

## SCHEDULES

### SCHEDULE 1

Section 1.

#### PROVISIONS AS TO THE CROFTERS COMMISSION

##### *Constitution of the Commission*

- 1 The Commission shall be a body corporate and shall have a common seal.
- 2 Every member of the Commission shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but notwithstanding anything in such an instrument any member of the Commission may resign his office by a notice given under his hand to the Secretary of State, and a member of the Commission who ceases to hold office shall be eligible for re-appointment to the Commission.
- 3 The Secretary of State shall pay to the members of the Commission such remuneration and such allowances as he may, with the approval of the Treasury, determine.
- 4 The Secretary of State shall, in the case of any member of the Commission to whom he may with the approval of the Treasury determine that this paragraph applies, pay such pension, allowance or gratuity to or in respect of the member on his retirement or death, or make such payments towards the provision of such a pension, allowance or gratuity, as he may, with the like approval, determine.
- 5 If a person ceases to be a member of the Commission and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation he may, with the approval of the Treasury, pay to that person a sum of such amount as he may, with the like approval, determine.

##### *Meetings and Proceedings of the Commission*

- 6 The quorum of the Commission shall be three or such larger number as the Commission may from time to time determine.
- 7 The proceedings of the Commission shall not be invalidated by any vacancy in the membership of the Commission or by any defect in the appointment of any member thereof.
- 8 If at any meeting of the Commission the votes are equally divided on any question, the person acting as chairman of the meeting shall have a second or casting vote.
- 9 The Commission shall refer to one or more of their number for report and recommendation such matters as may be determined by the Commission and shall delegate to one or more of their number such of the functions conferred on the Commission by this Act, to such extent and subject to such conditions or restrictions, as may with the approval of the Secretary of State be so determined.
- 10 In any application or other proceeding coming before them the Commission may order that the evidence shall be taken on oath.

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- 11 Subject to the foregoing provisions of this Schedule, the Commission shall have power to regulate their own procedure.

*Office, Officers and Servants*

- 12 The Commission shall have an office in the crofting counties at which communications and notices will at all times be received.
- 13 The Secretary of State may provide the services of such officers and servants as the Commission may require.

*Instruments executed or issued by the Commission*

- 14 The application of the seal of the Commission to any document shall be attested by at least one member of the Commission and by the person for the time being acting as secretary to the Commission.
- 15 Every document purporting to be an instrument issued by the Commission and to be sealed and attested as aforesaid or to be duly signed on behalf of the Commission shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

SCHEDULE 2

Section 5.

THE STATUTORY CONDITIONS

- 1 The crofter shall pay his rent at the terms at which it is due and payable.
- 2 The crofter shall not, except in accordance with the provisions of this Act, execute any deed purporting to assign his tenancy.
- 3 The crofter shall, by himself or his family, with or without hired labour, cultivate his croft, without prejudice to the right hereby conferred on him to make such use thereof for subsidiary or auxiliary occupations as, in case of dispute, the Land Court may find to be reasonable and not inconsistent with the cultivation of the croft.
- 4 The crofter shall provide such fixed equipment on his croft as may be necessary to enable him to cultivate the croft.
- 5 The crofter shall not, to the prejudice of the interest of the landlord, persistently injure the croft by the dilapidation of buildings or, after notice in writing has been given by the landlord to the crofter not to commit, or to desist from, the particular injury specified in the notice, by the deterioration of the soil.
- 6 The crofter shall not sublet his croft or any part thereof otherwise than with the consent in writing of the Commission and in accordance with such conditions (which shall not include conditions relating to rent) as the Commission in giving their consent may impose:
- Provided that nothing in this paragraph shall be construed as debarring a crofter from subletting any dwelling-house or other building forming part of his croft to holiday visitors.
- 7 The crofter shall not, except in accordance with the provisions of this Act, subdivide his croft.

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- 8 The crofter shall not, without the consent in writing of the landlord, erect or suffer to be erected on the croft any dwelling-house otherwise than in substitution for a dwelling-house which at the commencement of this Act was already on the croft:
- Provided that, if at the commencement of this Act there was no dwelling-house on the croft, the crofter may erect one dwelling-house thereon.
- 9 The crofter shall not persistently violate any written condition signed by him for the protection of the interest of the landlord or of neighbouring crofters which is legally applicable to the croft and which the Land Court shall find to be reasonable.
- 10 The crofter shall not do any act whereby he becomes apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985.
- 11 The crofter shall permit the landlord or any person authorised by the landlord in that behalf to enter upon the croft for the purpose of exercising (subject always to the payment of such compensation as in case of dispute the Land Court may find to be reasonable in respect of any damage done or occasioned thereby) any of the following rights, and shall not obstruct the landlord or any person authorised as aforesaid in the exercise of any of such rights, that is to say—
- (a) mining or taking minerals, or digging or searching for minerals;
  - (b) quarrying or taking stone, marble, gravel, sand, clay, slate or other workable mineral;
  - (c) using for any estate purpose any springs of water rising on the croft and not required for the use thereof;
  - (d) cutting or taking timber or peats, excepting timber and other trees planted by the crofter or any of his predecessors in the tenancy, or which may be necessary for ornament or shelter, and excepting also such peats as may be required for the use of the croft;
  - (e) opening or making roads, fences, drains and water courses;
  - (f) passing and re-passing to and from the shore of the sea or any loch with or without vehicles for the purpose of exercising any right of property or other right belonging to the landlord;
  - (g) viewing or examining at reasonable times the state of the croft and all buildings or improvements thereon;
  - (h) hunting, shooting, fishing or taking game or fish, wild birds or vermin;
- but nothing in this paragraph shall be held to preclude the crofter from recovering any compensation for damage by game which is recoverable under section 52 of the Agricultural Holdings (Scotland) Act 1991, by a tenant, and that section shall apply accordingly, with the substitution, however, of the Land Court for arbitration.
- 12 The crofter shall not on his croft, without the consent in writing of the landlord, open any house for the sale of intoxicating liquors.
- 13 In this Schedule—
- “cultivate” includes the use of a croft for horticulture or for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, the growing of fruit, vegetables and the like and the planting of trees and use of the land as woodlands;
- “game” means deer, hares, rabbits, pheasants, partridges, grouse, blackgame, capercaillie, ptarmigan, woodcock, snipe, wild duck, widgeon and teal.

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## SCHEDULE 3

Section 30(7).

## PERMANENT IMPROVEMENTS

- 1 Dwelling-house.
- 2 Improvement works carried out in compliance with a notice of a final resolution served under Part IV of the Housing (Scotland) Act 1987.
- 3 Farm offices.
- 4 Subsoil and other drains.
- 5 Walls and fences.
- 6 Deep trenching.
- 7 Clearing the ground.
- 8 Planting trees, other than under section 48(4) of this Act.
- 9 Making piers or landing stages.
- 10 Roads practicable for vehicles from the croft to the public road or the sea shore.
- 11 All other improvements which, in the judgment of the Land Court, will add to the value of the croft as an agricultural subject.
- 12 Buildings or other structures erected under section 5 of the Crofters (Scotland) Act 1961 or section 31 of this Act, being buildings or structures which are fixtures on the land, or works executed under the said section 5 or 31.

## SCHEDULE 4

Section 38(7).

## CONFIRMATION AND VALIDITY OF REORGANISATION SCHEMES

## PART I

*Procedure for confirming reorganisation schemes*

- 1 Before confirming a reorganisation scheme the Secretary of State shall—
  - (a) serve on every owner and every occupier of land to which the draft scheme applies a copy of the draft scheme together with a notice naming a place within the locality in which such land is situated where a copy of the maps and plans submitted with the draft scheme may be inspected at all reasonable hours and stating that such owner or occupier may, within 28 days from the date of the service of the notice, object in such manner as may be specified in the notice to the draft scheme or to any provision contained therein; and
  - (b) in two successive weeks publish in one or more newspapers circulating in the locality in which the land to which the scheme applies is situated a notice stating that the draft scheme has been submitted to him, specifying the land to which the scheme applies, naming a place within the locality where a copy of the draft scheme and of the maps and plans submitted therewith may be inspected at all reasonable hours, and stating that any

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- person having an interest in any land to which the scheme applies may, within 28 days from the date of the first publication of the notice, object in such manner as may be specified in the notice to the draft scheme or to any provision contained therein.
- 2 If no objection is made under paragraph 1 of this Schedule or if all objections so made are withdrawn, the Secretary of State may, subject to the provisions of paragraph 4 of this Schedule, confirm the draft scheme with or without modifications.
- 3 If any objection made as aforesaid is not withdrawn, the Secretary of State shall, before deciding whether to confirm the draft scheme, cause a public local inquiry to be held, and after considering the objection and the report of the person who held the inquiry the Secretary of State may, if he thinks fit and subject to the provisions of paragraph 4 of this Schedule, confirm the draft scheme with or without modifications.
- 4 Where the Secretary of State proposes to make any modification in the draft scheme by virtue either of paragraph 2 or 3 of this Schedule, he shall, before deciding to confirm the draft scheme as so modified, serve on each of the persons referred to in sub-paragraph (a) of paragraph 1 of this Schedule and on any other person who is in his opinion may be substantially affected by such modification a notice specifying the modification and stating that such person may, within 14 days from the date of the service of the notice, make representations in writing concerning the modification to the Secretary of State, and the Secretary of State shall consider any representations so made before he decides whether to confirm the draft scheme as so modified.
- 5 Notwithstanding anything in paragraph 3 of this Schedule, the Secretary of State may require any person who has made an objection to state in writing the grounds thereof and may disregard the objection for the purposes of this Schedule if it is an objection which in the opinion of the Secretary of State is frivolous, or which relates exclusively to the assessment of any sum which will fall to be fixed under this Act or any other enactment by the Land Court, or which relates to the assessment of compensation on the compulsory acquisition of land or of an interest in land by virtue of section 39 of this Act.
- 6 Subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (which relate to the holding of local inquiries) shall apply in relation to a public local inquiry held under paragraph 3 of this Schedule as they apply in relation to local inquiries held under the said section 210.

## **PART II**

### *Validity of reorganisation schemes*

- 7 On confirming a reorganisation scheme the Secretary of State shall forthwith—
- (a) serve on every person on whom a notice was required to be served under sub-paragraph (a) of paragraph 1 or paragraph 4 of this Schedule a notice stating that the scheme has been confirmed; and
  - (b) publish in one or more newspapers circulating in the locality in which the land to which the scheme applies is situated a notice stating that the scheme has been confirmed and naming a place within the locality where a copy

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of the scheme and of the maps and plans relating thereto may be inspected at all reasonable hours.

- 8 If any person aggrieved by a reorganisation scheme desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within 6 weeks from the date of the first publication of the notice referred to in paragraph 7(b) of this Schedule, make an application for the purpose to the Court of Session, and if any such application is made the Court, if satisfied that the scheme is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act, may quash the scheme either generally or in so far as it affects any property or interest of the applicant; but except as aforesaid the scheme shall not at any time be questioned in any proceedings whatsoever.

## SCHEDULE 5

Sections 19(1), 43(4) and (6), 45(2) and  
46(3).

### PROVISIONS AS TO SECURITY, ETC., OF LOANS

- 1 The loan shall be secured by a heritable security over the land in favour of the Secretary of State.
- 2 The loan shall either be repaid by half-yearly instalments of principal with such interest and within such period (not exceeding such period as may be fixed by the Treasury) from the date of the loan, or at such date thereafter not exceeding 18 months as may be agreed on, or shall be repaid with such interest and within such period by a terminable annuity payable by half-yearly instalments.
- 3 The amount for the time being unpaid may at any time be discharged, and any such terminable annuity may at any time be redeemed in accordance with tables fixed by the Secretary of State.
- 4 A certificate by the Secretary of State that the whole of the loan has been repaid or that such terminable annuity has been redeemed shall, without any other instrument, operate as a discharge of the loan or extinction of the terminable annuity, as the case may be, and the recording of such certificate in the Register of Sasines or the registration of the certificate in the Land Register of Scotland shall be equivalent to the recording or the registration of a discharge of the said heritable security.
- 5 The Secretary of State shall cause to be prepared and duly recorded all documents necessary for securing the payment of any loan over land made by him, and shall include in the loan the cost so incurred, or to be incurred, in accordance with scales set forth in tables fixed by the Secretary of State.

## SCHEDULE 6

Section 63(1).

### TRANSITIONAL PROVISIONS AND SAVINGS

- 1 In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.

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- 2 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.
- 3 Any reference in any enactment or document, whether express or implied, to an enactment repealed by this Act shall, unless the context otherwise requires, be construed as a reference to the corresponding enactment in this Act.
- 4 Nothing in this Act shall affect the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.
- 5 The repeal by this Act of section 22 of the 1955 Act shall not affect the operation of that section in so far as it relates to a person who is the owner and occupier of a holding mentioned in subsection (6) of that section.
- 6 Notwithstanding the repeal by this Act of section 3 of the Crofter Forestry (Scotland) Act 1991, the amendments made by that section to section 1 of the Forestry Act 1979 and to section 2 of the Farm Land and Rural Development Act 1988 shall continue to have the same effect as they had immediately before the commencement of this Act.

## SCHEDULE 7

Section 63(2).

### REPEALS

#### PART I

##### ENACTMENTS REPEALED SO FAR AS THEY APPLY IN THE CROFTING COUNTIES

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
49 & 50 Vict. c. 29	The Crofters (Scotland) Act 1886	Section 30. Section 33.
1 & 2 Geo. 5 c. 49	The Small Landholders (Scotland) Act 1911	Section 28.
1976 c. 21	The Crofting Reform (Scotland) Act 1976	Section 17(2).

#### PART II

##### OTHER ENACTMENTS REPEALED

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
3 & 4 Eliz. 2 c. 21	The Crofters (Scotland) Act 1955	The whole Act.
9 & 10 Eliz 2 c. 58	The Crofters (Scotland) Act 1961	The whole Act.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1976 c. 21	The Crofting Reform (Scotland) Act 1976	The whole Act except section 17.
1985 c. 73	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985	Sections 30 and 31.
1991 c. 18	The Crofter Forestry (Scotland) Act 1991	The whole Act.

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