



# Scottish Land Court Act 1993

## 1993 CHAPTER 45

An Act to consolidate certain enactments relating to the constitution and proceedings of the Scottish Land Court; and to repeal provisions of the Crofters Holdings (Scotland) Act 1886 relating to the Scottish Land Court which are no longer of practical utility.  
[5th November 1993]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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

- C1** A table showing the derivation of the provisions of this consolidation Act will be found at the end of this Act. The table has no official status
- C2** Act applied (31.3.2002) by [S.S.I. 2002/110](#), regs. 9, 10, 32, [Sch. 2 Pt. III para. 25](#)

### **Commencement Information**

- I1** Act wholly in force at 5.1.1994 see [s. 2\(3\)](#)

## **1 The Land Court.**

- (1) The Scottish Land Court (“the Land Court”) established by section 3 of the <sup>M1</sup>Small Landholders (Scotland) Act 1911 shall continue in being.
- (2) The Land Court shall consist of such persons, being not more than seven, as Her Majesty, on the recommendation of the [<sup>F1</sup>First Minister], may appoint; and one of those persons may be so appointed to be Chairman of the Court.
- <sup>F2</sup>[(2A) Before recommending the appointment of a person as Chairman, the First Minister shall consult the Lord President of the Court of Session.]
- (3) The Chairman shall be a person who at the date of his appointment is—
- (a) an advocate of the Scottish Bar of not less than ten years' standing; or

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- (b) without prejudice to paragraph (a) above, a sheriff principal or sheriff who has held office as such for a continuous period of not less than ten years; or
- (c) a solicitor who, by virtue of section 25A (rights of audience) of the <sup>M2</sup>Solicitors (Scotland) Act 1980, has for a continuous period of not less than ten years had a right of audience in the Court of Session,

and shall forthwith on his appointment have the same rank and tenure of office as if he had been appointed a judge of the Court of Session.

- (4) Subsection (3)(b) above shall not confer any eligibility for appointment as chairman on a temporary sheriff principal <sup>F3</sup> . . . appointed under section 11 [<sup>F4</sup>or on a part-time sheriff appointed under section 11A (appointment of part-time sheriffs)]of the <sup>M3</sup>Sheriff Courts (Scotland) Act 1971 who is not otherwise eligible for such appointment.
  - (5) One of the members of the Land Court shall be a person who can speak the Gaelic language.
  - (6) Without prejudice to any jurisdiction conferred on it by any other enactment [<sup>F5</sup>, or under the Agricultural Holdings (Scotland) Act 2003 (asp 11)], the Land Court shall have jurisdiction to hear and determine all matters, whether of law or fact, which arise under the <sup>M4</sup>Crofters (Scotland) Act [<sup>F6</sup>1993 or] the Small Landholders (Scotland) Acts 1886 to 1931 <sup>F7</sup> ... <sup>M5F7</sup> ... and, subject to subsection (7) below, the decision of the Land Court in any [<sup>F8</sup>such ] case shall be final.
  - (7) The Land Court may, if it thinks fit, and shall, on the request of any party, state a special case on any question of law arising in any proceedings pending before it under any enactment [<sup>F9</sup>, or under Part 2 of the Nature Conservation (Scotland) Act 2004 (asp 6),] [<sup>F10</sup>, or under Part 3 of the Land Reform (Scotland) Act 2003 (asp 2),] for the opinion of the Inner House of the Court of Session, which is hereby authorised finally to determine that question.
- [<sup>F11</sup>(7A) Subsection (7) above does not apply in respect of proceedings in connection with any matter which may be determined by the Land Court by virtue of the Agricultural Holdings (Scotland) Act 1991 (c. 55) or the Agricultural Holdings (Scotland) Act 2003.]
- (8) Schedule 1 to this Act shall have effect with respect to the Land Court.

#### Textual Amendments

- F1** Words in s. 1(2) substituted (1.7.1999) by 1998 c. 46, s. 125(1), **Sch. 8 para. 29(a)** (with s. 126(3)-(11)); S.I. 1998/3178, **art. 2(1)**.
- F2** S. 1(2A) inserted (1.7.1999) by 1998 c. 46, s. 125(1), **Sch. 8 para. 29(b)** (with s. 126(3)-(11)); S.I. 1998/3178, **art. 2(1)**.
- F3** Words in s. 1(4) repealed (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 6(a)**
- F4** Words in s. 1(4) inserted (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 6(b)**
- F5** Words in s. 1(6) inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), **ss. 82(a)(i), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(g) (with Sch.)
- F6** Words in s. 1(6) substituted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), **ss. 82(a)(ii), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(g) (with Sch.)
- F7** Words in s. 1(6) repealed (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), **ss. 82(a)(iii), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(g) (with Sch.)
- F8** Word in s. 1(6) inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), **ss. 82(a)(iv), 95(3), 95(4)** (with s. 95(2)); S.S.I. 2003/548, art. 2(g) (with Sch.)

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- F9** Words in s. 1(7) inserted (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 7 para. 9** (with s. 55(2)); S.S.I. 2004/495, art. 2
- F10** Words in s. 1(7) inserted (14.6.2004) by Land Reform (Scotland) Act 2003 (asp 2), **ss. 97(2)**, 100(3) (with s. 100(2)); S.S.I. 2004/247, art. 2(a)
- F11** S. 1(7A) inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), **ss. 82(b)**, 95(3), 95(4) (with s. 95(2)); S.S.I. 2003/548, art. 2(g) (with Sch.)

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**Marginal Citations**

- M1** 1911 c. 49.  
**M2** 1980 c. 46.  
**M3** 1971 c. 58.  
**M4** 1993 c. 44.  
**M5** 1991 c. 55.

**2 Short title, repeals, commencement and extent.**

- (1) This Act may be cited as the Scottish Land Court Act 1993.
- (2) The enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) This Act shall come into force on the expiry of the period of 2 months beginning with the date on which it is passed.
- (4) This Act extends to Scotland only.

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE LAND COURT

##### *Incorporation*

- 1 The Land Court shall be a body corporate with a common seal which shall be judicially noticed; and any order or other instrument purporting to be so sealed shall be received as evidence without further proof.

##### *Tenure of office, remuneration and superannuation*

- 2 Every member of the Land Court (other than the Chairman) shall vacate his office on attaining the age of 65 years.
- 3 There shall be paid to the Chairman of the Land Court and to each of the other members such salary as may be determined by the Treasury; and such salaries shall be charged on and paid out of the Consolidated Fund.
- 4 (1) The Chairman shall have the same right to a retiring annuity proportionate to his salary, subject to the like conditions and incidents as if he had been appointed a judge of the Court of Session; and every such annuity shall be charged on and paid out of the Consolidated Fund.
- (2) The principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall apply to every member of the Land Court (other than the Chairman) in like manner as that scheme applies to persons employed in the civil service of the State.

##### *Organisation of Court*

- 5 Subject to paragraph 6 of this Schedule, three members of the Land Court shall be a quorum.
- 6 (1) The Land Court may delegate such of its powers as it may think expedient to any one member or to any two members of the Court, with or without the assistance of one or more land valuers, assessors or other skilled persons, and may revoke, alter or modify any such delegation of powers.
- (2) Any order or determination arrived at under a delegation made in pursuance of this paragraph shall<sup>F12</sup>, subject to sub-paragraph (3) below] be subject to review upon appeal by three or more members of the Land Court (including, where such court of review consists of three members, not more than one member who was a party to such order or determination) sitting together, one of whom shall be the Chairman of the Land Court.
- <sup>F13</sup>(3) There shall be no such review if the Court, when making a delegation in pursuance of this paragraph in relation to a matter before it in pursuance of the Agricultural

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Holdings (Scotland) Act 1991 (c. 55) or the Agricultural Holdings (Scotland) Act 2003 (asp 11), so orders.]

#### Textual Amendments

- F12** Words in Sch. 1 para. 6(2) inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), ss. 82(c)(i), 95(3), 95(4) (with s. 95(2)); S.S.I. 2003/548, art. 2(g) (with Sch.)
- F13** Sch. 1 para. 6(3) inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), ss. 82(c)(ii), 95(3), 95(4) (with s. 95(2)); S.S.I. 2003/548, art. 2(g) (with Sch.)

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

- C3** Sch. 1 para. 6(2) excluded (14.6.2004) by Land Reform (Scotland) Act 2003 (asp 2), ss. 97(3), 100(3) (with s. 100(2)); S.S.I. 2004/247, art. 2(a)

7 The Secretary of State shall appoint a fit person to act as principal clerk of the Land Court.

8 The Land Court may appoint or employ such assessors, surveyors, solicitors, valuers, clerks, messengers and other persons required for the due performance of its duties, as the Treasury, on the recommendation of the Secretary of State, may sanction.

#### *Vacancies in membership and appointment of Deputy Chairman*

9 Subject to paragraph 10 of this Schedule, any vacancy occurring in the membership of the Land Court may be filled by the appointment of a person by Her Majesty, on the recommendation of the Secretary of State.

10 (1) The Secretary of State may appoint any person having the qualification required for holding the office of Chairman as a Deputy Chairman, who shall act in place of the Chairman for such periods as the Chairman may, with the consent of the Secretary of State, direct.

(2) Where there is a vacancy in the office of Chairman, or where the Chairman is, for whatever reason, unable to act, the Deputy Chairman shall act at the direction of the Secretary of State.

(3) A Deputy Chairman appointed under sub-paragraph (1) above shall, while he is acting as Chairman, have the same powers and perform the duties as if he were the Chairman.

#### *Removal of Land Court members*

11 (1) The Secretary of State may remove any member of the Land Court (other than the Chairman) for inability or misbehaviour.

(2) Every order of removal in pursuance of this paragraph shall state the reasons for which it is made, and no such order shall come into operation—

- (a) until it has lain before both Houses of Parliament for not less than thirty days while Parliament is sitting;
- (b) if either House passes a resolution objecting to it.

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### *Procedure*

- 12 The Land Court may—
- (a) subject to the approval of the Secretary of State, prescribe such forms of application and other forms of procedure as they think proper;
  - (b) make rules with reference to proceedings before it; and
  - (c) with the approval of the Treasury, fix a scale of fees to be charged in carrying this Act into execution, and the taxation of such fees, and the persons by whom, and the manner in which, such fees are to be paid.
- 13 (1) The Land Court may ascertain the facts in any case by hearing parties and examining witnesses, or by means of affidavits, or by such other mode of inquiry as it deems appropriate.
- (2) The Land Court may require the production of all books, papers, plans and documents relating to the case and it may summon and examine on oath such witnesses as it thinks fit to call or allow to appear before it.
- (3) The Land Court may, when sitting in open court, report in writing to the Lord Ordinary any person who has been guilty of contempt of court, and the Lord Ordinary may punish such person as if the contempt had been committed in his own court: Provided that, when the Chairman is so sitting, he shall have the same power as the Lord Ordinary to punish for contempt of court.
- (4) All orders and determinations of the Land Court shall be in writing.
- 14 The Land Court may make rules for conducting the business of the Court.

### *Expenses*

- 15 The Land Court may determine the amount of the expenses in any proceedings before it and the proportion to be borne by the different parties.

### *Enforcement*

- 16 An order or determination of the Land Court may be enforced as if it were a decree of the sheriff having jurisdiction in the area in which the order or determination is to be enforced.

### *Accounts*

- 17 The Land Court shall submit such estimates and keep such accounts of their receipts and expenditure, and their accounts shall be audited in accordance with such regulations, as the Treasury may direct.

### *Other financial matters*

- 18 (1) There shall be paid to each of the persons appointed or employed under paragraph 7, 8 or 10 of this Schedule such salary or remuneration as the Treasury may sanction.
- (2) All salaries and remuneration payable, and the expenses of the Land Court in the execution of their duties, under this Act, to such amount as may be sanctioned by the Treasury, shall be paid out of money provided by Parliament.

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## SCHEDULE 2

Section 2

### REPEALS

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
49 & 50 Vict. c. 29.	The Crofters Holdings (Scotland) Act 1886	In section 21, the last two paragraphs. Sections 24 to 26. Section 29.
1 & 2 Geo. 5. c. 49.	The Small Landholders (Scotland) Act 1911	Section 3. Section 25.
1 & 2 Geo. 6. c. 31.	The Scottish Land Court Act 1938	The whole Act.
3 & 4 Eliz. 2. c. 21.	The Crofters (Scotland) Act 1955	Section 34.
9 & 10 Eliz. 2. c. 58.	The Crofters (Scotland) Act 1961	Section 4(3).
1976 c. 21.	The Crofting Reform (Scotland) Act 1976	Section 17(1).
1990 c. 40.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990	Section 35(4). In Schedule 4, paragraph 12.
1991 c. 55.	The Agricultural Holdings (Scotland) Act 1991	Section 83.

### TABLE OF DERIVATIONS

#### SHOWING THE DERIVATION OF THE PROVISIONS OF THE ACT

NOTE: The following derivations are used in this Table—

1886	– The Crofter Holdings (Scotland) Act 1886 (c.29)
1911	– The Small Landholders (Scotland) Act 1911 (c.49)
1938	– The Scottish Land Court Act 1938 (c.31)
1955	– The Crofters (Scotland) Act 1955 (c.21)
1961	– The Crofters (Scotland) Act 1961 (c.58)

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1972	– The Superannuation Act 1972 (c.11)
1976	– The Crofting Reform (Scotland) Act 1976 (c.21)
1990	– The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40)
1991	– The Agricultural Holdings (Scotland) Act 1991 (c.55)

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<b>Provisions</b>	<b>Derivations</b>
1	1911 s.3(1) to (3), ss.25(2) and 32(14); 1955 s.34, 1961 s.4(3); 1990 Sch.4 para.12; 1991 s.83.
Sch.1 para.1	1911 s.25(1).
para.2	1938 s.1(1).
para.3	1911 s.3(9).
para.4	1911 s.3(9); 1938 s.1(2); 1972 s.29(1), Sch.6 para.18.
para.5	1911 s.25(5).
para.6	1911 s.25(5).
para.7	1911 s.3(6).
para.8	1911 s.3(7).
para.9	1911 s.3(1).
para.10	1911 s.3(5), (5A), (5B); 1990 Sch.4 para.12.
para.11	1911 s.3(4).
para.12	1886 s.29.
para.13(1) to (3)	1911 s.25(3).
(4)	1911 s.25(1).
para.14	1911 s.3(12).
para.15	1911 s.25(4).
para.16	1976 s.17(1).
para.17	1911 s.3(11).
para.18	1911 s.3(10).

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