

*Status: Point in time view as at 01/02/1991.*

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## SCHEDULES

### FIRST SCHEDULE

#### 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.

*F1* .....

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##### **Textual Amendments**

**F1** Sch. 1 para. 3 repealed by [House of Commons Disqualification Act 1957 \(c. 20\)](#), **Sch. 4 Pt. I**

- 4 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.

[<sup>F2</sup>(4A) The Secretary of State shall, in the case of any member of the Commission to whom he may with the approval of the Minister for the Civil Service 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.

(4B) 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 makes it right that that person should receive compensation he may, with the approval of the said Minister, pay to that person a sum of such amount as he may, with the like approval, determine.]

##### **Textual Amendments**

**F2** Paras. 4A, 4B, inserted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), **s. 18**

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### *Meetings and Proceedings of the Commission*

- 5 The quorum of the Commission shall be three or such larger number as the Commission may from time to time determine.
- 6 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.
- 7 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.
- 8 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.
- 9 In any application or other proceeding coming before them the Commission may order that the evidence shall be taken on oath.
- 10 Subject to the foregoing provisions of this Schedule, the Commission shall have power to regulate their own procedure.

### *Office, Officers and Servants*

- 11 The Commission shall have an office in the crofting counties at which communications and notices will at all times be received.
- 12 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*

- 13 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.
- 14 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.

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## SECOND SCHEDULE

Section 3.

### 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 [<sup>F3</sup>the Land Court] may find to be reasonable and not inconsistent with the cultivation of the croft.

#### Textual Amendments

**F3** Words substituted by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 1 Pt. II para. 20](#)

- [<sup>F4</sup>3A The crofter shall provide such fixed equipment on his croft as may be necessary to enable him to cultivate the croft.]

#### Textual Amendments

**F4** [Para. 3A](#) added by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 1 Pt. II para. 20](#)

- 4 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.

- [<sup>F5</sup>5 A 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.]

#### Textual Amendments

**F5** [Para. 5](#) substituted by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 1 Pt. II para. 20](#)

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- 6 The crofter shall not, except in accordance with the provisions of this Act, subdivide his croft.
- 7 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.
- 8 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.
- 9 The crofter shall not do any act whereby he becomes notour bankrupt within the meaning of the <sup>M1</sup>Bankruptcy (Scotland) Act 1913, and shall not execute a trust deed for creditors.

#### Marginal Citations

**M1** 1913 c. 20.

- 10 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 fifteen of

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the <sup>M2</sup>Agricultural Holdings (Scotland) Act 1949, by a tenant, and that section shall apply accordingly, with the substitution, however, of the Land Court for arbitration.

#### Marginal Citations

**M2** 1949 c. 75.

- 11 The crofter shall not on his croft, without the consent in writing of the landlord, open any house for the sale of intoxicating liquors.
- 12 In this Schedule—  
the expression “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, and the growing of fruit, vegetables and the like;  
the expression “game” means deer, hares, rabbits, pheasants, partridges, grouse, blackgame, capercaillie, ptarmigan, woodcock, snipe, wild duck, widgeon and teal.

### THIRD SCHEDULE

Sections 17, 18, 20, 23, 31.

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

- 1 The loan shall be secured by a [<sup>F6</sup>heritable security over] the land in favour of the Secretary of State.

#### Textual Amendments

**F6** Words substituted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [Sch. 2 para. 15\(a\)](#)

- 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 eighteen 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

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may be, and the recording of such certificate in the . . . <sup>F7</sup> Register of Sasines shall be equivalent to the recording of a discharge of the said [<sup>F8</sup>heritable security].

#### Textual Amendments

- F7** Word repealed by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [Sch. 3](#)  
**F8** Words substituted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [Sch. 2 para. 15\(b\)](#)

- 5 The Secretary of State shall cause to be prepared and duly recorded all deeds, writs and instruments 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.

### <sup>F9</sup>FOURTH SCHEDULE

#### Textual Amendments

- F9** Ss. 4, 19–21, 27(6), 34(2), 37(2) and Sch. 4 repealed by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 3](#)

.....  
<sup>F9</sup>

### FIFTH SCHEDULE

Section 37.

#### PERMANENT IMPROVEMENTS

- 1 Dwelling-house.
- <sup>F10</sup>1A Improvement works carried out in compliance with a notice of a final resolution served under [<sup>F11</sup>Part I of Schedule 8 to the Housing (Scotland) Act 1987]

#### Textual Amendments

- F10** Sch. 5 para. 1A added by [Housing \(Scotland\) Act 1966 \(c. 49\)](#), [s. 80\(3\)](#) and substituted by [Housing \(Scotland\) Act 1974 \(c. 45\)](#), [s.25](#)  
**F11** Words expressed to be substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339, [Sch. 23 para. 5](#)

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

- C1** Sch. 5 para. 1A: [Housing \(Scotland\) Act 1966 \(c. 49\)](#), [s. 80\(3\)](#) (which added para. 1A) was repealed (25.8.1969) by [Housing \(Scotland\) Act 1969 \(c. 34\)](#), s. 69(3), [Sch. 7](#) but revived (27.11.1974) by [Housing \(Scotland\) Act 1974 \(c. 45\)](#), [s.25\(1\)](#) and by virtue of s. 25(2)(3) of that said 1974 Act para. 1A was indirectly and directly substituted; the said 1966 and 1974 Acts were repealed (15.9.1987) by [Housing](#)

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(Scotland) Act 1987 (c. 26, SIF 61), s. 339, **Sch. 24**, but by s. 339, Sch. 23 para. 3 of that 1987 Act the substituted para. 1A is expressed to be amended

- 2 Farm offices.
- 3 Subsoil and other drains.
- 4 Walls and fences.
- 5 Deep trenching.
- 6 Clearing the ground.
- 7 Planting trees.
- 8 Making piers or landing stages.
- 9 Roads practicable for vehicles from the croft to the public road or the sea shore.
- 10 All other improvements which, in the judgment of the Land Court, will add to the value of the croft [<sup>F12</sup>as an agricultural subject.]

#### Textual Amendments

**F12** Words substituted by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. II para. 21**

- [<sup>F13</sup>11 Buildings or other structures erected under section five of the <sup>M3</sup>Crofters (Scotland) Act 1961, being buildings or structures which are fixtures on the land; or works executed under the said section five.]

#### Textual Amendments

**F13** Para. 11 added by Crofters (Scotland) Act 1961 (c. 58), **Sch. 1 Pt. II para. 21**

#### Marginal Citations

**M3** 1961 c. 58.

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## SIXTH SCHEDULE

Section 38.

## APPLICATION OF ENACTMENTS TO CROFTING COUNTIES

## PART I

*Enactments ceasing to have effect*

<b>Enactment</b>	<b>Provisions ceasing to have effect in crofting counties</b>
The Crofters Holdings (Scotland) Act 1886. (49 & 50 Vict. c. 29.)	Sections one to ten. In section twelve the words from “It shall be competent for the Crofters Commission to draw up a scheme” to the end of the section. Section sixteen. Sections nineteen and twenty. Sections thirty-one and thirty-four. The Schedule.
The Crofters Holdings (Scotland) Act 1887. (50 & 51 Vict. c. 24.)	The whole Act.
The Crofters Common Grazings Regulation Act 1891. (54 & 55 Vict. c. 41.)	The whole Act.
The Crofters Common Grazings Regulation Act 1908. (8 Edw. 7. c. 50.)	The whole Act.
The Small Landholders (Scotland) Act 1911. (1 & 2 Geo. 5. c. 49.)	Sections one and two. Sections eight to ten. Sections twelve to fifteen. Sections seventeen to twenty-three. Section twenty-four except paragraph (b) of subsection (5). Section twenty-seven. Sections thirty-two and thirty-three.
The Land Settlement (Scotland) Act 1919. (9 & 10 Geo. 5. c. 97.)	Sections twelve and thirteen. Section fourteen except in relation to paragraph (b) of the subsection substituted for subsection (5) of section twenty-four of the Act of 1911. Section seventeen and the Second Schedule in so far as they amend subsection (6) of section seven and section twenty-four of the Act of 1911.
The Small Landholders (Scotland) Act 1931. (21 & 22 Geo. 5. c. 44.)	Section one. Sections three, five and six. Sections eight to fourteen. Section eighteen. Sections twenty-two to twenty-five.
The Agriculture (Scotland) Act 1948. (11 & 12 Geo. 6. c. 45.)	Part II and the Fifth and Sixth Schedules in so far as they apply to any land being or forming part of a croft within the meaning of this Act. Sections sixty-six and seventy-seven.

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## PART II

### *Modification of Enactments*

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<b>Enactment</b>	<b>Modification of enactments in application to crofting counties</b>
The Small Landholders (Scotland) Act 1911. (1 & 2 Geo. 5. c. 49.)	In section seven, subsections (1) and (6) and in paragraph (f) of subsection (11) the words from “and it may be a term” to the end of the paragraph shall be omitted. In section twenty-six, subsection (1), in subsection (2) the words from “and shall not” to the end of the subsection, and subsections (3), (6), (8), (9) and (10) shall be omitted; and in subsection (7) for the words from the beginning of the subsection to “nothing in that section” there shall be substituted the words “Nothing in section thirty-three of the Act of 1886”. In section thirty-one, in subsection (1) the definitions of “Act of 1887”, “Act of 1891”, “Act of 1908” and “statutory successor”, and subsection (4) shall be omitted.

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