



# Small Landholders (Scotland) Act 1911

## 1911 CHAPTER 49 1 and 2 Geo 5

### 32 Provisions as to statutory small tenants.

With respect to statutory small tenants, the following provisions shall have effect:—

- (1) A statutory small tenant means and includes a tenant from year to year, or leaseholder, not otherwise disqualified in terms of this Act, in regard to whom section two of this Act provides that he shall not be held an existing yearly tenant or a qualified leaseholder, and the successors of such tenant or leaseholder in the holding, being his heirs, legatees (if within the relationship specified in section sixteen of the Act of 1886), or assignees (if assignation be permitted by the lease):
- (2) Except so far as expressly applied by this Act, the Landholders Acts shall not apply to statutory small tenants:
- (3) A holding which is or has been held by a statutory small tenant shall not be merged in or amalgamated with any other holding as defined in the <sup>M1</sup>Agricultural Holdings (Scotland) Act, 1908, except with the sanction of the Board<sup>[F1]</sup> or, in the case of a holding mentioned in subsection (3A), the Crofting Commission]:
- <sup>[F2]</sup>(3A) The holding referred to in subsection (3) is a holding situated in an area designated by order under section 3A(1)(b) of the Crofters (Scotland) Act 1993 (c.44) (new crofts).]
- (4) Except in any case where the landlord satisfies the Land Court that there is reasonable ground of objection to a statutory small tenant (herein-after in this section referred to as the tenant) and the Land Court find accordingly, the tenant for the time being shall, notwithstanding any agreement to the contrary, be entitled on any determination of the tenancy to a renewal thereof on the terms and conditions hereinafter specified <sup>[F3]</sup>unless he himself shall have given written notice to the landlord that he is to terminate his tenancy]:
- (5) Except so far as varied by this section, the <sup>M2</sup>Agricultural Holdings (Scotland) Acts, 1908 and 1910, shall apply in the case of a tenancy of a statutory small tenant in the same manner as if the tenancy were a lease, and, for the purposes of those Acts and otherwise, the tenancy, as renewed from time to time, shall be deemed to be a lease current for the period of renewal:

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*Changes to legislation: There are currently no known outstanding effects for the Small Landholders (Scotland) Act 1911, Section 32. (See end of Document for details)*

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- (6) Subject to the provisions of the last-mentioned Acts and of this section, the landlord and the tenant may agree upon the terms and conditions of the renewal tenancy:
- (7) Failing agreement, the landlord or the tenant may apply to the Land Court to fix an equitable rent, or to fix the period for which the tenancy is to be renewed, and the Land Court may thereafter determine the rent to be paid by the tenant, or the period of renewal, or both, as the case may be:
- (8) In determining the rent the Land Court shall, so far as practicable, act on their own knowledge and experience, taking into consideration all the circumstances of the case, holding, and district, including the rent at which the holding has been let, the proposed conditions of the renewed tenancy, the improvements made by the landlord and tenant respectively, and the then condition and value of such improvements; and shall fix as the rent to be paid by the tenant the rent which, in their opinion, would be an equitable rent for the holding between the landlord and the tenant as a willing lessor and a willing lessee: Provided that they shall allow no rent in respect of any improvements made by or at the expense of the tenant or any predecessor in title for which he or his predecessor, as the case may be, has not received payment or fair consideration from the landlord or his predecessor:
- (9) Subject as aforesaid, the terms and conditions of the renewed tenancy shall (except so far as agreed to be varied) be those of the determining tenancy, in the same way and to the same effect, as nearly as may be, as if the tenancy had been continued for the full period of renewal under tacit relocation, and the tenant shall be entitled, if he so desires, to a renewal on those terms and conditions:
- (10) The <sup>M3</sup>Agricultural Holdings (Scotland) Acts, 1908 and <sup>M4</sup>1910, as applied to this section, shall be varied as follows (that is to say):—  
In the Second Schedule to the Agricultural Holdings (Scotland) Act, 1908, the Land Court shall be substituted for the Board, and where in terms of that schedule a person is nominated as arbiter by the Land Court his remuneration shall be paid by the Land Court:
- (11) In the event of the landlord on the renewal of the tenancy failing to provide such buildings as will enable the tenant to cultivate the holding according to the terms of the lease or agreement or at any time failing to maintain the buildings and permanent improvements required for the cultivation and reasonable equipment of the holding, in so far as the tenant is not required at common law or by express agreement in writing to do so, it shall be lawful for the tenant to apply to the Land Court to so find and declare, and, if the Land Court after hearing parties (if they desire to be heard) and after giving the landlord (if he so desires) an opportunity of remedying his failure as aforesaid shall so find and declare, the tenant shall, as from the date specified in the finding, become a landholder, and the definition of landholder in this Act shall include such tenant and his successors in the holding, being his heirs or legatees:
- (12) It shall be lawful for the Board to provide model forms of agreements for optional use by landlords and tenants under this section, provided that nothing herein contained shall make the use of any such form compulsory:
- [<sup>F4</sup>(12A) In the application of subsection (12) to landlords and tenants of holdings situated as mentioned in subsection (3A), the reference to the Board is to be construed as a reference to the Crofting Commission.]

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- (13) In the event of any dispute arising as to whether a person is a statutory small tenant within the meaning of this Act, it shall be competent for the Land Court to determine such question summarily:
- (14) Subsection (4) of section six, section [F5and section twenty] of the Act of 1886, section two of the Act of 1887 down to the word “summarily,” and subsection (19) of section seven, subsection (4) of section eight, section twelve, section twenty-five, and subsection (1) of section twenty-six of this Act shall, with the substitution of “statutory small tenant” for “landholder.” and “equitable rent” for “fair rent,” and with any other necessary modifications, apply for the purposes of this section as they apply for the purposes of the Landholders Acts:
- (15) Without prejudice to any agreement between the parties, the Land Court may, on the application of the landlord, and upon being satisfied that he desires to resume the holding or part thereof for building, planting, feuing, or some other reasonable purpose having relation to the good of the holding or the estate (including any purpose specified in section nineteen of this Act), authorise the resumption thereof by the landlord, subject to the payment of the like compensation to the tenant in respect of improvements on or in connection with the land resumed, to which a tenant would be entitled under the M5Agricultural Holdings (Scotland) Act, 1908, on the determination of his tenancy, and in addition, where part only of the holding is resumed, to such reduction of rent as may be agreed between the parties, or, in case of dispute, determined by the Land Court.

#### Textual Amendments

- F1** Words in s. 32(3) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **Sch. 4 para. 1(5)(a)** (with s. 57(4)); S.S.I. 2010/437, art. 3, Sch. (with art. 4)
- F2** S. 32(3A) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **Sch. 4 para. 1(5)(b)** (with s. 57(4)); S.S.I. 2010/437, art. 3, Sch. (with art. 4)
- F3** Words added by Small Landholders and Agricultural Holdings (Scotland) Act 1931 (c. 44), **s. 18**
- F4** S. 32(12A) inserted (22.12.2010) by Crofting Reform (Scotland) Act 2010 (asp 14), s. 57(2), **Sch. 4 para. 1(5)(c)** (with s. 57(4)); S.S.I. 2010/437, art. 3, Sch. (with art. 4)
- F5** Words substituted by Crofting Reform (Scotland) Act 1976 (c. 21, SIF 2:4), s. 22(1), **Sch. 2 para. 1**

#### Modifications etc. (not altering text)

- C1** S. 32 restricted by Crofters (Scotland) Act 1955 (3 & 4 Eliz. 2 c. 21), s. 38(3), **Sch. 6 Pt. I**
- C2** S. 32(15) amended by Small Landholders and Agricultural Holdings (Scotland) Act 1931 (c. 44), **s. 13** and Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), ss. 15(1A), 16, Sch. 5 paras. 4, **5**
- C3** S. 32(15) excluded by Land Compensation (Scotland) Act 1973 (c. 56, SIF 28:2), ss. 45(2)(3)(7), 56(8), **Sch. 1**

#### Marginal Citations

- M1** 1908 c. 64.  
**M2** 1910 c. 30.  
**M3** 1908 c. 64.  
**M4** 1910 c. 30.  
**M5** 1908 c. 64.

**Changes to legislation:**

There are currently no known outstanding effects for the Small Landholders (Scotland) Act 1911, Section 32.