
Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968. (See end of Document for details)

SCHEDULES

SCHEDULE 2

MODIFICATION OF ENACTMENTS CONSEQUENTIAL ON APPLICATION OF SUCCESSION (SCOTLAND) ACT 1964 TO TENANCIES OF CROFTS

PART II

CERTAIN ENACTMENTS SET OUT AS MODIFIED BY PART I OF THIS SCHEDULE

Modifications etc. (not altering text)

- C1** The text of Sch. 2 Pt. I and Pt II (except the entry relating to s. 16 of the Succession (Scotland) Act 1964)) and Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

THE CROFTERS (SCOTLAND) ACT 1955 (3 & 4 ELIZ. 2. C. 21)

Section 11

Succession to croft.

- 11 (1) Where, owing to the failure of a crofter to bequeath the tenancy of his croft or of such a bequest to receive effect, the right to the tenancy of the croft falls to be treated as intestate estate of the deceased crofter in accordance with Part I of the ^{M1}Succession (Scotland) Act 1964, and the tenancy is transferred in pursuance of section 16(2) of that Act, the executor of the deceased crofter shall as soon as may be furnish particulars of the transferee to the landlord, who shall accept the transferee as tenant; and the landlord shall notify the Commission accordingly.
- (3) If at the expiry of three months from the relevant date, that is to say—
- (a) where the deceased crofter has exercised his power to bequeath the tenancy of the croft in favour of a person not being a member of the deceased crofter's family and the Commission, on application made to them by the legatee, have refused to determine that the bequest shall not be null and void, from the date of the Commission's refusal;
 - (b) where the deceased crofter has otherwise failed to bequeath the tenancy, from the date of death of the deceased crofter;
 - (c) where the deceased crofter has bequeathed the tenancy and the bequest has become null and void under section 10(2) of this Act, from the date on which the bequest became null and void as aforesaid;

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- (d) where the deceased crofter has bequeathed the tenancy and the Commission have declared the bequest to be null and void under section 10(4) of this Act, from the date on which the Commission notified the landlord and the legatee to that effect,

the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section, the landlord shall forthwith notify the Commission to that effect.

- (4) If at the expiry of the three months aforesaid it appears to the Commission, whether from a notification under subsection (3) of this section or otherwise, that the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section, the Commission may give notice in such manner as they may think proper, whether by advertisement or otherwise, to persons who may claim to be entitled—
 - (a) to succeed to the intestate estate of the deceased crofter, or
 - (b) to claim legal rights or the prior rights of a surviving spouse out of that estate,
 requiring them if they desire to have the tenancy of the croft transferred to them in or towards satisfaction of their entitlement or claim to give intimation accordingly to the Commission before such date as may be specified in the notice, being a date not earlier than six months after the relevant date within the meaning of subsection (3) of this section; and the Commission may, subject to the provisions of subsection (4A) of this section, nominate as successor to the tenancy any one of the persons who have so given intimation.
- (4A) The Commission shall, before nominating any person as successor to the tenancy of the croft in pursuance of subsection (4) of this section, consult with the executor (if any) of the deceased crofter, and the Commission shall not nominate any person as successor unless it appears to them—
 - (a) that that person is a person entitled to succeed to the intestate estate of the deceased crofter, or to claim legal rights or the prior rights of a surviving spouse out of that estate, and
 - (b) that adequate provision is being, or will be, made for the settlement of the entitlement or claim in the said intestate estate of any other person who is known to them to be entitled to succeed to, or to claim any such rights out of, that estate.
- (4B) The Commission shall give notice to the landlord of any person nominated by them in pursuance of subsection (4) of this section, and the landlord shall accept that person as successor to the tenancy of the croft.
- (4C) The nomination by the Commission, in pursuance of subsection (4) of this section, of any person as successor to the tenancy of the croft shall transfer the interest of the tenant under that tenancy to that person, and such transfer shall be in or towards satisfaction of that person's entitlement or claim in the intestate estate of the deceased crofter.
- (5) If at the expiry of one month from the end of the period referred to in section 16(3) (b) of the ^{M2}Succession (Scotland) Act 1964 the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section and the Commission have not nominated any person as successor under subsection (4) thereof, the Commission may declare the croft to be vacant and, if they do so, shall notify the landlord accordingly.

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- (6) Where the Commission have under the foregoing provisions of this section nominated a person as successor to the tenancy or, as the case may be, have declared the croft to be vacant, any right of any person (other than the person so nominated) in, or in relation to, the tenancy shall be extinguished.
- (7) Where a croft has been declared under subsection (5) of this section to be vacant, the landlord shall be liable—
- (a) if the deceased crofter was at the date of his death under any liability to the Secretary of State in respect of any loan, to pay to the Secretary of State the whole or so much of the value of the improvements on the croft as will discharge the liability of the deceased crofter, and to pay to the executor of the deceased crofter, if a claim is made in that behalf not later than twelve months after the date on which the croft was declared to be vacant, any balance of the value aforesaid;
 - (b) if at the date of his death the deceased crofter was not under any such liability to the Secretary of State and a claim is made in that behalf as aforesaid, to pay to the executor of the deceased crofter the value of the improvements on the croft.

In this subsection the expression “the value of the improvements on the croft” means such sum as may be agreed, or as, failing agreement, may be determined by the Land Court, to be the sum which would have been due by the landlord by way of compensation for permanent improvements if the deceased crofter had immediately before his death renounced his tenancy.

- (7A) Where a croft has been declared under subsection (5) of this section to be vacant consequent on the death after the commencement of the ^{M3}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 ^{M4}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.

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Marginal Citations

- M1** 1964 c. 41
M2 1964 c. 41
M3 1961 c. 58
M4 1961 c. 58

Section 14

Compensation for improvements and compensation for deterioration or damage.

14 (1) Where—

- (i) a crofter renounces his tenancy or is removed from his croft, or
 - (ii) the tenancy of a croft, being a tenancy the interest of the tenant under which is comprised in the estate of a deceased crofter, is terminated in pursuance of section 16(3) of the ^{M5}Succession (Scotland) Act 1964,
- the crofter or, as the case may be, the executor of the deceased crofter shall, subject to the provisions of this Act, be entitled to compensation for any permanent improvement made on the croft if—
- (a) the improvement is suitable to the croft; and
 - (b) the improvement was executed or paid for by the crofter or, as the case may be, the deceased crofter, or any of the predecessors of the crofter or of the deceased crofter in the tenancy; and
 - (c) either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the crofter or, as the case may be, the deceased crofter was bound to execute the improvement or, if the improvement was executed in pursuance of such an agreement, the crofter has not received or, as the case may be, the deceased crofter did not receive and his executor has not received, by way of reduction of rent or otherwise, fair consideration for the improvement.

(2) Where—

- (a) a person on becoming the tenant of a croft has with the consent of the landlord aid to the outgoing tenant any compensation due to him in respect of any permanent improvement and has agreed with the Secretary of State to assume any outstanding liability to the Secretary of State of the outgoing tenant in respect of any loan made to him; or
- (b) on a person becoming the tenant of a croft the Secretary of State on his behalf has paid to the landlord a sum representing the value to such person of an existing improvement on the croft;

such person shall for the purposes of the foregoing subsection be deemed to have executed or paid for the improvement.

For the purposes of paragraph (a) of this subsection a landlord who has not paid the compensation due either to the outgoing tenant or to the Secretary of State and has not applied to the Secretary of State to determine under subsection (4) of section twenty-three of this Act that any amount due by him to the Secretary of State by virtue of subsection (3) of that section shall be deemed to be a loan by the Secretary of State to him shall be deemed to have given his consent.

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- (3) The provisions of subsection (1) of this section shall not apply to any buildings erected by a crofter in contravention of any interdict or other judicial order.
- (6) Where—
- (a) a crofter renounces his tenancy or is removed from his croft, or
 - (b) the tenancy of a croft, being a tenancy the interest of the tenant under which is comprised in the estate of a deceased crofter, is terminated in pursuance of section 16(3) of the ^{M6}Succession (Scotland) Act 1964,
- the landlord shall be entitled to recover from the crofter or, as the case may be, from the executor of the deceased crofter compensation for any deterioration of, or damage to, any fixed equipment provided by the landlord committed or permitted by the crofter or, as the case may be, by the deceased crofter or his executor.
- (7) The amount of the compensation payable under the last foregoing subsection shall be the cost, as at the date of the crofter's quitting the croft, or as the case may be, of the termination of the tenancy, of making good the deterioration or damage; and the landlord shall be entitled to set off the amount so payable against any compensation payable by him in respect of permanent improvements.
- (8) The amount of the compensation payable under subsection (1) or subsection (6) of this section shall, failing agreement, be fixed by the Land Court.
- (9) Where—
- (a) a crofter has given notice of renunciation of his tenancy, or
 - (b) the landlord of the croft either gives to the executor of a deceased crofter, or receives from such an executor, notice terminating the tenancy of the croft in pursuance of section 16(3) of the ^{M7}Succession (Scotland) Act 1964,
- the Land Court may, on the joint application of the crofter or, as the case may be, the executor of the deceased crofter and the landlord or, where the crofter's rights to compensation for permanent improvements have been transferred in whole or in part under section twenty-three of this Act to the Secretary of State, on the joint application of the Secretary of State and the landlord, assess prior to the renunciation or, as the case may be, the termination the amounts which will on renunciation or termination become due under this section by the landlord by way of compensation for permanent improvements and by the crofter or executor by way of compensation for deterioration or damage; and the amounts so assessed shall, on renunciation or, as the case may be, termination, become due accordingly.
- (10) Nothing in this Act shall affect the provisions of the ^{M8}Agricultural Holdings (Scotland) Act 1949 with respect to the payment to outgoing tenants of compensation for improvements:
- Provided that—
- (a) where any improvements are valued under that Act with a view to the payment of compensation to a crofter or to the executor of a deceased crofter, the valuation shall, unless the landlord and the crofter or executor otherwise agree in writing, be made by the Land Court; and
 - (b) compensation shall not be payable under that Act for an improvement for which compensation is payable under this Act.
- (11) Notwithstanding anything in this section—

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- (a) a crofter who immediately before the commencement of this Act was a statutory small tenant, or
 - (b) the statutory successor of such a crofter, or
 - (c) the executor of such a crofter or of such a statutory successor,
- shall not be entitled, in respect of any permanent improvement made or begun before the commencement of this Act, to any compensation to which he would not have been entitled if his tenancy had expired immediately before the commencement of this Act.

Marginal Citations

M5 [1964 c. 41](#)

M6 [1964 c. 41](#)

M7 [1964 c. 41](#)

M8 [1949 c. 75](#)

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