



# Crofters Holdings (Scotland) Act 1886

## 1886 CHAPTER 29

### *VI—Crofters Commission*

#### **17 Appointment of three Commissioners**

With a view to the execution, of this Act, it shall be lawful for Her Majesty to appoint three Commissioners, in this Act designated "the Crofters Commission."

One of the said Commissioners shall be a person who can speak the Gaelic language.

One of the said Commissioners shall be a person who at the date of his appointment shall be an advocate of the Scottish bar of not less than ten years

If any vacancy occurs in the office of Commissioner by death, resignation, incapacity, or otherwise, Her Majesty may by warrant under the Royal Sign Manual appoint some other qualified person to fill the vacancy.

It shall be the duty of the Crofters Commission to hold sittings in such places to which this Act applies, and in such order and subject to such regulations, as the Secretary for Scotland may prescribe.

The Crofters Commission may appoint such officers, including valuers and assessors, as also clerks or persons holding inferior situations, at such remuneration as the Treasury may sanction, and the Commissioners shall receive such remuneration as the Treasury may sanction out of moneys to be provided by Parliament.

#### **18 Commission to make report of their proceedings**

The Crofters Commission shall once in every year after the year one thousand eight hundred and eighty-six make a report to the Secretary for Scotland as to their proceedings under this Act, and every such report shall be presented to Parliament.

#### **19 Area covered by the Act**

The Crofters Commission after due inquiry shall ascertain what parishes or islands or districts forming aggregates of parishes, within the counties of Argyll, Inverness, Ross

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and Cromarty, Sutherland, Caithness, Orkney, and Shetland, are crofting parishes, or aggregates of crofting parishes, and shall determine that this Act shall apply to such parishes.

Such determination shall be reported to the Secretary for Scotland in one or more reports, and may be confirmed by him with or without modification.

From and after the date of such confirmation, this Act shall apply to the parishes included in the determination.

Every such determination, when confirmed, shall be laid before Parliament.

Within the parishes to which this Act is determined to apply as aforesaid, this Act shall apply to every crofter who is the tenant of a holding at the passing of this Act, and to his heirs and legatees, in the same manner as if the tenancy were a lease.

In the event of the heirs at law of the crofter being heirs portioned, the eldest of such heirs portioners shall succeed to the tenancy without division.

## **20 Procedure in fixing fair rent**

When an application is made to the Crofters Commission to fix a fair rent, intimation thereof shall be given to the other party interested in, the holding, landlord or crofter, as the case may be, and the Crofters Commission shall appoint a time and place at which parties shall be heard in reference, to the matter of the

It shall be competent for the Commissioners in case of such application to visit the holding, if they think fit, as also to call in the aid of an assessor or assessors, specially qualified by local knowledge or otherwise, and to hear the case wholly or partially with the aid of such assessor or assessors, or they may obtain a valuation or report from a competent valuer or valuers appointed by them for the purpose.

## **21 Procedure in enlarging holdings**

When an application for an enlargement of crofters' holdings is made to the Crofters Commission, they shall intimate such application to the landlord or landlords, as also to the tenant or tenants, and any other person or persons in the occupation of or otherwise interested in the land proposed to be added to the crofters holdings, including heritable creditors holding securities over the same, and shall give notice of the time or times, and place or places, at which parties will be heard in regard to the matter of the application.

It shall be competent to the Commissioners to visit the place to which the application relates, and also if they shall think fit, to call in the assistance of an assessor or assessors, or of a valuer or valuers, as herein-before provided.

In assigning land for the enlargement of crofters holdings, it shall be competent for the Commissioners, if they think fit, to make such order or orders with respect to the erection and maintenance of fencing of the said land as they shall consider necessary or expedient, and to decern that the expense of such erection and maintenance shall be paid by the person or persons interested, as the Crofters Commission shall consider just, having regard to the advantage accruing to the said person or persons respectively from such

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It shall also be competent to the Commissioners to decide summarily any questions relating to the boundaries or marches between crofters' holdings, including grazings, or between crofters' holdings, including grazings and adjoining lauds.

In the event of any dispute arising as to whether a person is a " crofter " within the meaning of this Act, it shall be competent for the Commissioners to determine such question summarily.

## **22 Duration of powers as to enlargement of holdings**

The powers of the Crofters Commission with respect to the enlargement of crofters holdings shall continue for a period of five years from the passing of this Act.

## **23 Delegation of Commissioners duties**

In executing the provisions of this Act, it shall be competent for the Crofters Commission to delegate the duties thereby prescribed, to two of their number, but any determination arrived at by such two Commissioners shall be subject to review, upon appeal, by the whole three Commissioners.

## **24 Taking evidence and expenses before Crofters Commission**

In any application under this Act it shall be competent to any of the parties thereto to demand, and for the Crofters Commission to order that the evidence shall be taken upon oath, and it shall also be competent to the Crofters Commission to make such order as to expenses as they think fit. .

## **25 Finality of Commissioners decision**

The decision of the Crofters Commission in regard to any of the matters committed to their determination by this Act shall be final.

## **26 Use of sheriff court houses**

The Crofters Commission may use, free of charge, for holding its sittings the court houses commonly used as sheriff courts, when the same are not required by the sheriffs, and the officers of such courts shall be bound to attend the sittings of the Crofters Commission, and perform similar duties to those which they are required to perform on the occasion of sittings of the sheriff court, with right to exact the same fees as are exigible by them for service at the sittings of the sheriff court.

## **27 Record of proceedings; transmission of applications by sheriff clerk; sheriff clerk's remuneration**

There shall be kept in the sheriff clerk's office of the county to which, or to any part of which this Act applies, a book to be called the " Crofter's Holdings Book." In this book the sheriff clerk shall record every order of the Crofters Commission with the application on which it proceeds, and any other proceeding in the case which the Commissioners may think necessary to be

It shall be the duty of the Crofters Commission to send such orders and applications to the sheriff clerk to be recorded.

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In any county to which this Act applies which is divided into districts for judicial purposes, the " Crofters Holdings Book," applicable to the holdings within any district in which there is a resident sheriff clerk or sheriff clerk depute having an office, shall be kept by the sheriff clerk or sheriff clerk depute resident within the district.

Every application shall be addressed to the Crofters Commission at the sheriff clerk's office, and it shall be the duty of the sheriff clerk to transmit the same to the Crofters Commission, according to such regulations as the Secretary for Scotland may prescribe.

The sheriff clerks shall receive such remuneration as the Treasury may sanction out of moneys to be provided by Parliament.

## **28 Execution of orders made by Commission**

Any order of the Crofters Commission or two of their number acting as herein-before provided may be presented to the sheriff, and the sheriff, if satisfied that the order has been made in conformity with the provisions of this Act, and has been duly recorded, may pronounce decree in conformity with such order on which execution and diligence shall proceed.

## **29 Forms of procedure**

The Crofters Commission may, subject to the approval of the Secretary for Scotland, frame and issue such printed forms of application and other forms of procedure as they shall think proper.

It shall be in the power of the Crofters Commission to make rules with reference to proceedings before the Commission, and also, with the approval of the Treasury, to fix a scale of costs and fees to be charged in carrying the Act into execution, and the taxation of such costs and fees, and the persons by whom, and the manner in which, such costs and fees are to be paid.

## **30 Sole arbiter may be chosen**

Where, in any proceeding under this Act, the Crofters Commission is empowered to pronounce an order, the landlord and the crofter may agree to accept the decision of a sole arbiter mutually chosen instead of the decision, of the Crofters Commission, and in that case any order pronounced by such sole arbiter shall, when recorded in the " Crofter's Holdings Book " along with the agreement to accept his decision, be as effectual to all intents and purposes as an order of the Crofters Commission; and all regulations applicable to the Crofters Commission, and to the orders pronounced by them, shall apply to any sole arbiter and the orders pronounced by him.

## **31 Saving of 46 & 47 Vict. c. 62**

Nothing in this Act shall affect the provisions of the Agricultural Holdings (Scotland) Act, 1883, provided that:

Where any improvements are valued under the said Act with a view to compensation to be paid to a crofter, such valuation shall be made, unless the landlord and the crofter otherwise agree, by the Crofters Commission, according to the procedure prescribed by this Act.

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## **32 Loans for the purchase and equipment of fishing boats**

For the purpose of enabling the Fishery Board for Scotland established under the Fishery Board (Scotland) Act, 1882, to make advances by way of loan to persons engaged in the prosecution of the fishing industry, whether crofters or others, in crofting parishes in all or any of the counties to which this Act applies, and abutting upon the sea, it shall be lawful for the Treasury to advance to the Fishery Board such sums as may from time to time be placed at their disposal by Parliament for the purpose.

The purposes to which the sums advanced as aforesaid shall be applied by way of loan shall be deemed to include the building, purchase, or repair of vessels, boats, and gear for fishing purposes, and any other purpose of the like nature, for the benefit or encouragement of the fishing industry within the localities above specified, which may be sanctioned by the Fishery Board, with consent of the Secretary for Scotland.

The loans in making which the said sums shall be applied, shall be made by the Fishery Board upon such terms as to repayment, security, rate, and payment of interest, and otherwise, as the Secretary for Scotland, with the consent of the Treasury, shall determine.

All moneys due in respect of loans made under this Act may be recovered by the Fishery Board summarily, in manner provided by the Summary Jurisdiction Acts, and the secretary of the Board for the time being shall have power to sue for and recover such moneys, in name of the Board.

A certificate, purporting to be signed by the chairman and secretary of the Fishery Board, stating the amount due from any person in respect of any loan made to him under this Act, together with the interest thereon, shall, until the contrary is proved, be evidence of the amount due and of the liability of the person therein named to pay the same.

If at any time while any part of a loan under this Act remains unpaid, the Fishery Board are satisfied that the borrower is not carrying into effect the undertaking for which the loan was made, they may forthwith sue for and recover summarily the loan and all moneys due by him in respect

All moneys recovered by the Fishery Board in repayment of such loans, and interest thereon, shall be paid by the Fishery Board to the account of Her Majesty's Exchequer, as the Treasury may from time to time direct.

The Fishery Board shall, in the annual report to be made by them to the Secretary for Scotland, in terms of the Fishery Board (Scotland) Act, 1882, and the Secretary for Scotland Act, 1885, give an account of their intromissions under this Act during the preceding year.

## **33 Saving in case of holdings in possession of servants**

Nothing in this Act shall apply to any holding or building let to a person during his continuance in any office, appointment, or employment of the landlord, or of any tenant of the landlord, nor to any holding or building let at a nominal rent, or without rent, as a pension for former service, or on account of old age or poverty, nor to any holding or building let to a person during his tenure of any office such as that of minister of religion or schoolmaster, nor to any innkeeper or tradesman placed in the district by the landlord for the benefit of the neighbourhood.

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### 34 Definitions

In this Act " crofter " means any person who at the passing of this Act is tenant of a holding from year to year, who resides on his holding, the annual rent of which does not exceed thirty pounds in money, and which is situated in a crofting parish, and the successors of such person in the holding, being his heirs or legatees.

" Crofting parish " means a parish in which there are at the commencement of this Act, or have been within eighty years prior thereto, holdings consisting of arable land held with a right of pasturage in common with others, and in which there still are tenants of holdings from year to year, who reside on their holdings, the annual rent of which respectively does not exceed thirty pounds in money, at the commencement of this Act.

" Cottar " means the occupier of a dwelling-house situate in a crofting parish with or without land who pays no rent to the landlord, as also the tenant from year to year of a dwelling-house situated in a crofting parish who resides therein, and who pays to the landlord therefor an annual rent not exceeding six pounds in money, whether with or without garden ground, but without arable or pasture land.

" Permanent improvements " means the improvements specified in the Schedule to this Act.

" Holding " means any piece of land held by a crofter, consisting of arable or pasture land, or of land partly arable and partly pasture and which has been occupied and used as arable or pasture land whether such pasture land is held by the crofter alone, or in common with others) immediately preceding the passing of this Act, including the site of his dwelling-house and any offices or other conveniences connected therewith, but does not include garden ground only, appurtenant to a house.

" Treasury " means the Commissioners of Her Majesty's

Other expressions have the same meanings as in the Agricultural Holdings (Scotland) Act, 1883.

### 35 Short title

This Act may be cited as the Crofters Holdings (Scotland) Act, 1886.