

FIRST SCHEDULE

AMENDMENTS OF THE ACT OF 1955

PART I

AMENDMENTS CONSEQUENTIAL ON SECTION SIX OF THIS ACT

- 1 In subsection (2) of section seven (which provides that the landlord of a croft may set off all rent due or to become due by a crofter who has renounced his tenancy against any sum due to the crofter or to the Secretary of State by way of compensation for permanent improvements) after the words " any sum found to be due " there shall be inserted the words

“by the landlord”.

- 2 After subsection (7) of section eleven (which provides that where a croft has been declared vacant under subsection (5) of that section the landlord shall be liable to make certain payments to the executor of the deceased crofter in respect of permanent improvements on the croft) there shall be inserted the following subsections—

“(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 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 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.”.

- 3 In subsection (3) of section thirteen (which provides that the landlord of a croft may set off all rent due by a crofter who has been removed from such croft against any sum due to the crofter for permanent improvements) after the words " any sum found to be due " there shall be inserted the words

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“by the landlord”.

- 4 In subsection (7) of section fourteen (which provides that the landlord of a croft may set off any compensation for deterioration due by a crofter on the termination of his tenancy against any compensation payable to the crofter for permanent improvements) after the words " any compensation payable " there shall be inserted the words

“by him”.

- 5 In subsection (8) of section sixteen (which relates to the compulsory purchase by the Secretary of State of certain buildings on a vacant croft) after the words " entitled to receive " there shall be inserted the words

“from the landlord”.

- 6 In subsection (8) of section seventeen (which relates to the consideration payable by an absentee crofter in respect of the conveyance to him of his dwelling-house) the words " to an incoming tenant" shall be omitted.

- 7 For subsection (2) of section twenty-eight of the Act of 1955 (which relates to the amount of the compensation payable under subsection (1) of that section to a cottar who renounces his tenancy or is removed from the subject occupied by him in respect of permanent improvements on that subject) there shall be substituted the following subsections—

“(2) The amount of the compensation payable under the foregoing subsection shall, failing agreement, be fixed by the Land Court, and—

- (a) where the cottar renounced his tenancy or was removed from his subject before the commencement of the 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 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—

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- (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.”.

PART II

MINOR AMENDMENTS AND GENERAL CONSEQUENTIAL AMENDMENTS

- 8 Any reference in the Act of 1955 to that Act shall, unless the context otherwise requires, include a reference to this Act.
- 9 In section three (which defines a croft)—
- (a) in paragraph (c) of subsection (1) for the word " is " there shall be substituted the words
“was before the commencement of the Crofters (Scotland) Act, 1961,”;
and
 - (b) at the end of subsection (1) there shall be added the following paragraph—
“(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 Crofters (Scotland) Act, 1961, that it shall be a croft.”.
- 10 In section eight (which relates to the assignation of a croft)—
- (a) in subsection (2) the words from " and shall" onwards shall be omitted ;
 - (b) in subsection (3) for the word " giving " there shall be substituted the words
“deciding whether to give or to withhold”;
 - (c) in subsection (4) the words from " and, where " onwards shall be omitted;
 - (d) in subsection (5) the words from " or, where " to " such terms and conditions " shall be omitted ; and
 - (e) at the end of the section there shall be added the following subsection—
“(6) An assignation 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

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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 heir or legatee and the assignee jointly give to the Commission notice in writing that they do not intend to proceed with the assignation.”.

11 In section twelve (which relates to the resumption of a croft or part of a croft by the landlord)—

(a) in subsection (2) after the word " seashore " there shall be inserted the words

“or for any other purpose likely to provide employment for crofters and others in the locality”; and

(b) at the end of the section there shall be added the following subsection—

“(4) The provisions of the Crofters (Scotland) Acts, 1955 and 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 the constitution of new crofts or the enlargement of existing crofts.”.

12 In section sixteen (which relates to vacant crofts)—

(a) after subsection (3) there shall be inserted the following subsection—

“(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.”;

(b) subsection (9) shall have effect as if at the end thereof there were added the words

“The Secretary of State shall intimate to the Commission any direction given by him under this subsection.”;

(c) after subsection (11) there shall be inserted the following subsection—

“(11A) For the purposes of this section 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.”; and

(d) after subsection (12) there shall be inserted the following subsection—

“(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.”.

13 In section twenty-four, in subsection (2) (which relates to the giving of notice of meetings for the appointment of grazings committees) for the words from " on or near the door " onwards there shall be substituted the words

“in such public place or places in that district as may be approved by the Commission.”.

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- 14 In section twenty-five (which relates to the powers and duties of grazings committees), in paragraph (a) of subsection (1) after the word " and " there shall be inserted the words
- “to provide, maintain and, if necessary, replace”.
- 15 In section twenty-six (which relates to common grazings regulations), in paragraph (a) of subsection (2) after the words " and in " there shall be inserted the word
- “providing”.
- 16 In section thirty-two (which relates to the compulsory purchase of land and to the management of land), in subsection (2) for the words "subsection (10) of section twenty thereof" there shall be substituted the words
- “subsection (9) or (10) of section nine of the Crofters (Scotland) Act, 1961.”.
- 17 In section thirty-four (which relates to the determination of disputes), in subsection (1) for the words " are required by or" there shall be substituted the words
- “have jurisdiction”.
- 18 In section thirty-seven (which contains provisions for the interpretation of the Act), in subsection (1) after the definition of permanent improvement there shall be inserted the following words—
- “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 ;”.
- 19 In section thirty-eight (which provides amongst other things for the modification of enactments in relation to the crofting counties), in subsection (2) after the word " than " there shall be inserted the words
- “section twenty-five of the Act of 1911 and”.
- 20 In the Second Schedule (which refers to the statutory conditions of crofting tenure)
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- (a) in paragraph 3 for the words " the Commission " there shall be substituted the words
- “the Land Court”;
- (b) after paragraph 3 there shall be inserted the following paragraph—
- “**3A** The crofter shall provide such fixed equipment on his croft as may be necessary to enable him to cultivate the croft.”; and
- (c) for paragraph 5 there shall be substituted the following paragraph—
- “**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.”.
- 21 In the Fifth Schedule (which relates to permanent improvements)—

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- (a) in paragraph 10 for the words " to an incoming tenant " there shall be substituted the words
 “as an agricultural subject.”; and
- (b) after paragraph 10 there shall be inserted the following paragraph—
 - “**11** Buildings or other structures erected under section five of the Crofters (Scotland) Act, 1961, being buildings or structures which are fixtures on the land ; or works executed under the said section five.”.