

## SCHEDULES.

### FIRST SCHEDULE

Section 2.

#### PART I

##### IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED.

- 1 Laying down of permanent pasture.
- 2 Making of water-meadows or works of irrigation.
- 3 Making of gardens.
- 4 Planting of orchards or fruit bushes.
- 5 Warping or weiring of land.
- 6 Making of embankments and sluices against floods.
- 7 Making or planting of osier beds.
- 8 Haulage or other work done by the tenant in aid of the carrying out of any improvement made by the landlord for which the tenant is liable to pay increased rent.

#### PART II

##### IMPROVEMENTS IN RESPECT OF WHICH NOTICE TO LANDLORD IS REQUIRED.

- 9 Land drainage.
- 10 Construction of silos.
- 11 Making or improvement of farm access or service roads, bridges and fords.
- 12 Making or improvement of watercourses, ponds or wells, or of works for the application of water power for agricultural or domestic purposes or for the supply of water for such purposes.
- 13 Making or removal of permanent fences, including hedges, stone dykes and gates.
- 14 Reclaiming of waste land.
- 15 Renewal of embankments and sluices against floods.
- 16 Provision of stells, fanks, folds, dippers, pens and bughts necessary for the proper conduct of the holding.
- 17 Provision or laying on of electric light or power, including the provision of generating plant, fixed motors, wiring systems, switches and plug sockets.
- 18 Erection, alteration or enlargement of buildings, and making or improvement of permanent yards, loading banks and stocks.

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- 19      Erection of hay or sheaf sheds, sheaf or grain drying racks, and implement sheds.
- 20      Provision of fixed threshing mills, barn machinery and fixed dairying plant.
- 21      Improvement of permanent pasture by cultivation and re-seeding.
- 22      Provision of means of sewage disposal.
- 23      Repairs to fixed equipment, being equipment reasonably required for the efficient farming of the holding, other than repairs which the tenant is under an obligation to carry out.

### PART III

#### IMPROVEMENTS IN RESPECT OF WHICH CONSENT OF, OR NOTICE TO, LANDLORD IS NOT REQUIRED.

- 24      Protecting fruit trees against animals.
- 25      Chalking of land.
- 26      Clay burning.
- 27      Claying of land.
- 28      Liming of land.
- 29      Marling of land.
- 30      Eradication of bracken, whins or broom growing on the holding at the commencement of the tenancy and, in the case of arable land, removal of tree roots, boulders, stones or other like obstacles to cultivation.
- 31      Application to land of purchased manure (including artificial manure).
- 32      Consumption on the holding of corn (whether produced on the holding or not) or of cake or other feeding stuff not produced on the holding by
  - (a)   horses, cattle, sheep or pigs ; or
  - (b)   poultry folded on the land as part of a system of farming practised on the holding.
- 33      Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the termination of the tenancy, in so far as the value of the temporary pasture on the holding at the time of quitting exceeds the value of the temporary pasture on the holding at the commencement of the tenancy for which the tenant did not pay compensation.

## SECOND SCHEDULE

Section 5.

### APPLICATIONS FOR CERTIFICATES OF BAD HUSBANDRY.

- 1      An application to the Secretary of State for a certificate under paragraph (a) of subsection (1) of section five of this Act shall not be made at any time while a warning notice is in force under this Act in relation to the tenant's farming of the holding to which the application relates.

- 2 Any such application shall be made in the prescribed manner, and before it is made the landlord shall give notice in writing to the tenant of the proposed application.
- 3 Where such an application is made the Secretary of State shall, after affording to the landlord and to the tenant an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, either—
  - (a) give notice in writing to the landlord and to the tenant that he proposes to grant or refuse the certificate, or
  - (b) serve a warning notice under section twenty-seven of this Act on the tenant in relation to the farming of the holding to which the application relates ;
 and if before the expiration of the prescribed period from the making of the application the Secretary of State has not given or served one or other of such notices as aforesaid, he shall be deemed to have given notice in writing to the landlord and to the tenant that he proposes to refuse the certificate.
- 4 Within one month of notice of a proposal being given or being deemed to have been given under the last foregoing paragraph the landlord may require that the Secretary of State's proposal to refuse a certificate shall be referred to the Land Court or the tenant may require that the Secretary of State's proposal to grant a certificate shall be so referred ; and the provisions in that behalf of Part VI of this Act shall apply accordingly.
- 5 Where a holding forms part only of an agricultural unit, an opportunity of making representations shall be afforded under paragraph 3 of this Schedule to every person who for any of the purposes of Part II of this Act is the owner of land comprised in the unit, and sub-paragraph (b) of that paragraph shall have effect with the substitution for the reference to the holding of a reference to the unit.

## THIRD SCHEDULE

Sections 12, 30, 35.

PROVISIONS WHERE PERMANENT PASTURE DIRECTED TO  
BE-PLOUGHED UP OR OTHER CULTIVATIONS TO BE CARRIED OUT.

- 1 Where the Secretary of State gives to a person a direction under section twenty-nine or thirty-five of this Act requiring the ploughing-up of any land consisting of permanent pasture, compliance with the direction shall, notwithstanding the provisions of" any lease or instrument affecting the land or any custom, not render the said person liable thereby to sow it again at his own expense, or to pay any sum by way of increased rent, damages or penalty, or to suffer any forfeiture by reason of the ploughing-up or of the failure to sow it again ; and for the purposes of any provision of any such lease or instrument as aforesaid, any custom or any provision of Part I of this Act the land shall thereafter be deemed to be arable land and to have been arable land at all material times.
- 2 Where in the case of an occupier who is a tenant the Secretary of State gives such a direction as aforesaid, or a direction under section twelve of this Act reducing the area of land which under the lease is to be maintained as permanent pasture, he may, after affording to the landlord and to the tenant an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, order that the lease shall have effect as if it provided that on quitting the holding on the termination of the tenancy the tenant should leave—

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- (a) as permanent pasture, or
- (b) as temporary pasture sown with a seeds mixture of such kind as may be specified in the order,

such area of land (in addition to the land required by the lease, as modified by the direction, to be maintained as permanent pasture) as may be so specified, so however that the area required to be left as aforesaid shall not exceed the area by which the land required by the lease to be maintained as permanent pasture has been reduced by virtue of the direction.

- 3 (1) Notwithstanding anything in the provisions of Part I of this Act or any custom or agreement—
  - (a) no compensation shall be payable to the tenant in respect of anything done in pursuance of an order under the last foregoing paragraph;
  - (b) in assessing compensation to an outgoing tenant of a holding (as defined in the Act of 1923) where land has been ploughed up in pursuance of any such direction as aforesaid, the value per acre of any tenant's pasture comprised in the holding shall be taken not to exceed the average value per acre of the whole of the tenant's pasture comprised in the holding on the termination of the tenancy.
- (2) In this paragraph the expression " tenant's pasture " means pasture laid down at the expense of the tenant or paid for by the tenant on entering the holding.

- 4 In relation to a direction under section twenty-nine or thirty-five of this Act, paragraph 1 of this Schedule shall have effect as if references to the ploughing-up of permanent pasture included references to the carrying out, on land which apart from the direction the occupier is under an obligation to cultivate in a particular way, of any other act of cultivation specified in the direction, and references to the sowing of land again and to arable land shall be construed accordingly.

- 5 Where the ploughing-up of permanent pasture or the carrying out of any other act of cultivation is reasonably necessary in consequence of the giving of a direction, this Schedule shall apply as if the ploughing-up or other act of cultivation were required by the direction and specified therein; and subsection (4) of section thirty and subsection (5) of section thirty-five of this Act shall be construed accordingly.

#### FOURTH SCHEDULE

Section 14.

##### MATTERS FOR WHICH PROVISION IS TO BE MADE IN WRITTEN LEASES.

- 1 The names of the parties.
- 2 Particulars of the holding with sufficient description, by reference to a map or plan, of the fields and other parcels of land comprised therein to identify the extent of the holding.
- 3 The term or terms for which the holding or different parts thereof is or are agreed to be let.
- 4 The rent and the dates on which it is payable.
- 5 An undertaking by the landlord in the event of damage by fire to any building comprised in the holding to reinstate or replace the building if its reinstatement or replacement is required for the fulfilment of his responsibilities to manage the

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holding in accordance with the rules of good estate management, and (except where the interest of the landlord is held for the purposes of a government department or a person representing His Majesty under section forty of the Act of 1923 is deemed to be the landlord, or where the landlord has made provision approved by the Secretary of State for defraying the cost of any such reinstatement or replacement as aforesaid) an undertaking by the landlord to insure to their full value all such buildings against damage by fire.

- 6 An undertaking by the tenant, in the event of the destruction by fire of harvested crops grown on the holding for consumption thereon, to return to the holding the full equivalent manorial value of the crops destroyed, in so far as the return thereof is required for the fulfilment of his responsibilities to farm in accordance with the rules of good husbandry, and (except where the interest of the tenant is held for the purposes of a government department or where the tenant has made provision approved by the Secretary of State in lieu of such insurance) an undertaking by the tenant to insure to their full value all dead stock on the holding and all such harvested crops as aforesaid against damage by fire.

## FIFTH SCHEDULE

Section 26.

### RULES OF GOOD ESTATE MANAGEMENT.

- 1 For the purposes of this Act, the owner of agricultural land shall be deemed to fulfil his responsibilities to manage it in accordance with the rules of good estate management in so far as his management of the land and (so far as it affects the management of that land) of other land managed by him is such as to be reasonably adequate, having regard to the character and situation of the land and other relevant circumstances, to enable an occupier of the land reasonably skilled in husbandry to maintain efficient production as respects both the kind of produce and the quality and quantity thereof.
- 2 In determining whether the management of land is such as aforesaid regard shall be had, but without prejudice to the generality of the provisions of the last foregoing paragraph, to the extent to which the owner is making regular muirburn in the interests of sheep stock, exercising systematic control of vermin on land not in the control of a tenant, and undertaking the eradication of bracken, whins and broom so far as is reasonably practicable, and to the extent to which the owner is fulfilling his responsibilities in relation to the provision, improvement, replacement and renewal of the fixed equipment on the land in so far as is necessary to enable an occupier reasonably skilled in husbandry to maintain efficient production as aforesaid

## SIXTH SCHEDULE

Section 26.

### RULES OF GOOD HUSBANDRY.

- 1 For the purposes of this Act, the occupier of an agricultural unit shall be deemed to fulfil his responsibilities to farm it in accordance with the rules of good husbandry in so far as the extent to which and the manner in which the unit is being farmed (as respects both the kind of operations carried out and the way in which they are carried out) are such that, having regard to the character and situation of the unit, the standard of management thereof by the owner and other relevant circumstances, the

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occupier is maintaining a reasonable standard of efficient production, as respects both the kind of produce and the quality and quantity thereof, while keeping the unit in a condition to enable such a standard to be maintained in the future

2 In determining whether the manner in which a unit is being farmed is such as aforesaid regard shall be had, but without prejudice to the generality of the provisions of the last foregoing paragraph, to the following :—

- (a) the maintenance of permanent grassland (whether meadow or pasture) properly mown or grazed and in a good state of cultivation and fertility;
- (b) the handling or cropping of the arable land, including the treatment of temporary grass, so as to maintain it clean and in a good state of cultivation and fertility;
- (c) where the system of farming practised requires the keeping of livestock, the proper stocking of the holding;
- (d) the maintenance of an efficient standard of management of livestock;
- (e) as regards hill sheep farming in particular :—
  - (i) the maintenance of a sheep stock of a suitable breed and type in regular ages (so far as is reasonably possible) and the keeping and management thereof in accordance with the recognised practices of hill sheep farming;
  - (ii) the use of lug, horn or other stock marks for the purpose of determining ownership of stock sheep ;
  - (iii) the regular selection and retention of the best female stock for breeding;
  - (iv) the regular selection and use of tups possessing the qualities most suitable and desirable for the flock;
  - (v) the extent to which regular muirburn is made;
- (f) the extent to which the necessary steps are being taken—
  - (i) to secure and maintain the freedom of crops and livestock from disease and from infestation by insects and other pests;
  - (ii) to exercise systematic control of vermin and of bracken, whins, broom and injurious weeds;
  - (iii) to protect and preserve crops harvested or in course of being harvested ;
  - (iv) to carry out necessary work of maintenance and repair of the fixed and other equipment.

## SEVENTH SCHEDULE

Section 79.

### PARISHES DEEMED TO BE CONGESTED DISTRICTS.

<i>Parish.</i>	<i>County:</i>
Campbeltown	Argyll.
Dunoon and Kilmun	
Gigha and Cara	
Inverchaolain	

<i>Parish.</i>	<i>County:</i>
Killean and Kilchenzie	
Kilmartin	
Kilmodan	
Southend	
Croy and Dalcross (part of).	Inverness.
Cromarty	Ross and Cromarty
Rosemarkie	

## EIGHTH SCHEDULE

Section 68.

**PART I**

## AGRICULTURAL EXECUTIVE COMMITTEES AND SUB-COMMITTEES.

- 1 (1) An Agricultural Executive Committee shall consist of not more than twelve members appointed by the Secretary of State after consultation with persons appearing to him to represent the interests of farmers, of workers employed in agriculture, and of owners of agricultural land.
- (2) A majority of the members of each Agricultural Executive Committee shall consist of persons having a practical knowledge of agriculture and drawn from the industry.
- 2 (1) The Secretary of State shall designate a member of each Agricultural Executive Committee to act as chairman of the Committee.
- (2) The term of office of a chairman of an Agricultural Executive Committee shall be at the pleasure of the Secretary of State.
- (3) The Secretary of State shall appoint one or more members of the Committee to act as vice chairman in the absence of the chairman.
- 3 (1) Subject to the provisions of this paragraph, the term of office of any member (except the chairman) of an Agricultural Executive Committee shall be three years, but a member who ceases to hold office shall, subject to the provisions of this Schedule, be eligible for reappointment.
- (2) The following provisions shall regulate the tenure of office of the first members of an Agricultural Executive Committee other than the chairman:—
  - (a) at the end of the first year from the establishment of the Committee one-third (or, if one-third is not an integral number, the nearest integral number not exceeding one-third) of the said members, to be chosen by lot, shall retire from the Committee;
  - (b) at the end of two years from the establishment of the Committee one-half (or, if one-half is not an integral number, the nearest integral number not exceeding one-half) of the remaining first members of the Committee, to be chosen by lot, shall retire from the Committee.

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- (3) Any member of the Committee may resign his membership by notice in writing to the Secretary of State.
  - (4) The Secretary of State may revoke the appointment of a member of an Agricultural Executive Committee if in his view such revocation is desirable.
  - (5) Where the Secretary of State appoints a person in the place of a member whose office is vacated otherwise than in accordance with sub-paragraph (1) or (2) of this paragraph, the said sub-paragraphs (1) and (2) shall apply to the person so appointed as if he had become a member of the Committee at the same time as the member in whose place he was appointed, or, where two or more persons are appointed as aforesaid in succession, as if he had become a member of the Committee at the same time as the first member whose office was vacated as aforesaid.
- 4      An Agricultural Executive Committee may add to any subcommittee established by them persons not being members of the Committee, who shall continue as members of the sub-committee for such period as the Committee may determine.
- 5      An Agricultural Executive Committee or sub-committee shall have power to fix and regulate their own procedure, including power to determine the number of members necessary to form a quorum.
- 6      A member of the Committee shall not vote on any question which relates to land of which he is the owner or occupier, or the agent or factor of the owner or occupier, or enter into any contract with the Committee unless the contract has been approved by the Secretary of State:

Provided that this paragraph shall not apply in relation to a contract entitling him to participate, on terms not more favourable than are available to similar members of the fanning community in the area, in any service (including the supply of labour or goods) provided by the Committee in the interests of the farming community in the area.

*Disqualification for appointment.*

- 7      A person shall be disqualified for being appointed or being a member of an Agricultural Executive Committee or sub-committee so long as he is a member of the Commons House of Parliament.

*Validity of acts.*

- 8      (1) An Agricultural Executive Committee or sub-committee shall have power to act notwithstanding any vacancy among their members.
- (2) All acts done at any meeting of any such body shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment or any disqualification of a person purporting to be a member thereof, be as valid as if that defect had not existed.
- (3) Nothing in sub-paragraph (1) of this paragraph shall affect any requirement as to the number of members necessary to constitute a meeting of any such body as aforesaid.

*Officers and Servants.*

- 9 The Secretary of State shall attach to the Agricultural Executive Committees and sub-committees such of his officers and servants as he may with the approval of the Treasury determine to be required for providing the committees with the necessary officers and servants.

*Allowances and Expenses.*

- 10 (1) The Secretary of State may pay to the members of an Agricultural Executive Committee or sub-committee such allowances as he may with the approval of the Treasury determine.
- (2) The expenses of an Agricultural Executive Committee or subcommittee shall be defrayed by the Secretary of State.

*Proof of Instruments.*

- 11 Any document purporting to be a document duly executed or issued on behalf of an Agricultural Executive Committee or sub-committee thereof shall, until the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

*Provisions as to holdings situated partly in one area and partly in another.*

- 12 Where any agricultural holding lies partly in the area of one Agricultural Executive Committee and partly in the area of another, the Secretary of State may direct that for the purposes of anything required or authorised to be done by, to or before such a Committee in relation to that holding the whole of the holding shall be deemed to be comprised in the area comprising such part of the holding as may be specified in the direction.

**PART II****AGRICULTURAL ADVISORY COMMITTEES.**

- 1 An Agricultural Advisory Committee shall consist of not more than two members appointed by the Secretary of State and of twelve other members (hereinafter referred to as "nominated members") nominated in accordance with the provisions of this Schedule, and appointed by the Secretary of State.
- 2 The nominated members shall be persons nominated—
- (a) in the case of two members, by the appropriate agricultural college,
  - (b) in the case of two members, by the county council of the county in which the Committee district is situated, or where that district is situated in two or more counties by the county councils of those counties acting jointly,
  - (c) in the case of two members, by such organisation as appears to the Secretary of State to represent the interests of farmers,
  - (d) in the case of two members, by such organisation as appears to him to represent the interests of workers employed in agriculture,
  - (e) in the case of two members, by such organisation as appears to him to represent the interests of owners of agricultural land, and

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- (f) in the case of two members, by such other organisation or organisations interested in the welfare or development of agriculture as the Secretary of State may think fit to invite to make nominations.

- 3 If in relation to any appointment of a nominated member it appears to the Secretary of State that the college, council or organisation concerned have failed, within a reasonable time after he has called upon them by notice in writing so to do, to nominate a person for the appointment, the Secretary of State may, notwithstanding anything in the foregoing provisions of this Part of this Schedule, appoint as the nominated member in question such person as he thinks fit.
- 4 A Committee shall be deemed to be duly constituted and shall have power to act notwithstanding any vacancy among the members thereof.
- 5 Each Committee shall appoint a Chairman from among their members, and if they fail to do so within a period of one month from the date of their constitution, the appointment may be made by the Secretary of State.
- 6 The term of office of any member of a Committee shall be three years, but a member who ceases to hold office shall, subject to the provisions of this Part of this Schedule as to nomination, be eligible for re-appointment.
- 7 Any member of a Committee may resign his membership by notice in writing to the Secretary of State.
- 8 A Committee shall have power to regulate their own procedure, including power to determine the number of persons necessary to form a quorum.
- 9 The director of education and the medical officer of health of the count)' in which a Committee district is situated shall be entitled to attend meetings of the Committee in the capacity of assessors.
- 10 The Secretary of State may, with the approval of the Treasury, make such arrangements as appear to him expedient, after consultation with the appropriate agricultural college, for placing at the disposal of a Committee any secretarial and technical assistance which he may consider necessary or desirable.
- 11 The expenses up to such amount as may be approved by the Secretary of State incurred by a Committee in carrying out their duties shall be defrayed by the Secretary of State.
- 12 In this Schedule the expression " appropriate agricultural college " in relation to any Agricultural Advisory Committee means the agricultural college responsible for agricultural education in that part of Scotland in which the district of the Committee is situated.

## NINTH SCHEDULE

Section 24.

### MINOR AND CONSEQUENTIAL AMENDMENTS.

#### *The Agricultural Holdings (Scotland) Act, 1923.*

- 1 In section one (which relates to the right of the tenant to compensation for improvements)—

- (a) in paragraph (a) of subsection (2) after the word " which " there shall be inserted the words " under an agreement in writing " and the words " whether expressly stated in the lease to be so given or allowed or not " shall be omitted ;
- (b) paragraph (b) of subsection (2) shall cease to have effect;
- (c) in subsection (3) for the words " custom, agreement or other wise " there shall be substituted the words " an agreement in writing ".

2 In section three (which relates to the giving of notice to the landlord as to improvements comprised in Part II of the First Schedule)—

- (a) in subsection (1) the words " more than six nor " shall be omitted and for the words " may agree " there shall be substituted the words " may enter into an agreement in writing ";
- (b) subsection (3) shall cease to have effect ;
- (c) in subsection (4) after the word " agree," there shall be inserted the words " in writing ";
- (d) after subsection (4) there shall be added the following subsections—

“(5) Subject to the provisions of the next following subsection, compensation under this Act shall not be payable in respect of an improvement comprised in Part II of the First Schedule to this Act if, within one month after receiving notice under subsection (1) of this section from the tenant of his intention to execute the improvement, the landlord gives notice in writing to the tenant that he objects to the execution of the improvement or to the manner in which the tenant proposes to do the intended work.

(6) Where notice of objection has been given as aforesaid, the tenant may, after giving notice in writing to the landlord of his intention so to do, apply to the Board for approval of the execution of the improvement, and on any such application—

- (a) the Board may, after affording to the tenant and to the landlord an opportunity of making representations to the Board, whether in writing or on being heard by a person appointed by the Board, approve the carrying out of the improvement either unconditionally or upon such terms, whether as to reduction of the compensation which would be payable if the Board approved unconditionally or as to other matters, as appear to the Board to be just, or may withhold their approval, and in either case forthwith after coming to a decision on the application shall give notice in writing of their decision to the landlord and to the tenant;
- (b) if the Board grant their approval, the landlord may, within one month after receiving notice of the Board's decision, serve notice in writing on the tenant undertaking himself to execute the improvement ;
- (c) where the Board grant their approval, then if either no notice is served by the landlord under the last foregoing paragraph, or such a notice is served but on an application made by the tenant in that behalf the Board, after affording to the tenant and to the landlord such an opportunity as aforesaid, determine that the landlord has failed to execute

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the improvement within a reasonable time, the tenant may execute the improvement and shall be entitled to compensation under this Act in respect thereof as if notice of objection had not been given by the landlord, and any terms subject to which the approval was given shall have effect as if they were contained in an agreement in writing between the landlord and the tenant.”

- 3 In section five (which makes further provision as to improvements)—
  - (a) in subsection (1) for the word-“ desires,” there shall be substituted the words “ intimates to the landlord in writing his desire ”; for the words “ after hearing the landlord or his representative ” there shall be substituted the words “ after affording to the landlord and to the tenant an opportunity to make representations to the Board, whether in writing or on being heard by a person appointed by the Board ” ; the proviso shall cease to have effect; and in paragraph (c) for the words “ settled by the Board ” there shall be substituted the words “ determined by arbitration ”;
  - (b) subsections (3) and (4) shall cease to have effect;
  - (c) after subsection (5) there shall be added the following subsection—

“(6) Nothing in Part I of the Agriculture (Scotland) Act, 1948, shall prevent the landlord and the tenant of a holding who have agreed that the holding shall be let or treated as a market garden from substituting, by agreement in writing, the provisions as to compensation set out in paragraphs (a) and (b) of subsection (1) of this section for the provisions as to compensation which would otherwise be applicable to the holding.”
- 4 In section nine (which relates to compensation for the continuous adoption of a special standard or system of farming), in subsection (1) the words “ (if any) ” shall be omitted ; after the words “ required by the lease ” there shall be inserted the words “ or in so far as no system of farming is so required, than the system of farming normally practised on comparable holdings in the district ” ; in paragraph (a) of the proviso, after the words “ record so made ” there shall be inserted the words “ or, where more than one such record has been made during the tenancy, before the date of the first such record ” ; and in paragraph (b) of the proviso, after the words “ the tenant has ” there shall be inserted the words “ not later than one month ”
- 5 In section eleven (which relates to compensation for damage by game)—
  - (a) subsection (3) shall cease to have effect;
  - (b) after subsection (4) there shall be inserted the following subsection—

“(4A) Any question arising under the last foregoing subsection shall be determined by arbitration under this Act in like manner as questions arising on a claim under this section by a tenant.”
- 6 In section twenty-one (which relates to the power of a landlord on paying compensation to obtain a charge on the holding) for subsections (1) to (4) there shall be substituted the following subsections—
  - “(1) Where after the commencement of Part I of the Agriculture (Scotland) Act, 1948, a landlord, not being the absolute owner of a holding, has paid to the tenant of the holding the amount due to him under this Act, or under custom or agreement or otherwise, in respect of compensation for an improvement comprised in the First Schedule hereto, or in respect of compensation for

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disturbance, or has himself defrayed the cost of an improvement proposed to be executed by the tenant, the Board may, on the application of the landlord and after giving not less than fourteen days notice to the absolute owner of the holding, make in favour of the landlord a charging order charging and burdening the holding with an annuity to repay the amount of the compensation or of the cost of the improvement, as the case may be, together with the expenses of obtaining the charging order and recording it in the appropriate Register of Sasines ; and the provisions of subsections (2) and (4) and of subsections (6) to (10) of section fifty-five of the Water (Scotland) Act, 1946, shall with the following and any other necessary modifications apply to any such charging order—

- (a) for any reference to the local authority there shall be substituted a reference to the Board ;
- (b) for any reference to the period of thirty years there shall be substituted in the case of a charging order made in respect of compensation for, or of the cost of, an improvement a reference to the period within which the improvement will, in the opinion of the Board, have become exhausted;
- (c) for references to Part III of the said Act of 1946 there shall be substituted references to the Agricultural Holdings (Scotland) Acts, 1923 to 1948.

(2) An annuity constituted a charge by a charging order recorded in the appropriate Register of Sasines shall be a charge on the holding specified in the order and shall rank after all prior charges heritably secured thereon.

(3) The creation of a charge on a holding under this section shall not be deemed to be a contravention of any prohibition against charging or burdening contained in the deed or instrument under which the holding is held.”

7 Section twenty-two (which relates to the incidence of charges) shall cease to have effect.

8 In section twenty-three (which relates to the power of land improvement companies to advance money) for the words from " an advance of money " to the end of the section there shall be substituted the words " an advance of money upon a charging order duly made and recorded under this Act, on such terms and conditions as may be agreed upon between the company and the person entitled to the order ".

9 Section twenty-four (which relates to certificates as to charges) shall cease to have effect.

10 In section twenty-six, in subsection (2) (which subsection relates to the renewal of a lease by tacit relocation) for the word " renewed," in both places where it occurs, there shall be substituted the words " continued in force. "

11 In section twenty-eight (which relates to the right of a tenant of a holding to bequeath his lease)—

- (a) for any reference to the sheriff there shall be substituted a reference to the Land Court, and for any reference to a petition praying for decree there shall be substituted a reference to an application for an order ;
- (b) paragraph (f) shall cease to have effect.

12 Section twenty-nine (which provides that fixtures and buildings affixed to or erected on a holding by the tenant shall, subject to certain exceptions, be his property

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and removable by him on the termination of the tenancy) shall be amended in accordance with the following provisions of this paragraph, that is to say—

- (a) the right of the tenant to remove any fixture or building shall not unless otherwise agreed be exercisable after the expiration of six months from the termination of the tenancy;
- (b) for paragraph (iv) of the proviso to subsection (1) (which provides for notice to the landlord of the tenant's intention to remove a fixture or building) there shall be substituted the following paragraph:—

“(iv) the tenant shall not remove any fixture or building without giving at least one month's previous notice in writing to the landlord of his intention to remove it, and any such notice shall be given at least one month before the termination of the tenancy”;

- (c) for subsection (2) there shall be substituted the following subsection :—

“(2) Nothing in this section shall confer on a tenant or former tenant, as respects any period after his right of removal has ceased to be exercisable, any property in a fixture or building not removed by him.”

- 13 In section thirty (which enables a landlord to give notice to quit part of a holding where the notice is given for certain purposes and states that it is so given)—

- (a) in paragraph (iv) (which enables notice to quit part of a holding to be given for the purpose of the provision of small ' holdings under the Small Landholders (Scotland) Acts, 1886 to 1931) the reference to small holdings as so defined shall include a reference to such holdings as are mentioned in section sixty-four of this Act;
- (b) for the words from " and the notice states " to " any such use " there shall be substituted the words " or for the purpose of adjusting the boundaries between agricultural units or amalgamating agricultural units or parts thereof, and the notice states that it is given with a view to any such use as aforesaid or for the said purpose, as the case may be ";
- (c) in paragraph (c) for the words " as in case of compensation " there shall be substituted the words " by arbitration ";
- (d) in the proviso after the words " after service of the notice to. quit " there shall be inserted the words " or, in a case where the operation of the notice to quit depends on any proceedings under section seven of the Agriculture (Scotland) Act, 1948, within twenty-eight days after the time at which it is determined that the notice to quit has effect, " and for the words " the expiration of the then current year of tenancy " there shall be substituted the words " the same time as the original notice ".

- 14 In section thirty-three (which extends the meaning of the expression " holding " so as to include certain other lands)—

- (a) in subsection (1) for the words " Where the land " there shall be substituted the words " Where any land ";
- (b) subsection (a) shall cease to have effect.

- 15 In section thirty-four (which provides that the landlord of a holding shall not be entitled to recover, in respect of a breach or non-fulfilment of a term or condition in the lease, any sum in excess of the damage actually suffered by him) the proviso shall cease to have effect.

- 16 Section thirty-five (which confers on the tenant of a holding freedom of cropping and of disposal of the produce of his holding notwithstanding any custom or agreement) shall be amended in accordance with the provisions of this paragraph, that is to say—
- (a) in subsection (1) references to the produce of the holding shall not include references to manure produced on the holding ;
  - (b) in subsection (2) for the words from " without prejudice " to the end of the subsection there shall be substituted the words  
“have the following remedies, but no ether, that is to say—
    - (a) should the case so require, he shall be entitled to obtain an interdict restraining the exercise of the tenant's rights under this section in that manner ;
    - (b) in any case, on the tenant quitting the holding on the termination of the tenancy, the landlord shall be entitled to recover damages for any injury to or deterioration of the holding attributable to the exercise by the tenant of his rights under this section,and section forty-six of this Act shall have effect subject to the provisions of this section.”;
  - (c) for the purposes of any proceedings for an interdict brought under the said subsection (2) the question whether a tenant is exercising, or has exercised, his rights under the said section thirty-five in such a manner as to injure or deteriorate his holding, or to be likely to injure or deteriorate his holding, shall be determined by the Secretary of State after affording to the landlord and to the tenant an opportunity to make representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State ; and a certificate of the Secretary of State as to his determination of any such question as aforesaid shall for the purposes of any proceedings (including an arbitration) brought under the said section thirty-five be conclusive proof of the facts stated in the certificate ,"
  - (d) in subsection (4) any reference to the terms of any lease shall be construed as a reference to the terms of that lease as modified in pursuance of section twelve of this Act.
- 17 In section thirty-seven (which relates to the making of a record of a holding)—
- (a) for the words " to be appointed in default of agreement by the Board " there shall be substituted the words " to be nominated by the Board ";
  - (b) at the end of the section there shall be added the following subsections—
    - “(2) Subject to the provisions of section thirteen of the Agriculture (Scotland) Act, 1948, a record may, if the landlord or the tenant so requires, be made under this section relating to a part only of the holding or to the fixed equipment only.
    - (3) Any record made under this section shall show any consideration or allowances which have been made by the landlord to the tenant or by the tenant to the landlord.
    - (4) A record made under this section shall be in such form as may be prescribed.

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- (5) Any question or difference between the landlord and the tenant arising out of the making of a record under this section shall, on the application of the landlord or the tenant, as the case may be, be referred to the Land Court, and the Land Court shall determine such question or difference accordingly.
  - (6) The remuneration of the person nominated by the Board to make a record under this section shall be such amount as the Board may fix, and any other expenses of and incidental to the making of the record shall be subject to taxation by the auditor of the sheriff court, but that taxation shall be subject to review by the sheriff.
  - (7) The remuneration of the person nominated by the Board to make a record under this section shall be recoverable by that person from either the landlord or the tenant, but any amount paid by either of those parties in respect of that remuneration, or of any other expenses of and incidental to the making of the record, in excess of the share payable by him as aforesaid of the cost of making the record shall be recoverable from the other party.”
- 18 In section thirty-nine (which makes provision for the exercise by limited owners of certain powers) the words "in relation to improvements in respect of which compensation is payable " shall be omitted.
- 19 In section forty (which provides for the application of the Act of 1923 to Crown lands), after subsection (2) there shall be inserted the following subsection :—
- “(3) Section fifteen of the Crown Lands Act, 1927 (which enables the Commissioners of Crown Lands to pay out of capital the cost of carrying out certain improvements and other works) shall apply to any compensation payable by them under this Act in respect of. an improvement comprised in Part I or Part II of the First Schedule to this Act as it applies to the cost specified in the said section fifteen.”
- 20 Section forty-one (which relates to the application of the Act to glebe and charity land) shall cease to have effect.
- 21 Section forty-four (which empowers the Court of Session to prescribe a scale of expenses for sheriff court proceedings under the Act of 1923) shall cease to have effect.
- 22 In section forty-nine (which relates to the interpretation of the Act of 1923)—
- (a) in subsection (1) for the definitions of " holding ", " manuring " and " rules of good husbandry " there shall be substituted respectively the following definitions—
    - “holding ' means the aggregate of the agricultural land, as denned in Part VII of the Agriculture (Scotland) Act, 1948, comprised in a lease, not being a lease under which the said land is let to the tenant during his continuance in any office, appointment or employment held under the landlord ;”
    - “manuring ' means any of the improvements referred to in paragraphs 31 and 32 of Part III of the First Schedule to this Act;”
    - “rules of good husbandry ' means the provisions set forth in the Sixth Schedule to the Agriculture (Scotland) Act, 1948”;
  - (b) in subsection (1) the following definitions shall be inserted—

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“building ' includes any part of a building;”

“ ' Whitsunday ' and ' Martinmas ' in relation to any lease entered into after the commencement of Part I of the Agriculture (Scotland) Act, 1948, mean respectively the twenty-eighth day of May and the twenty-eighth day of November”;

- (c) in subsection (1), in the paragraph relating to the interpretation of the expression " landlord," or " tenant," after the word " assignees," there shall be inserted the word " heir-at-law ”;
- (d) in subsection (4) after the word " landlord ", in both places where it occurs, there shall be inserted the words " or the tenant " , and the words " duly authorised in that behalf " shall be omitted.

23 In the Second Schedule (which relates to arbitration proceedings)—

- (a) after paragraph 6 there shall be inserted the following paragraph—

*“Particulars of claim.*

6A Each of the parties to the arbitration shall within fourteen days from the appointment of the arbiter deliver to him a statement of that party's case with all necessary particulars; and—

- (a) no amendment or addition to the statement or particulars delivered shall be allowed after the expiration of the said fourteen days except with the consent of the arbiter;
- (b) a party to the arbitration shall be confined at the hearing to the matters alleged in the statement and particulars so delivered and any amendment thereof or addition thereto duly made”;
- (b) in paragraph 9 for the words " in the form of a special case for the opinion of the sheriff " there shall be substituted the words " a case for the opinion of the sheriff on ".

24 In the Third Schedule (which specifies improvements which -are subject to special provisions in the case of market gardens), in paragraph (5), for the words " Erection or enlargement of buildings " there shall be substituted the words " Erection, alteration or enlargement of buildings ".

*The Local Government (Scotland) Act, 1929.*

25 In section forty-eight (which requires the relief given by the Act to occupiers of agricultural land to be disregarded for certain purposes) for the words " for the purposes of section twelve of the Agricultural Holdings (Scotland) Act, 1923," there shall be substituted the words " under section eleven of the Agriculture (Scotland) Act, 1948. "

*The Agricultural Marketing Act, 1931.*

26 In paragraph (6) of section nineteen (which requires any benefit accruing to the occupiers of certain agricultural lands from the operation of the Act to be disregarded for certain purposes) for the words " for the purposes of section twelve of the Agricultural Holdings (Scotland) Act, 1923," there shall be substituted the words " under section eleven of the Agriculture (Scotland) Act, 1948. "

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

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*The Small Landholders and Agricultural Holdings (Scotland) Act, 1931.*

- 27 In section twenty-nine for the words " paragraph (29) " there shall be substituted the words " paragraph 33 ".
- 28 In section thirty-four for the words " this Act" there shall be substituted the words " this Part of this Act or Part I of the Agriculture (Scotland) Act, 1948 ".
- 29 In section thirty-five—
- (a) in subsection (1) for the words " of this Act " there shall be substituted the words " of this Part of this Act or of Part I of the Agriculture (Scotland) Act, 1948 " and the words from " in the case of a holding " to " fifty pounds " and the words " and in the case of any other holding an arbiter " shall be omitted;
  - (b) in subsection (2) for the words " this Act" there shall be substituted the words " this Part of this Act or by Part I of the Agriculture (Scotland) Act, 1948, " the words " in pursuance of the foregoing subsection or " shall be omitted, and for the words " the sheriff " there shall be substituted the words " the Land Court ";
  - (c) after the words " the landlord ", in both places where they occur in the section, there shall be inserted the words " or the tenant ".

*The Hill Farming Act, 1946.*

- 30 Section nine of the Hill Farming Act, 1946 (which modifies the Act of 1923 in relation to schemes under the said Act of 1946) shall in its application to Scotland be amended as follows:—
- (a) in subsection (2) at the end of paragraph (b) there shall be added the words " and the landlord shall be deemed to have received the notice and to have raised no objection to the making of the improvement or to the manner in which the tenant proposes to do the intended work ";
  - (b) for subsection (3) there shall be substituted the following subsection :—
 

“(3) If on the ground of work being badly done the appropriate Minister withholds or reduces the improvement grant in respect of an improvement, he may direct that any right conferred by subsection (4) of section eleven of the Agriculture (Scotland) Act, 1948, to have the rent of a holding increased shall not be exercisable in respect of the improvement, or shall be exercisable only to such extent as may be specified in the direction, and any such direction given after that right has been exercised shall be retrospective and any excess rent paid shall be repaid accordingly”:

Provided that nothing in this sub-paragraph shall affect any right to recover money under the said subsection (3) accrued before the commencement of Part I of this Act ;
  - (c) subsections (4) to (6) of the said section nine shall cease to have effect.

## TENTH SCHEDULE

Section 87.

### ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
43 & 44 Vict. c. 47.	The Ground Game Act, 1880.	Section six.
6 Edw. 7. c. 21.	The Ground Game . (Amendment) Act, 1906.	The whole Act.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act, 1911.	In section five, the words from the beginning of the section to " commencement of this Act, and".
13 & 14 Geo. 5. c. 10.	The Agricultural Holdings (Scotland) Act, 1923.	In section one, in subsection (2) , in paragraph (a), the words from " whether expressly stated" to " allowed or not", and paragraph (b) ; in section three, subsection (3); section four; in section five, the proviso to subsection (1) and subsections (3) and (4); in section six, subsection (r) ; section seven ; section ten ; in section eleven, subsection (3) ; sections twelve to fourteen ; in section fifteen, subsection (2) ; in section seventeen, subsection (4); in section nineteen, subsection (2) ; section twenty - two ; section twenty - four ; in section twenty-five, the words from " In any case " to " ceased and determined " ; section twenty-seven ; in section twenty-eight, paragraph (f) ; in section thirty-three, subsection (2) ; in section thirty-four, the proviso ; in section thirty-nine, the words from "in relation to improvements" to " payable " ; section forty-one ; section forty-four; section forty-five; and in subsection (4) of section forty-nine, the words " duly authorised in that behalf ".

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Session and Chapter.	Short Title.	Extent of Repeal.
<a href="#">19 &amp; 20 Geo. c. 25.</a>	The Local Government (Scotland) Act, 1929.	Subsection (3) of section fifty-two and the Sixth Schedule in so far as they relate to the payment of moneys into the Agriculture (Scotland) Fund
<a href="#">21 &amp; 22 Geo. 5. c. 41.</a>	The Agricultural Land (Utilisation) Act, 1931.	Sections one to four ; in section twenty-four, paragraphs (b), (d) and (e); and the First Schedule.
<a href="#">21 &amp; 22 Geo. 5. c. 44.</a>	The Small Landholders and Agricultural Holdings (Scotland) Act, 1931.	Section twenty-seven; in section twenty-eight, in subsection (1), the words " of six months for three months and", and subsection (2) ; sections thirty and thirty-one and in section thirty-six, in subsection (1), the words from "in the case of a holding" to " fifty pounds " and the words " and in the case of any other holding an arbiter ", and in subsection (2), the words " in pursuance of the foregoing subsection or ".
<a href="#">22 &amp; 23 Geo. 5. c. 12.</a>	The Destructive Imported Animals Act, 1932.	Section four.
<a href="#">3 &amp; 4 Geo. 6. c. 14.</a>	The Agriculture (Miscellaneous War Provisions) Act, 1940.	In section twenty-nine, in subsection (1), the words from " on consideration " to " any area in Scotland," the words "in the area of that Committee," and the words "in the area of the Committee "; and in subsection (10), the words from " and the expression " to the end of the subsection.
<a href="#">6 &amp; 7 Geo. 6. c. 16.</a>	The Agriculture (Miscellaneous Provisions) Act, 1943.	Section nine, and in section nineteen, paragraph (b).
<a href="#">6 &amp; 7 Geo. 6. c. 22.</a>	The Housing (Agricultural Population) (Scotland) Act, 1943.	In section one, subsection (2).
<a href="#">9 &amp; 10 Geo. 6. c. 73</a>	The Hill Farming Act, 1946.	In section nine, subsections (4) to (6).

Session and Chapter.	Short Title.	Extent of Repeal.
10 & 11 Geo. 6. c. 48.	The Agriculture Act, 1947.	In section one hundred and three, subsection (5).