



# Land Settlement (Scotland) Act 1919

## 1919 CHAPTER 97

### PART II

#### AMENDMENT OF THE SMALL LANDHOLDERS (SCOTLAND) ACT, 1911

#### **9 Amendment of section 7 of Act of 1911**

For subsections (8), (9), (10) and (11) of section seven of the Small Landholders (Scotland) Act, 1911 (in this Act referred to as the Act of 1911), there shall be substituted the following subsections:—

- “(8) (a) Where the Board are satisfied that there is a demand for small holdings and that suitable land is available for that purpose, it shall be the duty of the Board to prepare a scheme for the constitution of one or more new holdings on such land, to be occupied by new holders upon such terms and conditions not inconsistent with the Landholders Acts as the Board think reasonable.
- (b) Every such scheme shall show—
- (i) the situation and total area of the land on which one or more new holdings are to be constituted ;
  - (ii) the number and respective situations and areas of the new holdings ;
  - (iii) which, if any, of the existing buildings on the land are to be utilised for the new holdings;
  - (iv) the water supply for each new holding, including the source from which the supply is to be taken, and any necessary pipes or other works ;
  - (v) the situation and area of any common pasture or grazing to be occupied in connection with the new holdings ; and
  - (vi) the rent of each new holding.
- (c) Where the Board are satisfied that there is net available on the land on which the new holdings are to be constituted a supply of water sufficient for the holdings, they may include in the scheme provision

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*Status: This is the original version (as it was originally enacted).*

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for taking and conveying from or through any part of the estate whereof such land forms part such supply of water as may be necessary for the new holdings and which can be taken without detriment to the requirements of the remainder of the estate ; and, for the purposes of this section, any land from or through which such supply of water is to be taken or conveyed shall be deemed to be comprised in the scheme.

- (9) Where the Board intend to prepare such a scheme, they shall give notice of their intention to the landlord of any land which is to be comprised therein, and when a landlord has received such notice it shall not be lawful for him, save with the consent of the Board, to let or to enter into any agreement for letting such land or any part thereof until the Board have made an order confirming the scheme, or have abandoned the same :

Provided that—

- (a) such disability shall not in any case continue for a longer period than six months from the date of notice, and
  - (b) for any loss sustained by a landlord, tenant, or occupier from the operation of this subsection, the Board shall pay to him such compensation as may be agreed or as may be determined, failing agreement, by the Land Court on the application of either party.
- (10) When the Board have prepared a scheme under this section, they shall intimate the prepared scheme to the landlord, tenant and occupier of any land comprised therein, and shall give to such landlord, tenant and occupier, an opportunity of considering the scheme and of making representations concerning the same to the Board, and after giving to all persons interested an opportunity of being heard may, with the consent of the Secretary for Scotland, make an order confirming the scheme, in whole or in part, and with or without modification, or may abandon the scheme.
- (11) (a) Where the Board make any such order, they shall notify the same to the landlord, tenant and occupier of any land comprised therein, and shall pay to such landlord, tenant and occupier such compensation for any damage or injury done to him in consequence of and directly attributable to the constitution of new holdings under the scheme (including any damage or injury done to a landlord in respect of an obligation to take over sheep stock at a valuation) as may be agreed or as may be determined, failing agreement, by the Land Court, upon the application of either party, and after giving to all persons interested an opportunity of being heard, and, if they so desire, of leading evidence in the matter.
- (b) The compensation payable under this subsection shall not include—
- (i) any allowance on account of the constitution of new holdings being compulsory :
  - (ii) any compensation for injury done to or depreciation in the selling value of the land comprised in the scheme, or of any estate whereof such land forms part, except in so far as the same arises from injury done to or depreciation in the letting value of the, land or estate ; or
  - (iii) any compensation for injury done to the value of the sporting rights over such land or estate in so far as it exceeds the estimated value of such rights if the land or estate were put to

the full reasonable use for which it could be let under ordinary lease to ordinary agricultural or pastoral tenants :

- (c) For the purpose of this subsection, any benefit or relief enhancing the letting value of the land comprised in the scheme or of any estate of which such land forms part resulting to a landlord or to any other person in consequence of and directly attributable to the constitution of new holdings under the scheme upon the one hand shall be set against any damage or injury done to him as aforesaid upon the other hand.
- (d) In determining the amount of compensation payable to the tenant of any farm, regard shall be had to the duration of his lease, and in no case shall any allowance for loss of tenant's profits be made in respect of a period exceeding three years.
- (e)
  - (i) Where any compensation has been awarded and the amount thereof determined by the Land Court under this subsection, the Board may, at any time within two months after such determination, resolve to abandon the scheme and withdraw the order, paying to any person any expenses reasonably incurred by him in connection with the making of the order or the claim for compensation, as such expenses may, failing agreement, be determined by the Land Court on the application of either party.
  - (ii) Subject to the foregoing provision, every order made by the Board for the constitution of new holdings shall be recorded in the Landholders' Holdings Books as if it were an order of the Land Court, and shall thereupon have effect and be enforceable in like manner as an order of the Land Court so recorded.
- (f) In any case where the Board have entered into an agreement with a landlord or a tenant or any other person for or in connection with the constitution of one or more new holdings upon land in which such landlord, tenant or other person is interested, the Board may pay to any person so interested, whether a party to the agreement or not, such compensation (or other consideration in money), if any, as the Board consider equitable and consistent with the provisions of this subsection in respect of any damage or injury done to him in consequence of and directly attributable to the constitution of the new holdings, and it may be a term of any such agreement entered into by the Board with a landlord that section seventeen of this Act shall apply in respect of any such new holding as if the holding had been constituted otherwise than by agreement, and in that case the said section shall apply accordingly.
- (g) Where any landlord interested represents to the Secretary for Scotland that a prepared scheme ought not to be confirmed, the Secretary may, before giving his consent to the scheme, refer the same to the Land Court for inquiry and report.”

## 10 Erection of fences

Where the Board make any order for the constitution of new holdings, they shall, if so requested by the landlord, be bound to erect and maintain, or cause to be erected and maintained, such march fence, or fences, as may be necessary to prevent the stock of the landholder straying beyond the limits of the land comprised in the scheme, any dispute as to the necessity for or the adequacy of such fence or fences to be settled failing agreement by the Land Court.

## **11 Amendment of section 16 of Act of 1911**

For the proviso to subsection (1) of section sixteen of the Act of 1911 (which relates to amendment of law as to enlargement of holdings) there shall be substituted the following proviso:—

“Provided that all applications for enlargement under section eleven of the Act of 1886 shall be made to the Board, and the provisions of the section of this Act relating to the constitution of new holdings shall, with the necessary modifications, apply as fully for the purpose of applications for enlargement as for the purpose of the constitution of new holdings, and accordingly the Board shall be substituted for the Land Court in sections twelve (except the last paragraph of the said section twelve), thirteen, fourteen, fifteen and twenty-one of the Act of 1886 (except the last two paragraphs of the said section twenty-one), and the said section twenty-one shall "be further amended by the omission therefrom of the words ' or otherwise interested in ' and of the words ' including heritable creditors holding securities over the same .”

## **12 Amendment of section 17 of Act of 1911**

Section seventeen of the Act of 1911 (which relates to amendment of law as to vacant holdings) shall be amended by the addition thereto of the following proviso :—

“Provided further that, where a landlord lets a holding otherwise than in compliance with the provisions of this section, the Board shall be entitled to declare the let null and void and without payment of any compensation to treat the holding as if it had been duly constituted a new holding under this Act, or assign the same for the enlargement of a neighbouring holding or holdings.”

## **13 Amendment of provisions as to bequest and assignment of holding**

For the purposes of section sixteen of the Crofters' Holdings (Scotland) Act, 1886 (which relates to bequest of holding), and of section twenty-one of the Act of 1911 (which relates to assignment of holding), the son-in-law of a landholder shall be deemed to be a member of the landholder's family.

## **14 Powers of Land Court as to common pastures or grazings**

For subsection (5) of section twenty-four of the Act of 1911 shall be substituted the following subsection :—

- “(5) (a) The Land Court may, on the application of the landlord, or landlords, or any landholder, and on such conditions as they consider equitable, apportion a common pasture or grazing into separate parts for the exclusive use of the several townships or persons interested, either as arable ground or as pasture, or as sites for houses or other buildings, if satisfied that such apportionment is for the good of the estate or estates, and of the holdings or tenancies concerned.
- (b) The Land Court may, on the like application, or on the application of the Board, and on the like conditions, admit new holders to participate in a common pasture or grazing occupied by existing landholders, statutory small tenants, or others, or apportion a common pasture or grazing for the' exclusive use of new holders, either in common or individually,

and either as arable ground or pasture, or as sites for houses or other buildings, if satisfied that such participation or apportionment is for the good of the estate or estates and of the holdings or tenancies concerned.

- (c) The Land Court may, on the application of the Board, and on the like conditions, grant pasture or grazing rights on a common pasture or grazing to cottars who have been in use to pasture or graze stock thereupon.”

## **15 As to land within burgh in crofting counties**

Notwithstanding anything contained in paragraph (c) of subsection (3) of section twenty-six of the Act of 1911, or in the reference to that paragraph in subsection (4) of the said section, a person shall be admissible to registration as a new holder under the Act of 1911 in respect of land within the parliamentary, police, or municipal boundary of any burgh or police burgh situate in the counties of Argyll, Inverness, Ross and Cromarty, Sutherland, Caithness, and Orkney and Shetland.

## **16 Power to make advances to land banks, &c**

In addition to the purposes mentioned in section six of the Act of 1911, the Board may, on such term's and conditions as they think proper, with the approval of the Secretary for Scotland and the Treasury, apply the Agriculture (Scotland) Fund constituted under section five of that Act in making or guaranteeing advances, either directly or indirectly, to land banks or co-operative or credit societies having for their object or one of their objects the assistance of tenants under Part I. of this Act, landholders, or statutory small tenants, in the stocking, equipment, and profitable working of their holdings.

## **17 Consequential and minor amendments of Act of 1911**

The amendments specified in the second column of the Second Schedule to this Act (which relate to consequential and minor matters) shall be made in the provisions of the Act of 1911 mentioned in the first column of that schedule.