



Crofters Holdings (Scotland) Act 1886

1886 CHAPTER 29

V—Enlargement of Holdings

11 Application by crofters for enlargement

It shall be lawful for any five or more crofters resident on neighbouring holdings in a crofting parish, where any landlord or landlords after application made to him or them have refused to let to such crofters available land on reasonable terms for enlarging the holdings of such crofters, to apply to the Crofters Commission setting forth that in the said parish or in an adjacent crofting parish there is land available for the enlargement of such holdings which they are willing to take on lease, hut which the landlord or landlords refuse to let on reasonable terms ; that is to say, on such terms as are usually obtained in the letting of land of the like quality, and similarly situated in the same district, for other purposes than that of a deer forest, or of a grouse moor, or other sporting purpose.

12 Intimation to landlords

The Crofters Commission shall, upon receiving such an application as aforesaid, intimate the same to the landlord or landlords therein alleged to have refused to let available land for the enlargement of such holdings as aforesaid, and shall afford such landlord or landlords, and the crofters by whom the application is made, an opportunity of being heard thereupon, and shall ascertain as far as possible how far the small size of the holdings has been due to the action of the landlord or of the crofters, and shall make such other inquiry as to them shall appear necessary or proper; and if they are satisfied—

- (1) That there is land in the parish, or in an adjacent crofting parish, available for enlarging the holdings of the said crofters, but that the landlord or landlords refuse to let the same for that purpose on reasonable terms ;
- (2) That the applicants are willing and able to pay a fair rent therefor, and that in the event of an order for the letting thereof being made, the applicants are able properly to cultivate the same in so far as it consists of arable land and properly to stock the same in so far as it consists of pasture land;

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the Crofters Commission may make an order for a lease of the said land, or such part or parts thereof as they may think proper, to the applicants, or one or more of them, at a fair rent, and upon such terms and conditions as the Crofters Commission shall consider just.

It shall be competent for the Crofters Commission by an order under this section to provide, if this shall appear to them to be just and expedient, for admitting the crofters who have applied as aforesaid, to participate in common pasture occupied by other crofters, or for conferring upon the applicants rights of pasturage common as among themselves over available land specified in the order, upon such terms and conditions as the Crofters Commission shall

It shall be competent for the Crofters Commission to draw up a scheme regulating the use by crofters on the same estate of seaweed for the reasonable purposes of their holdings, peat bogs, and heather or grass used for thatching purposes, and to include the charge for all these in the fixed rent.

13 Available land

- (1) Land shall not be deemed available land for the purposes of this Act unless it lies contiguous or near to land already in the occupancy of the crofters making the application, and belongs to the same landlord or landlords as the land occupied by the said crofters :
- (2) If the land is subject to an existing lease for a term of years, entered into prior to the commencement of this Act (not being a lease for the purposes of a deer forest, or of a grouse moor, or for other sporting purpose), it shall not be competent to assign any part thereof for the enlargement of the holdings of the crofters who have made the application, unless with the assent of the landlord or landlords and of the tenant or tenants of such land, and upon such terms as such landlord or landlords and tenant or tenants shall voluntarily agree to :
- (3) It shall not be competent for the Crofters Commission to assign land for the enlargement of the crofters holdings—
 - (a) If the land forms part of any garden, policy, park, plantation, or other wood ; or
 - (b) If the land forms part of any farm, whether subject to a lease or not, unless the Crofters Commission are satisfied that the part proposed to be assigned for the enlargement of the crofters holdings, can be so assigned without material damage to the letting value of the remainder ;
 - (c) If the land forms part of an existing farm or other holding, unless the rent or annual letting value of such farm or holding shall exceed one hundred pounds ;
 - (d) If the land is arable or improved pasture in the immediate vicinity of a residence or farm steading, or is land which could not be assigned for the enlargement of the crofters holdings without substantially impairing the amenity of such residence or farm steading;
 - (e) If: the land form part of a deer forest, and if the assignation of such land for the purposes of this Act would seriously impair the use of the remainder as a deer forest, and would act injuriously on the prosperity of the inhabitants generally of the district in which such deer forest is situated.
- (4) The aggregate value of the land assigned for the enlargement of the crofters holdings shall not exceed one third of the rent or annual letting value of the farm or other holding from which it is taken, when the annual value of the holding is between one hundred

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pounds and one hundred and fifty pounds, or one half when the annual value is above one hundred and fifty pounds and below three hundred pounds, or two thirds when the annual value of the holding is above three hundred pounds.

- (5) It shall not be competent for the Crofters Commission to grant the application of the crofters for the enlargement of their holdings, to the extent or effect of raising the annual value of their holdings respectively to a higher amount than fifteen pounds each,

14 Deduction from rent in case of lands held for sporting purposes

Where a portion of any land held under lease for the purposes of a deer forest or of a grouse moor, or for other sporting purpose, is assigned by the Crofters Commission for the enlargement of the holding or holdings of a crofter or crofters under this Act, the Crofters Commission shall, when they so assign such land, fix the amount of the deduction (if any) which in their judgment ought to be made from the rent payable by the tenant under the lease to the landlord, in respect of the portion of the land held under the same having been assigned as aforesaid, and thereafter the tenant under the lease shall be liable to the landlord only in the balance of the rent thereby stipulated, after deduction of the sum so fixed.

15 Assigned land

Land assigned by the Crofters Commission under the authority of this Act shall be deemed to be part of the holding or holdings to which it is so assigned, and shall be subject to the provisions of this Act relative to crofters holdings.

16 Bequest of holding

A crofter may, by will or other testamentary writing, bequeath his right to his holding to one person, being a member of the same family; that is to say, his wife or any person who, failing nearer heirs, would succeed to him in case of intestacy (herein-after called the "legatee"), subject to the following provisions :

- (a) The legatee shall intimate the testamentary bequest to the landlord or his known agent within twenty-one days after the death of the crofter, unless he is prevented by some unavoidable cause from making intimation within that time, and in that event he shall make intimation as soon as possible thereafter :
- (b) Intimation to the landlord or his known agent by the legatee shall import acceptance of the crofter's right to the holding by the legatee :
- (c) Within one month after intimation has been made to the landlord or his known agent, he may intimate to the legatee that he objects to receive him as crofter in the holding :

If the landlord or his known agent makes no such intimation within one month, the legatee shall come into the place of the crofter in the holding as from the date of the death of the deceased crofter:

- (d) If the landlord, or his known agent intimates that he objects to receive the legatee as crofter in the holding, the legatee may present a petition to the sheriff, praying for decree declaring that he is the crofter therein as from the date of the death of the deceased crofter, of which petition due notice shall be given to the landlord, who may enter appearance and state his grounds of objection; and if any reasonable ground of _ objection is established to the

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satisfaction of the sheriff, he shall declare the bequest to be null and void; but otherwise he shall decern and declare in terms of the prayer of the petition :

- (e) The decision of the sheriff under such petition as aforesaid shall be final:
- (f) Where the legatee shall have presented a petition to the sheriff as aforesaid, the legatee pending any proceedings shall have possession of the holding unless the sheriff shall otherwise direct on cause shown:
- (g) If the legatee shall accept the bequest, and the bequest is not declared to be null and void as aforesaid, the legatee shall be entitled to possess the holding on the same terms and conditions as if he had been, the nearest heir of the crofter:
- (h) If the legatee does not accept the bequest, or if the bequest is declared to be null and void as aforesaid, the right to the holding shall descend to the heir of the crofter, in the same manner as if the bequest had not been made.

Provided always, that in the case of any legatee, or heir-at-law more distant than wife, son, grandson, daughter, grand-daughter, brother, or son-in-law, it shall be competent to the landlord on his own part, or on the part of neighbouring crofters, to represent that, for the purpose of enlarging their holding or holdings, the holding ought to be added to them; and in all cases in which the sheriff shall determine in favour of such representation, the heir, or the legatee, as the case may be, who, but for such determination, would have succeeded to the holding, shall have right to any claim of compensation for improvements thereon which would have been competent to the deceased crofter if he had been removed at the date of his death : provided further, that if in any such case the landlord shall fail, within six months after the determination of the sheriff, to add the holding to one or more of the adjoining holdings, it shall be competent to the neighbouring crofters to apply to the Crofters Commission, who shall make an order assigning the holding to one or more of the neighbouring crofters for the enlargement of his or their holding or holdings.