



Small Landholders (Scotland) Act 1911

1911 CHAPTER 49 1 and 2 Geo 5

7 Powers to facilitate the constitution of new holdings. Constitution of small holdings.

(1) It shall be lawful for the landlord of any land and any other person to agree that in respect of such land such person may apply to the Land Court to be registered as a new holder under this Act and such person may thereupon apply accordingly, and subject to the provisions of this Act may be so registered.

(2) ^{F1}

(6) Where a new holder is registered under this section by agreement, the rent agreed between the landlord and the new holder shall not, if the same shall have been agreed upon for a specified period, be altered by the Land Court during such period, and shall not in any case be altered by the Land Court for a period of seven years from the term at which it first becomes payable [^{F2}nor shall the rent payable in respect of a new holding constituted by a scheme made under this section be so altered for a like period].

(7) Where, with a view to, or as incidental to, the registration of a new holder or holders in respect of any land, whether by agreement or otherwise, the Board are of opinion . . . ^{F3} that assistance should be provided for the purpose of dividing, fencing, or otherwise preparing or adapting the land, making occupation roads, or executing other works, such as works for the provision of drainage or water supply, or erecting or adapting a dwelling-house or dwelling-houses or other buildings, or for any similar purpose, the Board may provide such assistance by way of loan or . . . ^{F4} by way of gift, and subject to such conditions as they may prescribe. Conditions so prescribed and the provisions for their enforcement or for the case of their violation shall be as effectual as if they were contained in this Act.

[^{F5}(8) (a) Where the Board are satisfied that there is a demand for small holdings and that suitable land is available for that purpose, it shall be the duty of the Board to prepare a scheme for the constitution of one or more new holdings on such land, to be occupied by new holders upon such terms and conditions not inconsistent with the Landholders Acts as the Board think reasonable.

(b) Every such scheme shall show—

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- (i) the situation and total area of the land on which one or more new holdings are to be constituted;
 - (ii) the number and respective situations and areas of the new holdings;
 - (iii) which, if any, of the existing buildings on the land are to be utilised for the new holdings;
 - (iv) the water supply for each new holding, including the source from which the supply is to be taken, and any necessary pipes or other works;
 - (v) the situation and area of any common pasture or grazing to be occupied in connection with the new holdings; and
 - (vi) the rent of each new holding.
- (c) Where the Board are satisfied that there is not available on the land on which the new holdings are to be constituted a supply of water sufficient for the holdings, they may include in the scheme provision for taking and conveying from or through any part of the estate whereof such land forms part such supply of water as may be necessary for the new holdings and which can be taken without detriment to the requirements of the remainder of the estate; and, for the purposes of this section, any land from or through which such supply of water is to be taken or conveyed shall be deemed to be comprised in the scheme.]

[^{F5}(9) Where the Board intend to prepare such a scheme, they shall give notice of their intention to the landlord of any land which is to be comprised therein, and when a landlord has received such notice it shall not be lawful for him, save with the consent of the Board, to let or to enter into any agreement for letting such land or any part thereof until the Board have made an order confirming the scheme, or have abandoned the same:

Provided that—

- (a) such disability shall not in any case continue for a longer period than [^{F6}twelve months] from the date of notice, and
- (b) for any loss sustained by a landlord, tenant, or occupier from the operation of this subsection, the Board shall pay to him such compensation as may be agreed or as may be determined, failing agreement, by the Land Court on the application of either party.]

[^{F7}(10) When the Board have prepared a scheme under this section, they shall intimate the prepared scheme to the landlord, tenant and occupier of any land comprised therein, and shall give to such landlord, tenant and occupier, an opportunity of considering the scheme and of making representations concerning the same to the Board, and after giving to all persons interested an opportunity of being heard may, . . . ^{F8} make an order confirming the scheme, in whole or in part, and with or without modification, or may abandon the scheme.]

[^{F7}(11) (a) Where the Board make any such order, they shall notify the same to the landlord, tenant and occupier of any land comprised therein, and shall pay to such landlord, tenant and occupier such compensation for any damage or injury done to him in consequence of and directly attributable to the constitution of new holdings under the scheme (including any damage or injury done to a landlord in respect of an obligation to take over sheep stock at a valuation) as may be agreed or as may be determined, failing agreement, by the Land Court, upon the application of either party, and after giving to

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all persons interested an opportunity of being heard, and, if they so desire, of leading evidence in the matter.

- (b) The compensation payable under this subsection shall not include—
 - (i) any allowance on account of the constitution of new holdings being compulsory;
 - (ii) any compensation for injury done to or depreciation in the selling value of the land comprised in the scheme, or of any estate whereof such land forms part, except in so far as the same arises from injury done to or depreciation in the letting value of the land or estate; or
 - (iii) any compensation for injury done to the value of the sporting rights over such land or estate in so far as it exceeds the estimated value of such rights if the land or estate were put to the full reasonable use for which it could be let under ordinary lease to ordinary agricultural or pastoral tenants.
- (c) For the purpose of this subsection, any benefit or relief enhancing the letting value of the land comprised in the scheme or of any estate of which such land forms part resulting to a landlord or to any other person in consequence of and directly attributable to the constitution of new holdings under the scheme upon the one hand shall be set against any damage or injury done to him as aforesaid upon the other hand.
- (d) In determining the amount of compensation payable to the tenant of any farm, regard shall be had to the duration of his lease, and in no case shall any allowance for loss of tenant's profits be made in respect of a period exceeding three years.
- (e)
 - (i) Where any compensation has been awarded and the amount thereof determined by the Land Court under this subsection, the Board may, at any time within two months after such determination, resolve to abandon the scheme and withdraw the order, paying to any person any expenses reasonably incurred by him in connection with the making of the order or the claim for compensation, as such expenses may, failing agreement, be determined by the Land Court on the application of either party.
 - (ii) Subject to the foregoing provision, every order made by the Board for the constitution of new holdings shall be recorded in the Landholders' Holdings Book as if it were an order of the Land Court, and shall thereupon have effect and be enforceable in like manner as an order of the Land Court so recorded.
- (f) In any case where the Board have entered into an agreement with a landlord or a tenant or any other person for or in connection with the constitution of one or more new holdings upon land in which such landlord, tenant or other person is interested, the Board may pay to any person so interested, whether a party to the agreement or not, such compensation (or other consideration in money), if any, as the Board consider equitable and consistent with the provisions of this subsection in respect of any damage or injury done to him in consequence of and directly attributable to the constitution of the new holdings, and it may be a term of any such agreement entered into by the Board with a landlord that section seventeen of this Act shall apply in respect of any such new holding as if the holding had been constituted otherwise than by agreement, and in that case the said section shall apply accordingly.
- (g) Where any landlord interested represents to the Secretary for Scotland that a prepared scheme ought not to be confirmed, the Secretary may, before

Changes to legislation: There are currently no known outstanding effects for the Small Landholders (Scotland) Act 1911, Section 7. (See end of Document for details)

[^{F9}confirming] the scheme, refer the same to the Land Court for inquiry and report.]

- (12) In or after making such an order, the [^{F10}Board] (without prejudice to their other powers) may do, provide, or decide anything incidental to or consequential on such an order as if it were an order under section twelve of the Act of 1886, and may, if they think fit, provide for the incorporation with the order, subject to the necessary adaptations, of any provisions of the Lands Clauses Acts which appear to them requisite for carrying the order into effect.
- (13) Upon such an order providing for the constitution of one or more new holdings on any land being issued, the Board may proceed to make it effective by entering on the land, carrying out works, and otherwise as may be required (due compensation to such amount as may be agreed or as, in case of dispute, may be determined by the Land Court being made for surface damage), and may negotiate with one or more duly qualified applicants with a view to their registration as new holders in respect of the land.
- (14) A new holder shall not be duly qualified for registration otherwise than by agreement who does not satisfy the Board as to his ability to fulfil the obligations incumbent on him.
- (15) The Board shall give reasonable consideration to objections stated by a landlord to any applicant for a new holding, and ceteris paribus shall give a preference to applicants preferred by the landlord.
- (16) Except by agreement, a new holder shall not be registered—
- (a) in respect of any land being or forming part of a farm not exceeding [^{F11}sixty hectares] acres occupied by a person who has no personal interest in any other farm, or, in the case of a farm so occupied which exceeds one hundred and fifty acres but is wholly or mainly pastoral, not exceeding an annual value as entered in the valuation roll of eighty pounds: Provided that nothing herein contained shall operate to prevent the registration otherwise than by agreement of two or more new holders in respect of the whole of such farm, not being a farm wholly or mainly pastoral, where no other land is available in the neighbourhood of any existing village or township; or
 - (b) in respect of any land being or forming part of a farm occupied subject to a lease which was in force at Whitsunday nineteen hundred and eleven, or, in the case of land within the counties specified in section nineteen of the Act of 1886, at Whitsunday nineteen hundred and six, so long as the lease remains in force.
- (17) All parties being possessed of lands or any right or interest therein who under the Lands Clauses Acts have power on behalf of themselves or of others to convey and dispose of such lands, or of such rights therein, for the purposes mentioned in those Acts, shall have the like power to enter into any agreement or given any consent for the purposes of this section.
- (18) Notwithstanding anything contained in the ^{M1}Congested Districts (Scotland) Act, 1897, the expression “landlord” in this section includes the Board in respect of any land purchased under that Act and transferred to the Board under the provisions of this Act [^{F2}and any other land which has been or may be acquired by the Board].
- (19) [^{F12}Any member of the Land Court, or any person] authorised in writing by the Land Court or by the Board, may, for the purposes of the Landholders Acts, enter upon and

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inspect any lands or buildings at all reasonable hours on any lawful day, after due notice has been given to the owner and occupier of such lands or buildings.

Textual Amendments

- F1** S. 4(6), 7(2)—(5) repealed by Land Settlement (Scotland) Act 1919 (c. 97), **Sch. 4**
- F2** Words added by Land Settlement (Scotland) Act 1919 (c. 97), **Sch. 2**
- F3** Words repealed by Land Settlement (Scotland) Act 1919 (c. 97), **Sch. 4**
- F4** Words repealed by Small Landholders and Agricultural Holdings (Scotland) Act 1931 (c. 44), **Sch. 2**
- F5** S. 7(8)(9) substituted by Land Settlement (Scotland) Act 1919 (c. 97), **s. 9**
- F6** Word substituted by Small Landholders and Agricultural Holdings (Scotland) Act 1931 (c. 44), **s. 16(1)**
- F7** S. 7(10)(11) substituted by Land Settlement (Scotland) Act 1919 (c. 97), **s. 9**
- F8** Words repealed by Reorganisation of Offices (Scotland) Act 1939 (c. 20), **Sch.**
- F9** Word substituted by S.R. & O. 1399/782 (Rev. XV, p. 172; 1939 II, p. 2933)
- F10** Word substituted by Land Settlement (Scotland) Act 1919 (c. 97), **Sch. 2**
- F11** Words substituted by S.I. 1977/2007, reg. 2, **Sch. 1**
- F12** Words substituted by S.R. & O. 1928/1042 (Rev. I, p. 853; 1928, p. 18)

Modifications etc. (not altering text)

- C1** S. 7 extended by Small Landholders and Agricultural Holdings (Scotland) Act 1931 (c. 44), **s. 1(2)(3)**; modified by Crofters (Scotland) Act 1955 (3 & 4 Eliz. 2 c. 21), s. 38(4), **Sch. 6 Pt. II**
- C2** S. 7(11) amended by Small Landholders and Agricultural Holdings (Scotland) Act 1931 (c. 44), **s. 16(2)**

Marginal Citations

- M1** 1897 c. 53.

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