The Commission shall include members with knowledge of crofting conditions and at least one member who can speak the Gaelic language.
- (5) The provisions contained in the First Schedule to this Act shall have effect in relation to the Commission.

#### Textual Amendments

- F1** Words added by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 4
- F2** Word substituted by Crofters (Scotland) Act 1961 (c. 58), s. 1

#### Marginal Citations

- M1** 1976 c. 21.

## 2 Particular powers and duties of the Commission.

- (1) In the exercise of their general functions of reorganising, developing and regulating crofting, it shall be the duty of the Commission:—
- (a) to keep under general review all matters relating to crofts and crofting conditions, including, without prejudice to the foregoing generality, land settlement, the improvement of land and livestock, the planting of trees, the supply of agricultural equipment and requisites, the marketing of agricultural produce, experimental work on crofting methods, the provision of demonstration crofts, the needs of the crofting communities for public services of all kinds, the provision of social amenities and the need for industries to provide supplementary occupations for crofters or work for their families; and to make such recommendations as they may think fit on any of the matters aforesaid;
  - (b) to collaborate so far as their powers and duties permit with any body or person in the carrying out of any measures for the economic development and social improvement of the crofting counties;
  - (c) to advise the Secretary of State on any matter relating to crofts and crofting conditions which he may refer to them, or on which they may think fit to submit advice to him;
  - (d) to exercise the powers conferred on them by this Act [<sup>F3</sup>and the <sup>M2</sup>Crofting Reform (Scotland) Act 1976] in such manner as may seem to them in each case desirable.
- (2) For the purpose of assisting them in the local execution of their functions under this Act, the Commission shall have power to appoint a panel of suitable persons resident in the crofting counties to act as assessors, when required by the Commission so to act, and may make to such assessors in respect of any loss of earnings they would otherwise have made or any additional expenses (including travelling and subsistence expenses) to which they would not otherwise have been subject, being loss or expenses necessarily suffered or incurred by them for the purpose of enabling them to perform duties as such assessors, such payments as the Secretary of State may, with the approval of the Treasury, determine.
- (3) The Commission shall send to the [<sup>F4</sup>principal clerk of the Land Court] to be recorded in the Crofters Holdings Book every order, determination, consent, authorisation or other proceeding of theirs which they may think proper to be recorded therein . . . <sup>F5</sup>

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- (4) The Commission shall make an annual report to the Secretary of State on the exercise and performance by them of their functions under this Act [<sup>F6</sup>and the <sup>M3</sup>Crofting Reform (Scotland) Act 1976], and the Secretary of State shall lay a copy of the report before each House of Parliament, together with such comments as he may think fit to make.

#### Textual Amendments

- F3** Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 5(a)  
**F4** Words substituted by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 5(b)  
**F5** Words repealed by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 3  
**F6** Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 5(c)

#### Marginal Citations

- M2** 1976 c. 21.  
**M3** 1976 c. 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 [<sup>F7</sup>was before the commencement of the <sup>M4</sup>Crofters (Scotland) Act 1961,] constituted a croft by the registration of the tenant thereof as a crofter under section four of this Act.
  - [<sup>F8</sup>(d) as from the date of the direction, every holding situated as aforesaid as to which the Secretary of State has directed under subsection (1) of section two of the <sup>M5</sup>Crofters (Scotland) Act 1961, that it shall be a croft.]
- (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.

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- (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.
- [<sup>F9</sup>(5) For the purposes of this Act, the <sup>M6</sup>Crofters (Scotland) Act 1961 and the <sup>M7</sup>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.]

#### Textual Amendments

- F7** Words substituted by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 1 Pt. II para. 9](#)
- F8** [Para. 3\(1\)\(d\)](#) added by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 1 Pt. II para. 9](#)
- F9** [S. 3\(5\)\(6\)](#) substituted for s. 3(5) by [Crofting Reform \(Scotland\) Act 1976 \(c 21\), s. 14](#)

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

- C2** [S. 3](#) amended by [Agriculture Act 1986 \(c. 49, SIF 2:1\), s. 19\(7\)](#)

#### Marginal Citations

- M4** [1961 c. 58.](#)
- M5** [1961 c. 58.](#)
- M6** [1961 c. 58.](#)
- M7** [1976 c. 21.](#)

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<sup>F10</sup> .....

#### Textual Amendments

- F10** [Ss. 4, 19–21, 27\(6\), 34\(2\), 37\(2\)](#) and [Sch. 4](#) repealed by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 3](#)

## 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.

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- (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.

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

C3 S. 5(3) provisos excluded by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\), s. 7](#)

## 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 [<sup>F11</sup>by the landlord] to the crofter or

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to the Secretary of State by way of compensation for permanent improvements made on the croft.

#### Textual Amendments

**F11** Words inserted by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 1 Pt. I](#), para. 1

## 8 Assignment of croft.

- [<sup>F12</sup>(1) A crofter shall not assign his croft—
- (a) to a member of his family unless he obtains the consent in writing of his landlord or, failing such consent, the consent in writing of the Commission on an application made to them;
  - (b) to a person other than a member of his family unless he obtains the consent in writing of the Commission on an application made to them.
- (2) A landlord who has given his consent in pursuance of subsection (1)(a) above shall notify the Commission of the assignment and the name of the assignee.]
- (3) The Commission shall give notice to the landlord of any application made to them for their consent to the assignment of a croft and before [<sup>F13</sup>deciding whether to give or to withhold] 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, . . . <sup>F14</sup>
- (5) Where a crofter assigns his croft otherwise than with the consent in writing of the Commission [<sup>F15</sup>in a case where he is required to obtain such consent in pursuance of subsection (1) above] . . . <sup>F14</sup> such assignment and any deed purporting so to assign the croft shall be null and void and the Commission may declare the croft to be vacant.
- [<sup>F16</sup>(6) An assignment to which the Commission have given their consent under this section shall take effect at the term of Whitsunday or Martinmas first occurring not less than two months after the date on which such consent was intimated to the crofter, unless before the said term of Whitsunday or Martinmas, as the case may be, the crofter or his [<sup>F17</sup>executor] or legatee and the assignee jointly give to the Commission notice in writing that they do not intend to proceed with the assignment.]
- [<sup>F18</sup>(7) Any reference in this section to a croft shall include a reference 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 this Act to form part of a croft.
- (8) In this section “member of his family”, in relation to a crofter, has the same meaning as “member of the crofter’s family” has in section 10(7) of this Act.]

#### Textual Amendments

**F12** S. 8(1)(2) substituted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [Sch. 2 para. 6\(a\)](#)

**F13** Words substituted by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 1 Pt. II para. 10](#)

**F14** Words repealed by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 3](#)

**F15** Words inserted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [Sch. 2 para. 6\(b\)](#)

**F16** S. 8(6) added by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 1 Pt. II para.10](#)

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**F17** Word substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), **Sch. 2 Pt. I para. 1**

**F18** S. 8(7)(8) added by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 2 para. 6(c)**

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

**C4** S. 8 extended by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 15**

**9 Sub-division of croft.**

A crofter shall not, except with the consent in writing of the landlord and of the Commission, sub-divide 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 <sup>F19</sup>be treated as intestate estate of the deceased crofter in accordance with Part I of the <sup>M8</sup>Succession (Scotland) Act 1964.]

(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



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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 [<sup>F20</sup>or any one of the persons who would be, or would in any circumstances have been, entitled to succeed to the estate on intestacy by virtue of the <sup>M9</sup>Succession (Scotland) Act 1964.]

#### Textual Amendments

**F19** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), Sch. 2 Pt. I para. 2

**F20** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), Sch. 2 Pt. I para. 3

#### Marginal Citations

**M8** 1964 c. 41.

**M9** 1964 c. 41.

#### [<sup>F21</sup>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 falls to be treated as intestate estate of the deceased crofter in accordance with Part I of the <sup>M10</sup>Succession (Scotland) Act 1964, and the tenancy is transferred in pursuance of section 16(2) of that Act, the executor of the deceased crofter shall as soon as may be furnish particulars of the transferee to the landlord, who shall accept the transferee as tenant; and the landlord shall notify the Commission accordingly.
- (3) If at the expiry of three months from the relevant date, that is to say—
- (a) where the deceased crofter has exercised his power to bequeath the tenancy of the croft in favour of a person not being a member of the deceased crofter’s family and the Commission, on application made to them by the legatee, have refused to determine that the bequest shall not be null and void, from the date of the Commission’s refusal;
  - (b) where the deceased crofter has otherwise failed to bequeath the tenancy, from the date of death of the deceased crofter;
  - (c) where the deceased crofter has bequeathed the tenancy and the bequest has become null and void under section 10(2) of this Act, from the date on which the bequest became null and void as aforesaid;
  - (d) where the deceased crofter has bequeathed the tenancy and the Commission have declared the bequest to be null and void under section 10(4) of this Act, from the date on which the Commission notified the landlord and the legatee to that effect,

the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section, 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 subsection (3) of this section or otherwise, that the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section, the Commission may give notice in such manner as they



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may think proper, whether by advertisement or otherwise, to persons who may claim to be entitled—

- (a) to succeed to the intestate estate of the deceased crofter, or
  - (b) to claim legal rights or the prior rights of a surviving spouse out of that estate, requiring them if they desire to have the tenancy of the croft transferred to them in or towards satisfaction of their entitlement or claim 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 relevant date within the meaning of subsection (3) of this section; and the Commission may, subject to the provisions of subsection (4A) of this section, nominate as successor to the tenancy any one of the persons who have so given intimation.
- (4A) The Commission shall, before nominating any person as successor to the tenancy of the croft in pursuance of subsection (4) of this section, consult with the executor (if any) of the deceased crofter, and the Commission shall not nominate any person as successor unless it appears to them—
- (a) that that person is a person entitled to succeed to the intestate estate of the deceased crofter, or to claim legal rights or the prior rights of a surviving spouse out of that estate, and
  - (b) that adequate provision is being, or will be, made for the settlement of the entitlement or claim in the said intestate estate of any other person who is known to them to be entitled to succeed to, or to claim any such rights out of, that estate.
- (4B) The Commission shall give notice to the landlord of any person nominated by them in pursuance of subsection (4) of this section, and the landlord shall accept that person as successor to the tenancy of the croft.
- (4C) The nomination by the Commission, in pursuance of subsection (4) of this section, of any person as successor to the tenancy of the croft shall transfer the interest of the tenant under that tenancy to that person, and such transfer shall be in or towards satisfaction of that person's entitlement or claim in the intestate estate of the deceased crofter.
- (5) If at the expiry of one month from the end of the period referred to in section 16(3) (b) of the <sup>MII</sup>Succession (Scotland) Act 1964 the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section and the Commission have not nominated any person as successor under subsection (4) thereof, the Commission may declare the croft to be vacant and, if they do so, 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, any right of any person (other than the person so nominated) in, or in relation 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

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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.

- (7A) Where a croft has been declared under subsection (5) of this section to be vacant consequent on the death after the commencement of the <sup>M12</sup>Crofters (Scotland) Act 1961, of a crofter who immediately before his death was qualified as mentioned in the next following subsection, and the value of the improvements on the croft is determined by the Land Court under the last foregoing subsection, the executor of the crofter may request the Land Court to determine what would have been the value of the improvements on the croft if the said Act had not been passed, and if the value last mentioned is greater than the value determined by the Land Court under the last foregoing subsection, the difference between the two said values shall be payable to the executor by the Secretary of State:

Provided that the Secretary of State shall be entitled to set off any amount due to him by the crofter at the date of his death in respect of a loan made under subsection (2) or (3) of section twenty-two of this Act or subsection (7) of section seven or section nine of the Act of 1911 against any sum payable to the executor by the Secretary of State under this subsection.

- (7B) The reference in the last foregoing subsection to a crofter who immediately before his death was qualified is a reference to a crofter—
  - (a) whose tenancy of the croft in question began before the commencement of the <sup>M13</sup>Crofters (Scotland) Act 1961, or
  - (b) who held the tenancy of such croft as statutory successor to his immediate predecessor in the tenancy and each of whose predecessors (being in each case a person whose tenancy of the croft began after the commencement of the said Act) held such tenancy as statutory successor to his immediate predecessor.]

#### Textual Amendments

- F21** S. 11 substituted by virtue of Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c 70), s. 8, Sch. 2 Pt. II in relation to the estate of any person dying after 25.11.1968

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

- C5** S. 11(7)(a)(7A) amended (1.4.1991) by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 8(9)(a)(b)
- C6** S. 11(7A) modified by [Highlands and Islands Development \(Scotland\) Act 1965 \(c. 46\)](#), s. 8(3)(b).

#### Marginal Citations

- M10** 1964 c. 41.
- M11** 1964 c. 41.
- M12** 1961 c. 58.

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M13 1961 c. 58.

## 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.
- [<sup>F22</sup>(1A) A sum awarded as compensation under subsection (1) above shall, if the Land Court so determine, carry interest as from the date when such sum is payable at the same rate as would apply (in the absence of any such statement as is provided for in Rule 66 of the Act of Sederunt (Rules of Court, consolidation and amendment) 1965) in the case of decree or extract in an action commenced on that date in the Court of Session if interest were included in or exigible under that decree or extract; Provided that this subsection shall not affect any case in which the hearing has begun before the coming into force of section 30 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.]
- (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 [<sup>F23</sup>or for any other purpose likely to provide employment for crofters and others in the locality], 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.
- [<sup>F24</sup>(3A) Where a grazings committee have, under section 25(1C) of this Act, planted trees on land forming part of a common grazing, it shall not be competent for an application to be made under subsection (1) above in respect of that land while it continues to be used as woodlands.]
- [<sup>F25</sup>(4) The provisions of the <sup>M14</sup>Crofters (Scotland) Acts 1955 and <sup>M15</sup>1961, shall cease to apply to any land on its being resumed in pursuance of an order authorising its resumption made under this section by the Land Court, without prejudice, however, to the subsequent exercise of any powers conferred by any enactment for. . . . <sup>F26</sup> the enlargement of existing crofts.]

*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

#### Textual Amendments

- F22** S. 12(1A) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 75:2), s. 30(1)
- F23** Words inserted by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 11
- F24** S. 12(3A) inserted (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), s. 2(1); S.I. 1992/504, art.2
- F25** S. 12(4) added by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 11
- F26** Words repealed by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 3

#### Marginal Citations

- M14** 1955 c. 21.
- M15** 1961 c. 58.

### 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 [<sup>F27</sup>by the landlord] to the crofter or to the Secretary of State for permanent improvements made on the croft.

#### Textual Amendments

- F27** Words inserted by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. I para. 3

### [<sup>F28</sup>14 Compensation for improvements and compensation for deterioration or damage.

- (1) Where—
- (i) a crofter renounces his tenancy or is removed from his croft, or

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*Status: Point in time view as at 01/04/1992.*

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- (ii) the tenancy of a croft, being a tenancy the interest of the tenant under which is comprised in the estate of a deceased crofter, is terminated in pursuance of section 16(3) of the Succession (Scotland) Act, 1964,

the crofter or, as the case may be, the executor of the deceased crofter 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, as the case may be, the deceased crofter, or any of the predecessors of the crofter or of the deceased crofter in the tenancy; and
- (c) either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the crofter or, as the case may be, the deceased crofter was bound to execute the improvement or, if the improvement was executed in pursuance of such an agreement, the crofter has not received or, as the case may be, the deceased crofter did not receive and his executor 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.

- (6) Where—

- (a) a crofter renounces his tenancy or is removed from his croft, or
- (b) the tenancy of a croft, being a tenancy the interest of the tenant under which is comprised in the estate of a deceased crofter, is terminated in pursuance of section 16(3) of the <sup>M16</sup>Succession (Scotland) Act 1964,

the landlord shall be entitled to recover from the crofter or, as the case may be, from the executor of the deceased crofter compensation for any deterioration of, or damage to, any fixed equipment provided by the landlord committed or permitted by the crofter or, as the case may be, by the deceased crofter or his executor.

- (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 or, as the case may be, of

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*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

the termination of the tenancy, of making good the deterioration or damage; and the landlord shall be entitled to set off the amount so payable against any compensation payable by him 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) a crofter has given notice of renunciation of his tenancy, or
- (b) the landlord of the croft either gives to the executor of a deceased crofter, or receives from such an executor, notice terminating the tenancy of the croft in pursuance of section 16(3) of the <sup>M17</sup>Succession (Scotland) Act 1964,

the Land Court may, on the joint application of the crofter or, as the case may be, the executor of the deceased crofter and the land lord 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 or, as the case may be, the termination the amounts which will on renunciation or termination become due under this section by the landlord by way of compensation for permanent improvements and by the crofter or executor by way of compensation for deterioration or damage; and the amounts so assessed shall, on renunciation or, as the case may be, termination, become due accordingly.

(10) Nothing in this Act shall affect the provisions of the [<sup>F29</sup>Agricultural Holdings (Scotland) Act 1991], 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 or to the executor of a deceased crofter, the valuation shall, unless the landlord and the crofter or executor 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) a crofter who immediately before the commencement of this Act was a statutory small tenant, or
- (b) the statutory successor of such a crofter, or
- (c) the executor of such a crofter or of such a statutory successor,

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.]

#### Textual Amendments

**F28** S. 14 substituted by virtue of [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1968 \(c. 70\)](#), s. 8, [Sch. 2 Pt. II](#) in relation to the estate of any person dying after 25.11.1968

**F29** Words in s. 14(10) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para.5](#) (with s. 45(3), [Sch.12 para. 3](#))

*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

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

- C7** S. 14(1) amended by Crofters (Scotland) Act 1961 (c. 58), s. 6(1); excluded by Crofting Reform (Scotland) Act 1976 (c. 21), s. 6(2)(a)
- C8** S. 14(1)(a) extended by Crofters (Scotland) Act 1961 (c. 58), s. 5(2)(3)
- C9** S. 14(1)(a) modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 95(4), 335, Sch. 8 Pt. IV para. 13(3)
- C10** S. 14(6) excluded by Crofting Reform (Scotland) Act 1976 (c. 21), s. 6(2)(b)

**Marginal Citations**

- M16** 1964 c. 41.
- M17** 1964 c. 75.

*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 [<sup>F30</sup>extent], 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 [<sup>F31</sup>and the <sup>M18</sup>Crofting Reform (Scotland) Act 1976].
- (2) ..... <sup>F32</sup>
- (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 [<sup>F33</sup>level 1 on the standard scale].

**Textual Amendments**

- F30** Word substituted by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 7(a)
- F31** Words added by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 7(b)
- F32** S. 15(2)–(4) repealed by Crofters (Scotland) Act 1961 (c. 58), s. 3(4), Sch. 3
- F33** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G

**Marginal Citations**

- M18** 1976 c. 21.

**16 Vacant crofts.**

- (1) Where—



*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

- (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
- [<sup>F34</sup>(aa) the landlord of the croft either gives to the executor of a deceased crofter, or receives from such an executor, notice terminating the tenancy of the croft in pursuance of section 16(3) of the <sup>M19</sup>Succession (Scotland) Act 1964; or]
- (b) for any other reason the croft has become vacant;
- the landlord shall within one month [<sup>F35</sup>from—
- (i) the receipt of the notice of renunciation of the tenancy, or
- (ii) the date on which the Land Court made the order, or
- (iii) the date on which the landlord gave or received notice terminating the tenancy, or
- (iv) the date on which the vacancy came to the landlord's knowledge,
- as the case may be,] give notice thereof to the Commission.
- (2) ..... <sup>F36</sup>
- (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.
- [<sup>F37</sup>(3A) Where any person is in occupation of a croft under a letting which is null and void by virtue of the last foregoing subsection, the Commission may serve on him a notice in writing requiring him to give up his occupation of such croft on or before such day as may be specified in the notice, being a day not less than one month from the date of the service of the notice; and if he fails to give up his occupation of the croft on or before that day, subsection (3) of the next following section shall, subject to any necessary modifications, apply as it applies where a crofter fails to give up the occupation of a croft as mentioned in that, subsection.]
- (4) Where a croft is vacant the Commission may—
- (a) ..... <sup>F38</sup>
- (b) ... <sup>F39</sup>, 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 [<sup>F40</sup>the Secretary of State is considering an application made to him under subsection (3) above for consent to let, or the Commission are considering an application made to them under subsection (9) below for a direction that the croft shall cease to be a croft].
- (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.

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*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

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- (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.
- [<sup>F41</sup>(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.]
- (8) Where a notice has been duly given under paragraph (b) of subsection (6) of this section or [<sup>F42</sup>by the landlord to the Secretary of State] 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 [<sup>F43</sup>from the landlord] 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.
- [<sup>F44</sup>(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 a subsection (9A) below, the <sup>M20</sup>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).]
- (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 [<sup>F45</sup>level 1 on the standard scale].
- (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.

*Status: Point in time view as at 01/04/1992.*

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[<sup>F46</sup>(11A) For the purposes of this section [<sup>F47</sup>and section 16A of this Act] a croft shall be taken to be vacant notwithstanding that it is occupied, if it is occupied otherwise than by the tenant of the croft.]

(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.

[<sup>F48</sup>(13) The provisions of this section shall have effect in relation to a part of a croft as they have effect in relation to a croft.]

[<sup>F49</sup>(14) For the avoidance of doubt it is hereby declared that this section has effect (and shall be deemed always to have had effect since 27th August 1961) as if—

- (a) a person who has become the owner-occupier of a croft were required under subsection (1) above within one month of the date on which he became such owner-occupier to give notice thereof to the Commission; and
- (b) any reference in the section other than in subsection (1) above to a landlord included a reference to an owner-occupier.]

#### Textual Amendments

- F34** S. 16(1)(aa) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), **Sch. 2 Pt. I para. 17**
- F35** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), **Sch. 2 Pt. I para. 17**
- F36** Ss. 16(2), 22(8) repealed by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 3**
- F37** S. 16(3A) inserted by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. II para. 12(a)**
- F38** S. 16(4)(a) repealed by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 3**
- F39** Words repealed by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 3**
- F40** Words substituted by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 2 para. 8(a)**
- F41** S. 16(7) substituted by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 13(1)**
- F42** Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 2 para. 8(b)**
- F43** Words inserted by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. I para. 5**
- F44** S. 16(9)(9A) substituted for s. 16(9) by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 13(2)**
- F45** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G**
- F46** S. 16(11A) inserted by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. II para. 12(c)**
- F47** Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 2 para. 8(c)**
- F48** S. 16(13) inserted by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. II para. 12(d)**
- F49** S. 16(14) added by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 2 para. 8(d)**

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

- C11** S. 16(6)(8) applied by Crofters (Scotland) Act 1961 (c. 58), **s. 9(7)**

#### Marginal Citations

- M19** 1964 c. 41.  
**M20** 1961 c. 58.

[<sup>F50</sup>**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—

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- (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 <sup>M21</sup>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.

*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

- (9) The Commission shall give effect to the determination of the Land Court on an appeal under subsection (8) above.]

**Textual Amendments**  
**F50** S. 16A inserted by Crofting Reform (Scotland) Act 1976 (c. 21), s. 13(3)

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**Marginal Citations**  
**M21** 1976 c. 21.

**17 Absentee crofters.**

- (1) If the Commission determine in relation to a croft—
  - (a) that the crofter is not ordinarily resident on, or within [<sup>F51</sup>sixteen kilometres] of, the croft; and
  - (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) ..... <sup>F52</sup>

- (9) . . . <sup>F53</sup>, 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) ..... <sup>F52</sup>

*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

**Textual Amendments**

- F51** Words substituted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [Sch. 2 para. 9](#)
- F52** [Ss. 17\(4\)–\(8\)\(10\)](#), 18 repealed by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), s. 22(3), [Sch. 3](#)
- F53** Words repealed by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), s. 22(3), [Sch. 3](#)

**18** <sup>F54</sup> .....

**Textual Amendments**

- F54** [Ss. 17\(4\)–\(8\)\(10\)](#), 18 repealed by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), s. 22(3), [Sch. 3](#)

**19—21** <sup>F55</sup> .....

**Textual Amendments**

- F55** [Ss. 4, 19–21, 27\(6\), 34\(2\), 37\(2\)](#) and [Sch. 4](#) repealed by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 3](#)

**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

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- date of the breach of the condition and the expiration of the period specified under paragraph (a) of this subsection bears to the lastmentioned 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) ..... <sup>F56</sup>
- (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 [<sup>F57</sup>by virtue of such a payment to the Secretary of State as is referred to in paragraph (c) above,] 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 [<sup>F58</sup>or towards the provision or improvement of roads, or water or electricity or gas supplies] if assistance out of public moneys by way of grant or subsidy has been given under any other enactment towards [<sup>F59</sup>the works in question].
- (6) For the purposes of subsection (2) of this section the occupier of a holding constituted under the <sup>M22</sup>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) ..... <sup>F60</sup>

#### Textual Amendments

- F56** S. 22(4)(d) repealed by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 3**
- F57** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 75:2), **s. 31**
- F58** Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 2 para. 10**
- F59** Words substituted by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 2 para. 10**
- F60** Ss. 16(2), 22(8) repealed by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 3**

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

- C12** S. 22(1) extended by Crofters (Scotland) Act 1961 (c. 58), **s. 14** and Crofting Reform (Scotland) Act 1976 (c. 21), **s. 12(5)**
- C13** S. 22(2) extended by Crofting Reform (Scotland) Act 1976 (c.21), **s. 12(1)(2)**



*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

#### Marginal Citations

M22 1897 c. 53.

### 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.
- (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.

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

- C14** S. 23(3) amended by Coal-Mining (Subsidence) Act 1957 (c. 59), s. 10(7)
- C15** S. 23(3) modified (1.4.1991) by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), s. 8(9)(a)
- C16** S. 23(3) amended (E.W.S.) (30.11.1991) by Coal Mining Subsidence Act 1991 (c. 45, SIF 86), s. 21(1), Sch. 3, para. 3(b) (with s. 37(4), Sch. 7); S.I. 1991/2508, art.2

### Common Grazings

### 24 Appointment, etc., of grazings committee or grazings constable.

- (1) The crofters who share in a common grazing may from time to time, at a public meeting called in accordance with the next following subsection, appoint a grazings committee of such number as the meeting shall decide.
- (2) Notice of a meeting for the appointment of a grazings committee may be given by any two crofters interested in the common grazing and shall be given by notice published in each of two successive weeks in one or more newspapers circulating in the district in which the township is situate or by notice posted for two successive weeks [<sup>F61</sup>in such public place or places in that district as may be approved by the Commission].

*Status: Point in time view as at 01/04/1992.*

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- (3) If the crofters who share in a common grazing fail at any time to appoint a grazings committee, the Commission may, after making such inquiry, if any, as they may deem necessary, appoint a grazings committee, or may appoint a person to be grazings constable; and a committee or constable so appointed shall have the like powers and duties as a grazings committee appointed under subsection (1) of this section.
- (4) The term of office of the members of a grazings committee appointed under this section shall be three years, and at the expiry of that period a new grazings committee shall be appointed as aforesaid. A retiring member of a committee shall be eligible for re-election.
- (5) A majority of the members of a grazings committee shall be a quorum; and any vacancy occurring in the membership of a grazings committee by reason of the death or resignation of a member shall be filled by nomination of the remaining members.
- (6) A grazings committee appointed under subsection (1) of this section, or in the case of a grazings committee appointed under subsection (3) thereof the Commission, shall appoint some person, whether a member of the committee or not, to be the clerk of the committee.
- (7) The term of office of a grazings constable appointed by the Commission under subsection (3) of this section shall be such as may be specified in the instrument by which he is appointed, and he shall receive such annual remuneration as the Commission may determine; and such remuneration shall be defrayed by an assessment levied in such manner as the Commission may deem reasonable on the crofters who share in the common grazing.
- (8) If the Commission are satisfied, after making such inquiry, if any, as they may deem necessary, that any or all of the members or the clerk of a grazings committee (however appointed under this section) are not properly carrying out the duties imposed on them under this Act, the Commission may remove from office any or all such members or such clerk and may appoint or provide for the appointment of other persons (whether crofters or not) in their or his place.
- [<sup>F62</sup>(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.]

#### Textual Amendments

**F61** Words substituted by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 1 Pt. II para. 13](#)

**F62** [S. 24\(9\)](#) added by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [s. 16\(1\)](#)

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

**C17** [S. 24\(1\)](#) amended by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [s. 15\(1\)](#)

## 25 Powers and duties of grazings committees.

- (1) It shall be the duty of a grazings committee—
  - (a) to maintain the common grazings and [<sup>F63</sup>to provide, maintain and, if necessary, replace] the fixed equipment required in connection therewith;
  - (b) to carry out works for the improvement of such grazings and equipment;

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- (c) to make and administer, with a view to their due observance, regulations (in this Act referred to as “common grazings regulations”) with respect to the management and use of the common grazings:

F64

[<sup>F65</sup>(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 [<sup>F66</sup>, or to plant trees under subsection (1C) below,] and the proposed allocation of the expenditure to be incurred in respect of those works [<sup>F66</sup> or, as the case may be, that planting] 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.]

[<sup>F67</sup>(1C) Subject to section 26A of this Act and to subsections (1D) and (1E) below, where the grazings committee have obtained the approval and consent referred to in subsection (1) of that section they may plant trees on, and use as woodlands, any part of the common grazing in accordance with the approval and consent.

(1D) Where any crofter interested in the common grazing requests them to do so, the grazings committee shall exercise their power under subsection (1C) above.

(1E) The power of the grazings committee under subsection (1C) above shall not be exercised in such a way that the whole of the common grazing is planted with trees and used as woodlands.]

(2) A person appointed by the Commission shall have power to summon and to attend any meeting of a grazings committee for the purpose of advising them and otherwise assisting them in the performance of their duties.

#### Textual Amendments

- F63** Words inserted by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. II para. 14**  
**F64** S. 25(1) Proviso repealed by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 3**  
**F65** S. 25(1A)(1B) inserted by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 16(3)**  
**F66** Words in s. 25(1A) inserted (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), **s. 2(2)**; S.I. 1992/504, **art.2**  
**F67** S. 25(1C)(1D)(1E) inserted (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), **s. 1(1)**; S.I. 1992/504, **art.2**

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

- C18** S. 25(1)(a)(b) explained by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 16(2)**

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*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

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## 26 Common grazings regulations.

- (1) Every grazings committee shall, as soon as may be after the commencement of this Act, and in any event within six months after being required by the Commission so to do, make and submit to the Commission new common grazings regulations.
- (2) Without prejudice to the generality of the power conferred on a grazings committee by paragraph (c) of subsection (1) of the last foregoing section, common grazings regulations shall make provision with respect to the following matters:—
  - (a) the recovery by the grazings committee from the crofters sharing in the common grazings of all expenses incurred by the committee in maintaining the common grazings and in [<sup>F68</sup>providing] maintaining or replacing any fixed equipment required in connection therewith;
  - [<sup>F69</sup>(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 [<sup>F70</sup>subsection (1)(b) and the exercise of their powers under subsection (1C) of section 25 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;]
  - (c) the number and the kind of stock which each crofter is entitled to put on the common grazings;
  - (d) the alteration of individual soumings where works for the improvement of the common grazings or the fixed equipment required in connection therewith have been carried out and all the crofters have not contributed to the expenses incurred in carrying out such works;
  - (e) where appropriate, the cutting of peats and the collection of seaweed;
  - (f) subject to the provisions of this Act, the summoning of meetings of the grazings committee and the procedure and conduct of business at such meetings.
- (3) Common grazings regulations made by a grazings committee shall be of no effect unless confirmed by the Commission. The Commission may confirm with or without modification or refuse to confirm any common grazings regulations submitted to them for confirmation, and may fix the date on which the regulations are to come into operation; and if no date is so fixed, the regulations shall come into operation at the expiration of one month from the date of their confirmation.
- (4) If a grazings committee fail within the time limited by subsection (1) of this section to make and submit to the Commission common grazings regulations or to make and submit to the Commission common grazings regulations which in the opinion of the Commission are sufficient and satisfactory, the Commission may themselves make such common grazings regulations, which shall have the like force and effect as if they had been made by the grazings committee and confirmed by the Commission.
- (5) A grazings committee may from time to time, and, if so required by the Commission, shall within the time limited by such requirement, make further regulations amending the common grazings regulations for the time being in force, and the provisions of the last two foregoing subsections shall apply to any such amending regulations subject to any necessary modifications.
- (6) Before confirming, making or amending regulations in accordance with the foregoing provisions of this section, the Commission shall consult the landlord of the common grazings to which the regulations relate; and the Commission shall send a copy of

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any regulations so confirmed, made or amended to the landlord and to the grazings committee.

- (7) Common grazings regulations for the time being in force under this section shall have effect notwithstanding anything contrary thereto or inconsistent therewith contained in any lease or other agreement, whether entered into before or after the coming into force of such regulations.

#### Textual Amendments

- F68** Word inserted by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. II para. 15**  
**F69** S. 26(2)(b) substituted by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 16(4)**  
**F70** Words in s. 26(2)(b) substituted (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), **s. 2(3)**; S.I. 1992/504, **art.2**

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

- C19** S. 26(2) amended by Crofters (Scotland) Act 1961 (c. 58), **s. 15(2)**

### [26A] <sup>F71</sup> Use of common grazings for forestry purposes.

- (1) Where a grazings committee or any crofter interested in the common grazing proposes that the committee should, in exercise of their power under section 25(1C) of this Act, plant trees on, and use as woodlands, any part of the common grazing, the committee shall apply for—
- the approval of the Commission; and
  - the consent of the landlord of the common grazing,
- to the use as woodlands of the part of the common grazing concerned.
- (2) A landlord's consent—
- shall be in writing;
  - shall specify the part of the common grazing to which it relates;
  - shall be intimated to the Commission by the landlord or the grazings committee;
  - shall not take effect until it is entered in the Register of Crofts; and
  - shall, when entered in that Register, be binding on the successors to the landlord's interest.
- (3) A landlord's consent shall cease to have effect if the grazings committee have not commenced planting of trees on the part of the common grazing to which the consent relates on the expiry of the period of seven years beginning with the date on which the consent is entered in the Register of Crofts.
- (4) In this section—
- “landlord's consent” means the consent of the landlord referred to in subsection (1)(b) above; and
- “Register of Crofts” means the Register maintained under section 3 of the Crofters (Scotland) Act 1961.]

*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

**Textual Amendments**

**F71** S. 26A inserted (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), s. 1(2);S.I. 1992/504, art.2

**27 Miscellaneous provisions as to common grazings, as to lands held runrig, and as to use by crofters of peat bogs, etc.**

(1) Any person who contravenes or fails to comply with any common grazings regulations for the time being in force under [F72section 26] of this Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [F73level 1 on the standard scale], and in the case of a continuing offence to a further fine not exceeding [F7450 pence] for each day on which the offence is continued after the grazings committee or the Commission have served notice on him warning him of the offence.

(2) Where it is prescribed by the common grazings regulations applicable to the common grazings of a township that the right of a crofter to share in such grazings shall be conditional on his making his croft available during the winter season for the accommodation of any stock belonging to other persons sharing in such grazings, any crofter may apply to the grazings committee for their consent to the exclusion of such stock from his croft or from part thereof, and if he is dissatisfied with the decision of the committee on such application he may appeal therefrom to the Commission.

Any consent given under this subsection by a grazings committee or, on appeal, by the Commission may be given subject to such conditions, if any, as the committee or the Commission, as the case may be, may think proper.

(3) The Commission may, on the application of any crofters interested, after consultation with the grazings committee, apportion a common grazing shared by two or more townships into separate parts for the exclusive use of the several townships [F75or may apportion a part of such grazing for the exclusive use of one of the townships.]

(4) The Commission may, on the application of any crofter interested, after consultation with the grazings committee, apportion a part of a common grazing [F76, other than a part on which the grazings committee have planted trees and which they are using as woodlands under section 25(1C) of this Act,] for the exclusive use of the crofter so applying.

(5) Notwithstanding anything in the M23Ground Game Act 1880, it shall be lawful for the crofters interested in a common grazing or in a part of a common grazing apportioned under subsection (3) of this section—

- (a) to appoint not more than two of their number; and
- (b) to authorise in writing one person bona fide employed by them for reward,

to kill and take ground game on the common grazing or the part thereof, as the case may be; and for the purposes of the said Act of 1880 any person appointed as aforesaid shall be deemed to be the occupier of the common grazing or the part thereof, but shall not have the right to authorise any other person to kill and take ground game, and any person authorised as aforesaid shall be deemed to have been authorised by the occupier of the common grazing or the part thereof to kill and take ground game with firearms or otherwise.

(6) ..... F77

*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994). (See end of Document for details)*

- (7) The Commission may, on the application of any landlord or crofter interested, apportion lands held runrig among the holders thereof in such manner [<sup>F78</sup>and subject to such conditions] as appears to the Commission in the circumstances of the case to be just and expedient.
- (8) The Commission may draw up a scheme regulating the use by crofters on the same estate of peat bogs, or of seaweed for the reasonable purposes of their crofts, or of heather or grass used for thatching purposes, and the charge for the use of all or any of these may be included in the rents fixed for the crofts.

#### Textual Amendments

- F72** Words in s. 27(1) substituted (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), s. 2(4)(a); S.I. 1992/504, art.2
- F73** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G
- F74** Words substituted by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 11
- F75** Words added by Crofters (Scotland) Act 1961 (c. 58), s. 15(4)
- F76** Words in s. 27(4) inserted (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), s. 2(4)(b); S.I. 1992/504, art.2
- F77** Ss. 4, 19–21, 27(6), 34(2), 37(2) and Sch. 4 repealed by Crofters (Scotland) Act 1961 (c. 58), Sch. 3
- F78** Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), s. 16(5)

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

- C20** S. 27(3)(4) amended by Crofters (Scotland) Act 1961 (c. 58), s. 15(5)

#### Marginal Citations

- M23** 1880 c. 47.

### Cottars

#### 28 Provisions as to cottars.

- (1) When a cottar if not paying rent is removed from his dwelling and any land or buildings occupied by him in connection therewith, or if paying rent renounces his tenancy or is removed, he shall be entitled to compensation for any permanent improvement if—
- the improvement is suitable to the subject; and
  - the improvement was executed or paid for by the cottar or any of his predecessors in the same family; and
  - either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the cottar was bound to execute the improvement, or, if the improvement was executed in pursuance of such an agreement, the cottar has not received, by way of reduction of rent or otherwise, fair consideration for the improvement.
- [<sup>F79</sup>(2) The amount of the compensation payable under the foregoing subsection shall, failing agreement, be fixed by the Land Court, and—
- where the cottar renounced his tenancy or was removed from his subject before the commencement of the <sup>M24</sup>Crofters (Scotland) Act 1961, the provisions of subsections (3), (4) and (5) of section fourteen of this Act (which relates to compensation to crofters for improvements) shall apply in relation to



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such cottar as they apply in relation to a crofter whose tenancy was terminated before the said commencement;

- (b) where the cottar renounces his tenancy or is removed from his subject after the commencement of the said Act of 1961, the provisions of subsection (3) of section fourteen of this Act and of subsections (1) and (2) of section six of the said Act of 1961 (which relate to compensation to crofters for improvements) shall apply in relation to such cottar as they apply in relation to crofters.

(2A) Where compensation falls to be assessed under subsections (1) and (2) of section six of the said Act of 1961, as applied by paragraph (b) of the last foregoing subsection, in respect of any permanent improvement and the amount of such compensation is fixed by the Land Court under the last foregoing subsection, then if the cottar is qualified as mentioned in the next following subsection he may request the Land Court to determine the amount which would have been payable by way of compensation in respect of that improvement if the said Act of 1961 had not been passed and if the amount last mentioned is greater than the amount fixed by the Land Court as aforesaid, the difference between the two said amounts shall be payable to the cottar by the Secretary of State:

Provided that—

- (a) the Secretary of State shall be entitled to set off any amount due to him by the cottar in respect of a loan made under subsection (2) of section twenty-two of this Act or section nine of the Act of 1911 against any sum payable to the cottar by the Secretary of State under this subsection; and
- (b) this subsection shall not apply where compensation in respect of the improvement in question has on a previous occasion fallen to be assessed under subsections (1) and (2) of section six of the said Act of 1961, as applied as aforesaid.

(2B) The reference in the last foregoing subsection to a cottar who is qualified is a reference to a cottar—

- (a) whose occupation of the subject in question began before the commencement of the said Act of 1961, or
- (b) who occupies such subject as heir-at-law, legatee or assignee of his immediate predecessor as occupier of the subject, and each of whose predecessors (being in each case a person whose occupation of the subject began after the commencement of the said Act of 1961) occupied the subject as heir-at-law, legatee or assignee of his immediate predecessor.]

(3) The Secretary of State shall have the like powers to provide assistance by way of loan, grant and the supply of building or other materials for the erection, improvement or rebuilding of dwelling-houses and other buildings for cottars as he has to provide assistance for the erection, improvement or rebuilding of dwelling-houses and other buildings for crofters, and subsections (2), (4), (5) and (7) of section twenty-two of this Act shall apply accordingly.

(4) In this section—

“cottar” means the occupier of a dwelling-house situate in the crofting counties with or without land who pays no rent, or the tenant from year to year of a dwelling-house situate as aforesaid who resides therein and who pays therefor an annual rent not exceeding six pounds in money, whether with or without garden ground but without arable or pasture land.

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“predecessors in the same family” means in relation to a cottar the wife or husband of the cottar and any person to whom the cottar or the wife or husband of the cottar might, failing nearer heirs, have succeeded in case of intestacy.

**Textual Amendments**

**F79** S. 28(2), (2A), (2B), substituted for s. 28(2) by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. I para. 7

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

**C21** S. 28(1) excluded by Crofting Reform (Scotland) Act 1976 (c. 21), s. 6(2)(c)

**Marginal Citations**

**M24** 1961 c. 58.

*Miscellaneous and General Provisions*

**29 Service of notices.**

- (1) Any notice for the purposes of this Act shall be in writing, and any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him or left at his proper address or sent to him by post.
- (2) Where any notice or other document is to be given to or served on a person as being the person having any interest in land and it is not practicable after reasonable inquiry to ascertain his name or address, the notice or document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it) and delivering the notice or document to some responsible person on the land or by affixing it, or a copy of it, to some conspicuous object on the land.

**30 Provisions as to entry and inspection.**

- (1) Any person authorised by the Secretary of State or the Commission in that behalf shall have power at all reasonable times to enter on and inspect any land for the purpose of determining whether, and if so in what manner, any of the powers conferred on the Secretary of State or the Commission by this Act are to be exercised in relation to the land, or whether, and if so in what manner, any direction given under any such power has been complied with.
- (2) Any person authorised as aforesaid who proposes to exercise any power of entry or inspection conferred by this Act shall if so required produce some duly authenticated document showing his authority to exercise the power.
- (3) Admission to any land shall not be demanded as of right in the exercise of any such power as aforesaid unless in the case of land being used for residential purposes seven days, or in the case of any other land twenty-four hours, notice of the intended entry has been given to the occupier of the land.
- (4) Any person who obstructs any person authorised by the Secretary of State or the Commission exercising any such power as aforesaid shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [F80] level 1 on the standard

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scale] in the case of a first offence or [<sup>F80</sup>level 1 on the standard scale] in the case of a second or any subsequent offence.

#### Textual Amendments

**F80** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**

### 31 Building grants and loans to owner-occupiers of like economic status as crofters.

- (1) The Secretary of State shall have the like powers to provide assistance by way of loan, grant and the supply of building or other materials for the erection, improvement or rebuilding of buildings other than dwelling-houses for owners of holdings to which this section applies as he has to provide assistance for the erection, improvement or rebuilding of such buildings for crofters; and subsections (2), (4) and (5) of section twenty-two of this Act shall apply accordingly.
- (2) This section applies to any holding which—
  - (a) is situate in the crofting counties; and
  - [<sup>F81</sup>(b) is either—
    - (i) a holding of which the area does not exceed 30 hectares, or
    - (ii) a holding of which the annual rent, if it were a croft let to a crofter under this Act and the <sup>M25</sup>Crofters (Scotland) Act 1961, would not in the opinion of the Secretary of State exceed £100, or
    - (iii) a holding which exceeds 30 hectares and of which the annual rent if it were a croft so let would in the opinion of the Secretary of State exceed £100, but which in the opinion of the Secretary of State is not substantially larger than 30 hectares or is capable of being let as a croft at an annual rent not substantially in excess of £100;] and
  - (c) is owned by a person who in the opinion of the Secretary of State is of substantially the same economic status as a crofter; and
  - (d) is occupied by the owner thereof.
- (3) The provisions of the Third Schedule to this Act shall apply in relation to any loan made to the owner of a holding under this section.

#### Textual Amendments

**F81** S. 31(2)(b) substituted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), **Sch. 2 para. 13**

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

**C22** S. 31(1) extended by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), **s. 12(2)**

#### Marginal Citations

**M25** 1961 c. 58.

### 32 Provisions as to compulsory purchase of land and as to management of land.

- (1) Where by virtue of any provision of this Act the Secretary of State is deemed to be authorised to purchase land compulsorily, then in relation to any such compulsory

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purchase the Lands Clauses Acts and other enactments mentioned in Part I of the Second Schedule to the <sup>M26</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, shall be incorporated in accordance with the provisions of the said Part I as if the Secretary of State had been authorised under section one of that Act to purchase the land compulsorily; and [<sup>F82</sup>the <sup>M27</sup>Land Compensation (Scotland) Act 1963], shall have effect in relation to any such compulsory purchase subject to the provisions of Part II of that Schedule, of the proviso to subsection (8) of section sixteen of this Act and of the next following subsection.

- (2) The power conferred by [<sup>F83</sup>section 39 of the <sup>M28</sup>Land Compensation (Scotland) Act 1963], to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of subsection (8) of section sixteen of this Act or of [<sup>F84</sup>subsection (9) or (10) of section nine of the <sup>M29</sup>Crofters (Scotland) Act 1961.]
- (3) The Secretary of State may manage, farm, sell, let or otherwise deal with or dispose of land acquired by him under this Act in such manner as appears to him expedient for the purpose for which it was acquired.

#### Textual Amendments

- F82** Words substituted by virtue of [Land Compensation \(Scotland\) Act 1963 \(c. 51\), s. 47\(1\)](#)  
**F83** Words substituted by virtue of [Land Compensation \(Scotland\) Act 1963 \(c. 51\), s. 47\(2\)](#)  
**F84** Words substituted by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 1 Pt. II para. 16](#)

#### Marginal Citations

- M26** 1947 c. 42.  
**M27** 1963 c. 51.  
**M28** 1963 c. 51.  
**M29** 1961 c. 58.

### 33 Provisions as to representations.

- (1) Any enactment in this Act providing, in relation to the taking of any action by the Secretary of State, for his taking the action after affording to a person an opportunity of making representations to the Secretary of State shall be construed as a provision that the Secretary of State shall comply with the following requirements.
- (2) The Secretary of State shall give notice to the said person specifying the matter under consideration and informing him of the effect of the next following subsection.
- (3) A person to whom notice is given as aforesaid may within the time specified in the notice make representations to the Secretary of State in writing, and, whether or not representations are made to the Secretary of State in writing, may within the time so specified require that an opportunity be afforded to him of being heard by a person appointed by the Secretary of State for the purpose; and, if he so requires, such an opportunity shall be afforded to him and, on the same occasion, to any other person to whom under the enactment referred to in subsection (1) of this section the Secretary of State is required to afford such an opportunity, and the Secretary of State shall not take action in relation to the matter until he has considered any representations made as aforesaid.

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- (4) Where any enactment in this Act provides in relation to the taking of any action by the Commission for their taking the action after affording to a person an opportunity of making representations to them, the provisions of this section shall have effect in relation thereto with the substitution for references to the Secretary of State of references to the Commission.

### 34 Determination of disputes, etc.

- (1) The provisions of the Landholders Acts with regard to the Land Court shall, with any necessary modifications, apply for the determination of any matter which they [<sup>F85</sup>have jurisdiction] under this Act [<sup>F86</sup>or the <sup>M30</sup>Crofting Reform (Scotland) Act 1976] to determine, in like manner as those provisions apply for the determination by the Land Court of matters referred to them under those Acts.

- (2) ..... <sup>F87</sup>

#### Textual Amendments

**F85** Words substituted by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 17

**F86** Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 14

**F87** Ss. 4, 19–21, 27(6), 34(2), 37(2) and Sch. 4 repealed by Crofters (Scotland) Act 1961 (c. 58), Sch. 3

#### Marginal Citations

**M30** 1976 c. 21.

### 35 Financial provisions.

- (1) The expenses of the Commission shall be defrayed by the Secretary of State.
- (2) All expenses incurred by the Secretary of State under the provisions of this Act shall be defrayed out of moneys provided by Parliament.
- (3) All sums received by the Secretary of State under the provisions of this Act shall be paid into the Exchequer.

### 36 Regulations.

Any regulations made by the Secretary of State under this Act shall be embodied in a statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### 37 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them—
- “the Act of 1886” means the <sup>M31</sup>Crofters Holdings (Scotland) Act 1886;
- “the Act of 1911” means the <sup>M32</sup>Small Landholders (Scotland) Act 1911;
- “croft” and “crofter” have the meanings assigned to them respectively by section three of this Act;
- “the Crofters Holdings Book” has the meaning assigned to it by section thirty-nine of this Act;

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“crofting counties” means the [<sup>F88</sup>former] counties of Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Zetland;

“fixed equipment” has the like meaning as in the [<sup>F89</sup>Agricultural Holdings (Scotland) Act 1991];

“functions” includes powers and duties;

“Land Court” means the Scottish Land Court;

“the Landholders Acts” means the Small Landholders (Scotland) Acts 1886 to 1931;

“landlord” means any person for the time being entitled to receive the rents and profits, or to take possession, of a croft;

“permanent improvement” means any of the improvements specified in the Fifth Schedule to this Act; [<sup>F90</sup>Provided that no building or other structure erected on a croft shall be held to be a permanent improvement on the croft unless it is a fixture on the land;]

“prescribed” means prescribed by regulations made by the Secretary of State;

“predecessors in the tenancy” means in relation to a crofter the persons who before him have been tenants of the croft since it was last vacant;

[<sup>F91</sup>“public road” has the same meaning as in the Roads (Scotland) Act 1984:]

“statutory successor” means any person who under this Act has succeeded or may succeed to a croft whether as [<sup>F92</sup>a person to whom the tenancy of the croft has been transferred in pursuance of section 16(2) of the <sup>M33</sup>Succession (Scotland) Act 1964 or as the executor,] heir-at-law, legatee or assignee of his immediate predecessor being a crofter in occupation of the croft;

“Whitsunday” and “Martinmas” mean respectively the twenty-eighth day of May and the twenty-eighth day of November.

(2) . . . . . <sup>F93</sup>

(3) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

**Textual Amendments**

- F88** Word inserted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27 Pt. II para. 120**
- F89** Words in s. 37(1) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), **Sch. 11 para. 6** (with s. 45(3) Sch. 12 para. 3)
- F90** Proviso added by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), **Sch. 1 Pt. II para. 18**
- F91** Definition of “public road” inserted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 45**
- F92** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1968 \(c. 70\)](#), **Sch. 2 Pt. I para. 18**
- F93** Ss. 4, 19–21, 27(6), 34(2), 37(2) and Sch. 4 repealed by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), **Sch. 3**

**Marginal Citations**

- M31** 1886 c. 29.
- M32** 1911 c. 49.
- M33** 1964 c. 41.

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### **38 Application of Act and modification of enactments in relation to the crofting counties.**

- (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.
- (2) Subject to the provisions of the two next following subsections, references in any enactment (other than [<sup>F94</sup>section twenty-five of the Act of 1911 and] this Act) or in any instrument to a landholder or statutory small tenant and to a holding within the meaning of the Landholders Acts and to the Landholders Acts shall, unless the context otherwise requires, be construed in the application of that enactment to the crofting counties respectively as references to a crofter and to a croft within the meaning of this Act, and as including a reference to this Act.
- (3) The enactments specified in Part I of the Sixth Schedule to this Act shall cease to apply to the crofting counties to the extent specified in the second column of the said Part I.
- (4) The enactments specified in Part II of the Sixth Schedule to this Act shall in their application to the crofting counties have effect subject to the modifications specified in the second column of the said Part II.

#### **Textual Amendments**

**F94** Words inserted by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 1 Pt. II para. 19](#)

### **39 Transitional provisions and savings.**

- (1) The tenancy of a crofter under this Act shall, in the case of every person who at the commencement of this Act became a crofter, be deemed, so far as is consistent with the provisions of this Act, to be a continuance of his tenancy as a landholder or a statutory small tenant, and all contracts and other instruments shall be read and construed accordingly.
- (2) The book (heretofore called the “Landholders Holdings Book”) kept in pursuance of section twenty-seven of the Act of 1886, shall in the crofting counties be called the “Crofters Holdings Book”.
- (3) Where the rent payable for a croft 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 was last fixed by the Land Court before the commencement of this Act, it may, notwithstanding anything in the proviso to subsection (3) of section five of this Act, be altered by the Land Court at any time after the commencement of this Act.
- (4) Notwithstanding anything in this Act, the right of any person to succeed to the tenancy of a holding, whether by virtue of a bequest made by the tenant thereof or by virtue of the right to the tenancy having devolved upon the heir-at-law of the tenant, shall, if the tenant died before the commencement of this Act, be determined as if this Act had not passed.



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- (5) Save as expressly provided in this Act, nothing in this Act shall affect any order, rule, regulation, record, application, reference, appointment, loan, agreement, finding or award made, approval, consent or direction given, decree or instrument granted, proceeding taken, notice served or given, condition imposed, rent or amount of compensation fixed, or thing done in the crofting counties or in relation to land therein, under any enactment relating to landholders, statutory small tenants or cottars which by virtue of this Act has ceased to apply to the crofting counties or to any land therein, but any such order, rule, regulation, record, application, reference, appointment, loan, agreement, finding, award, approval, consent, direction, decree, instrument, proceeding, notice, condition, rent or amount of compensation or thing which is in force at the commencement of this Act shall continue in force and, so far as it could have been made, given, granted, taken, served, imposed, fixed or done under the corresponding provision of this Act, shall have effect as if it had been made, given, granted, taken, served, imposed, fixed or done under that corresponding provision.

#### **40 Citation and commencement.**

- (1) This Act may be cited as the Crofters (Scotland) Act 1955.
- (2) This Act shall come into operation on such date as Her Majesty may by Order in Council appoint; and an Order under this subsection may appoint different dates in relation to different provisions of this Act.

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

**C23** 1.10.1955 appointed under s. 40(2) by [S.I. 1955/1201](#) (1955 I, p. 558)

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## SCHEDULES

### FIRST SCHEDULE

#### PROVISIONS AS TO THE CROFTERS COMMISSION

##### *Constitution of the Commission*

- 1 The Commission shall be a body corporate and shall have a common seal.
- 2 Every member of the Commission shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but notwithstanding anything in such an instrument any member of the Commission may resign his office by a notice given under his hand to the Secretary of State, and a member of the Commission who ceases to hold office shall be eligible for re-appointment to the Commission.

F95 .....

3

#### **Textual Amendments**

**F95** Sch. 1 para. 3 repealed by [House of Commons Disqualification Act 1957 \(c. 20\)](#), [Sch. 4 Pt. I](#)

- 4 The Secretary of State shall pay to the members of the Commission such remuneration and such allowances as he may, with the approval of the Treasury, determine.

[<sup>F96</sup>(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.]

#### **Textual Amendments**

**F96** Paras. 4A, 4B, inserted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [s. 18](#)

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### *Meetings and Proceedings of the Commission*

- 5 The quorum of the Commission shall be three or such larger number as the Commission may from time to time determine.
- 6 The proceedings of the Commission shall not be invalidated by any vacancy in the membership of the Commission or by any defect in the appointment of any member thereof.
- 7 If at any meeting of the Commission the votes are equally divided on any question, the person acting as chairman of the meeting shall have a second or casting vote.
- 8 The Commission shall refer to one or more of their number for report and recommendation such matters as may be determined by the Commission and shall delegate to one or more of their number such of the functions conferred on the Commission by this Act, to such extent and subject to such conditions or restrictions, as may with the approval of the Secretary of State be so determined.
- 9 In any application or other proceeding coming before them the Commission may order that the evidence shall be taken on oath.
- 10 Subject to the foregoing provisions of this Schedule, the Commission shall have power to regulate their own procedure.

### *Office, Officers and Servants*

- 11 The Commission shall have an office in the crofting counties at which communications and notices will at all times be received.
- 12 The Secretary of State may provide the services of such officers and servants as the Commission may require.

### *Instruments executed or issued by the Commission*

- 13 The application of the seal of the Commission to any document shall be attested by at least one member of the Commission and by the person for the time being acting as secretary to the Commission.
- 14 Every document purporting to be an instrument issued by the Commission and to be sealed and attested as aforesaid or to be duly signed on behalf of the Commission shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

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## SECOND SCHEDULE

Section 3.

### THE STATUTORY CONDITIONS

- 1 The crofter shall pay his rent at the terms at which it is due and payable.
- 2 The crofter shall not, except in accordance with the provisions of this Act, execute any deed purporting to assign his tenancy.
- 3 The crofter shall, by himself or his family, with or without hired labour, cultivate his croft, without prejudice to the right hereby conferred on him to make such use thereof for subsidiary or auxiliary occupations as, in case of dispute [<sup>F97</sup>the Land Court] may find to be reasonable and not inconsistent with the cultivation of the croft.

#### Textual Amendments

**F97** Words substituted by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 20

- [<sup>F98</sup>3A The crofter shall provide such fixed equipment on his croft as may be necessary to enable him to cultivate the croft.]

#### Textual Amendments

**F98** Para. 3A added by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 20

- 4 The crofter shall not, to the prejudice of the interest of the landlord, persistently injure the croft by the dilapidation of buildings or, after notice in writing has been given by the landlord to the crofter not to commit, or to desist from, the particular injury specified in the notice, by the deterioration of the soil.

- [<sup>F99</sup>5 A crofter shall not sublet his croft or any part thereof otherwise than with the consent in writing of the Commission and in accordance with such conditions (which shall not include conditions relating to rent) as the Commission in giving their consent may impose:  
Provided that nothing in this paragraph shall be construed as debarring a crofter from subletting any dwelling-house or other building forming part of his croft to holiday visitors.]

#### Textual Amendments

**F99** Para. 5 substituted by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 20

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- 6 The crofter shall not, except in accordance with the provisions of this Act, subdivide his croft.
- 7 The crofter shall not, without the consent in writing of the landlord, erect or suffer to be erected on the croft any dwelling-house otherwise than in substitution for a dwelling-house which at the commencement of this Act was already on the croft: Provided that, if at the commencement of this Act there was no dwelling-house on the croft, the crofter may erect one dwelling-house thereon.
- 8 The crofter shall not persistently violate any written condition signed by him for the protection of the interest of the landlord or of neighbouring crofters which is legally applicable to the croft and which the Land Court shall find to be reasonable.
- 9 The crofter shall not do any act whereby he becomes notour bankrupt within the meaning of the <sup>M34</sup>Bankruptcy (Scotland) Act 1913, and shall not execute a trust deed for creditors.

#### Marginal Citations

M34 1913 c. 20.

- 10 The crofter shall permit the landlord or any person authorised by the landlord in that behalf to enter upon the croft for the purpose of exercising (subject always to the payment of such compensation as in case of dispute the Land Court may find to be reasonable in respect of any damage done or occasioned thereby) any of the following rights, and shall not obstruct the landlord or any person authorised as aforesaid in the exercise of any of such rights, that is to say—
  - (a) mining or taking minerals, or digging or searching for minerals;
  - (b) quarrying or taking stone, marble, gravel, sand, clay, slate or other workable mineral;
  - (c) using for any estate purpose any springs of water rising on the croft and not required for the use thereof;
  - (d) cutting or taking timber or peats, excepting timber and other trees planted by the crofter or any of his predecessors in the tenancy, or which may be necessary for ornament or shelter, and excepting also such peats as may be required for the use of the croft;
  - (e) opening or making roads, fences, drains and water-courses;
  - (f) passing and re-passing to and from the shore of the sea or any loch with or without vehicles for the purpose of exercising any right of property or other right belonging to the landlord;
  - (g) viewing or examining at reasonable times the state of the croft and all buildings or improvements thereon;
  - (h) hunting, shooting, fishing or taking game or fish, wild birds or vermin;but nothing in this paragraph shall be held to preclude the crofter from recovering any compensation for damage by game which is recoverable under <sup>F100</sup>section 52 of

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the Agricultural Holdings (Scotland) Act 1991], by a tenant, and that section shall apply accordingly, with the substitution, however, of the Land Court for arbitration.

#### Textual Amendments

**F100** Words in Sch. 2 para. 10 substituted (25.9.1991) by Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3), ss. 88(1), 89(2), Sch. 11 para. 7 (with s. 45(3), Sch. 12 para.3)

11 The crofter shall not on his croft, without the consent in writing of the landlord, open any house for the sale of intoxicating liquors.

12 In this Schedule—  
the expression “cultivate” includes the use of a croft for horticulture or for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, [<sup>F101</sup>and] the growing of fruit, vegetables and the like [<sup>F102</sup>and the planting of trees and use of the land as woodlands];  
the expression “game” means deer, hares, rabbits, pheasants, partridges, grouse, blackgame, capercaillie, ptarmigan, woodcock, snipe, wild duck, widgeon and teal.

#### Textual Amendments

**F101** Word in Sch. 2 para. 12 omitted (S.) (1.4.1992) by virtue of Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), s. 2(5);S.I. 1992/504, art.2

**F102** Words in Sch. 2 para. 12 added (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), s. 2(5);S.I. 1992/504, art.2

### THIRD SCHEDULE

Sections 17, 18, 20, 23, 31.

#### PROVISIONS AS TO SECURITY, ETC., OF LOANS

1 The loan shall be secured by a [<sup>F103</sup>heritable security over] the land in favour of the Secretary of State.

#### Textual Amendments

**F103** Words substituted by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 15(a)

2 The loan shall either be repaid by half-yearly instalments of principal with such interest and within such period (not exceeding such period as may be fixed by the Treasury) from the date of the loan, or at such date thereafter not exceeding eighteen months as may be agreed on, or shall be repaid with such interest and within such period by a terminable annuity payable by half-yearly instalments.

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- 3 The amount for the time being unpaid may at any time be discharged, and any such terminable annuity may at any time be redeemed in accordance with tables fixed by the Secretary of State.
- 4 A certificate by the Secretary of State that the whole of the loan has been repaid or that such terminable annuity has been redeemed shall, without any other instrument, operate as a discharge of the loan or extinction of the terminable annuity, as the case may be, and the recording of such certificate in the . . . <sup>F104</sup> Register of Sasines shall be equivalent to the recording of a discharge of the said [<sup>F105</sup>heritable security].

**Textual Amendments**

**F104** Word repealed by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 3

**F105** Words substituted by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 2 para. 15(b)

- 5 The Secretary of State shall cause to be prepared and duly recorded all deeds, writs and instruments necessary for securing the payment of any loan over land made by him, and shall include in the loan the cost so incurred, or to be incurred, in accordance with scales set forth in tables fixed by the Secretary of State.

<sup>F106</sup>FOURTH SCHEDULE

**Textual Amendments**

**F106** Ss. 4, 19–21, 27(6), 34(2), 37(2) and Sch. 4 repealed by Crofters (Scotland) Act 1961 (c. 58), Sch. 3

<sup>F106</sup>

FIFTH SCHEDULE

Section 37.

PERMANENT IMPROVEMENTS

- 1 Dwelling-house.
- [<sup>F107</sup>1A Improvement works carried out in compliance with a notice of a final resolution served under [<sup>F108</sup>Part I of Schedule 8 to the Housing (Scotland) Act 1987]]

**Textual Amendments**

**F107** Sch. 5 para. 1A added by Housing (Scotland) Act 1966 (c. 49), s. 80(3) and substituted by Housing (Scotland) Act 1974 (c. 45), s.25



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**F108** Words expressed to be substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339, **Sch. 23 para. 5**

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

**C24** Sch. 5 para. 1A: Housing (Scotland) Act 1966 (c. 49), **s. 80(3)** (which added para. 1A) was repealed (25.8.1969) by Housing (Scotland) Act 1969 (c. 34), s. 69(3), **Sch. 7** but revived (27.11.1974) by Housing (Scotland) Act 1974 (c. 45), **s.25(1)** and by virtue of s. 25(2)(3) of that said 1974 Act para. 1A was indirectly and directly substituted; the said 1966 and 1974 Acts were repealed (15.9.1987) by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 339, **Sch. 24**, but by s. 339, Sch. 23 para. 3 of that 1987 Act the substituted para. 1A is expressed to be amended

2 Farm offices.

3 Subsoil and other drains.

4 Walls and fences.

5 Deep trenching.

6 Clearing the ground.

7 Planting trees [<sup>F109</sup>other than under section 25(1C) of this Act].

**Textual Amendments**

**F109** Words in Sch. 5 para. 7 added (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), **s. 2(6);S.I. 1992/504, art.2**

8 Making piers or landing stages.

9 Roads practicable for vehicles from the croft to the public road or the sea shore.

10 All other improvements which, in the judgment of the Land Court, will add to the value of the croft [<sup>F110</sup>as an agricultural subject.]

**Textual Amendments**

**F110** Words substituted by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. II para. 21**

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[<sup>F111</sup> Buildings or other structures erected under section five of the <sup>M35</sup>Crofters (Scotland) Act 1961, being buildings or structures which are fixtures on the land; or works executed under the said section five.]

#### Textual Amendments

**F111** Para. 11 added by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 21

#### Marginal Citations

**M35** 1961 c. 58.

## SIXTH SCHEDULE

Section 38.

### APPLICATION OF ENACTMENTS TO CROFTING COUNTIES

#### PART I

##### *Enactments ceasing to have effect*

<b>Enactment</b>	<b>Provisions ceasing to have effect in crofting counties</b>
The Crofters Holdings (Scotland) Act 1886. (49 & 50 Vict. c. 29.)	Sections one to ten. In section twelve the words from “It shall be competent for the Crofters Commission to draw up a scheme” to the end of the section. Section sixteen. Sections nineteen and twenty. Sections thirty-one and thirty-four. The Schedule.
The Crofters Holdings (Scotland) Act 1887. (50 & 51 Vict. c. 24.)	The whole Act.
The Crofters Common Grazings Regulation Act 1891. (54 & 55 Vict. c. 41.)	The whole Act.
The Crofters Common Grazings Regulation Act 1908. (8 Edw. 7. c. 50.)	The whole Act.
The Small Landholders (Scotland) Act 1911. (1 & 2 Geo. 5. c. 49.)	Sections one and two. Sections eight to ten. Sections twelve to fifteen. Sections seventeen to twenty-three. Section twenty-four except paragraph (b) of subsection (5). Section twenty-seven. Sections thirty-two and thirty-three.
The Land Settlement (Scotland) Act 1919. (9 & 10 Geo. 5. c. 97.)	Sections twelve and thirteen. Section fourteen except in relation to paragraph (b) of the subsection substituted for subsection (5) of section twenty-four of the Act of 1911. Section seventeen and the Second Schedule

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<p>The Small Landholders (Scotland) Act 1931. (21 &amp; 22 Geo. 5. c. 44.)</p> <p>The Agriculture (Scotland) Act 1948. (11 &amp; 12 Geo. 6. c. 45.)</p>	<p>in so far as they amend subsection (6) of section seven and section twenty-four of the Act of 1911.</p> <p>Section one. Sections three, five and six. Sections eight to fourteen. Section eighteen. Sections twenty-two to twenty-five.</p> <p>Part II and the Fifth and Sixth Schedules in so far as they apply to any land being or forming part of a croft within the meaning of this Act. Sections sixty-six and seventy-seven.</p>
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## PART II

### *Modification of Enactments*

<b>Enactment</b>	<b>Modification of enactments in application to crofting counties</b>
<p>The Small Landholders (Scotland) Act 1911. (1 &amp; 2 Geo. 5. c. 49.)</p>	<p>In section seven, subsections (1) and (6) and in paragraph (f) of subsection (11) the words from “and it may be a term” to the end of the paragraph shall be omitted. In section twenty-six, subsection (1), in subsection (2) the words from “and shall not” to the end of the subsection, and subsections (3), (6), (8), (9) and (10) shall be omitted; and in subsection (7) for the words from the beginning of the subsection to “nothing in that section” there shall be substituted the words “Nothing in section thirty-three of the Act of 1886”. In section thirty-one, in subsection (1) the definitions of “Act of 1887”, “Act of 1891”, “Act of 1908” and “statutory successor”, and subsection (4) shall be omitted.</p>

**Status:**

Point in time view as at 01/04/1992.

**Changes to legislation:**

There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994).