



# Crofters (Scotland) Act 1955 (repealed 5.1.1994)

1955 CHAPTER 21 3 and 4 Eliz 2

## *Crofting Tenure*

### 3 Definition of “croft” and “crofter”, and conditions of tenure of crofter. **U.K.**

- (1) In this Act the expression “croft” means—
- as from the commencement of this Act, every holding (whether occupied by a landholder or not) situate in the crofting counties which was, immediately before the commencement of this Act, a holding to which any of the provisions of the Landholders Acts relating to landholders applied;
  - as from the commencement of this Act, every holding situate as aforesaid which was, immediately before the commencement of this Act, a holding to which the provisions of the Landholders Acts relating to statutory small tenants applied;
  - as from the date of registration, every holding situate as aforesaid which [<sup>F1</sup>was before the commencement of the <sup>M1</sup>Crofters (Scotland) Act 1961,] constituted a croft by the registration of the tenant thereof as a crofter under section four of this Act.
  - [<sup>F2</sup>(d) as from the date of the direction, every holding situated as aforesaid as to which the Secretary of State has directed under subsection (1) of section two of the <sup>M2</sup>Crofters (Scotland) Act 1961, that it shall be a croft.]
- (2) In this Act the expression “crofter” means the tenant of a croft.
- (3) A crofter shall not be subject to be removed from the croft of which he is tenant except—
- where one year’s rent of the croft is unpaid;
  - in consequence of the breach of one or more of the conditions set out in the Second Schedule to this Act (in this Act referred to as “the statutory conditions”), other than the condition as to payment of rent; or
  - in pursuance of any enactment, including any enactment contained in this Act.

*Status: Point in time view as at 01/04/1992.**Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1955 (repealed 5.1.1994), Cross Heading: Crofting Tenure. (See end of Document for details)*

(4) Any contract or agreement made by a crofter by virtue of which he is deprived of any right conferred on him by any provision of this Act shall to that extent be void unless the contract or agreement is approved by the Land Court.

[<sup>F3</sup>(5) For the purposes of this Act, the <sup>M3</sup>Crofters (Scotland) Act 1961 and the <sup>M4</sup>Crofting Reform (Scotland) Act 1976, any right in pasture or grazing land held or to be held by the tenant of a croft, whether alone or in common with others, and any land comprising any part of a common grazing which has been apportioned for the exclusive use of a crofter under section 27(4) of this Act and any land held runrig which has been apportioned under section 27(7) of this Act, shall be deemed to form part of the croft.

(6) For the purposes of the aforesaid Acts, where—

- (a) a crofter has acquired his entire croft other than any such right or land as is referred to in subsection (5) above, or
- (b) any person, not being a crofter, has obtained an apportionment of any land under the said section 27,

then the person referred to in paragraph (a) or (b) above shall be deemed to hold the right or land referred to therein in tenancy until held otherwise and that right or land shall be deemed to be a croft.]

#### Textual Amendments

- F1 Words substituted by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 1 Pt. II para. 9](#)
- F2 [Para. 3\(1\)\(d\)](#) added by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 1 Pt. II para. 9](#)
- F3 [S. 3\(5\)\(6\)](#) substituted for s. 3(5) by [Crofting Reform \(Scotland\) Act 1976 \(c 21\), s. 14](#)

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

- C1 [S. 3](#) amended by [Agriculture Act 1986 \(c. 49, SIF 2:1\), s. 19\(7\)](#)

#### Marginal Citations

- M1 [1961 c. 58.](#)
- M2 [1961 c. 58.](#)
- M3 [1961 c. 58.](#)
- M4 [1976 c. 21.](#)

4 <sup>F4</sup> ..... **U.K.**

#### Textual Amendments

- F4 [Ss. 4, 19–21, 27\(6\), 34\(2\), 37\(2\)](#) and [Sch. 4](#) repealed by [Crofters \(Scotland\) Act 1961 \(c. 58\), Sch. 3](#)

5 **Rent.** **U.K.**

(1) The rent payable by a crofter as one of the statutory conditions shall be the yearly rent, including money and any prestations other than money, payable for the year current at the commencement of this Act or, in the case of a croft let after the commencement of this Act, fixed at the date of the letting, unless and until that rent is altered in accordance with the provisions of this Act.

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- (2) The rent may be altered by agreement in writing between the landlord and the crofter to such amount and for such period as may be so agreed; and thereupon the rent so agreed shall be the rent payable by the crofter so long as the agreement subsists and thereafter so long as—
  - (a) no new agreement between the landlord and the crofter shall have been made; or
  - (b) no different rent shall have been fixed by the Land Court under this Act.
- (3) The Land Court may, on the application of the crofter or the landlord, determine what is a fair rent to be paid by the crofter to the landlord for the croft, and may pronounce an order accordingly; and the rent so fixed by the Land Court shall be the rent payable by the crofter as from the first term of Whitsunday or Martinmas next succeeding the decision of the Land Court:  
Provided that—
  - (a) where the rent payable for the croft has been fixed by the Land Court it shall not be altered, except by mutual agreement between the crofter and the landlord, for a period of seven years from the term at which it first became payable; and
  - (b) where a croft is let after the commencement of this Act, the rent shall not be altered by the Land Court for a period of seven years from the term at which it first became payable or for such longer period as may have been agreed upon between the crofter and the landlord.
- (4) Before determining what is a fair rent for a croft, the Land Court shall hear the parties and shall take into consideration all the circumstances of the case, of the croft and of the district, and in particular shall take into consideration any permanent or unexhausted improvements on the croft and suitable thereto which have been executed or paid for by the crofter or his predecessors in the tenancy.

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

C2 S. 5(3) provisos excluded by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\), s. 7](#)

**6 Record of croft. U.K.**

- (1) The Land Court shall, on the application of the landlord or the crofter, make a record of the condition of the cultivation of a croft and of the buildings and other permanent improvements thereon, and by whom the permanent improvements have been executed or paid for.
- (2) Any application under this section shall be intimated by the Land Court to the other party concerned and each party shall be given an opportunity of being heard on any matter affecting the record of the croft.

**7 Renunciation of tenancy. U.K.**

- (1) A crofter shall be entitled, on one year's notice in writing to the landlord, to renounce his tenancy as at any term of Whitsunday or Martinmas.
- (2) If a crofter renounces his tenancy the landlord shall be entitled to set off all rent due or to become due against any sum found to be due [<sup>F5</sup>by the landlord] to the crofter or

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to the Secretary of State by way of compensation for permanent improvements made on the croft.

#### Textual Amendments

**F5** Words inserted by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 1 Pt. I](#), para. 1

## 8 **Assignment of croft.** **U.K.**

- [<sup>F6</sup>(1) A crofter shall not assign his croft—
- (a) to a member of his family unless he obtains the consent in writing of his landlord or, failing such consent, the consent in writing of the Commission on an application made to them;
  - (b) to a person other than a member of his family unless he obtains the consent in writing of the Commission on an application made to them.
- (2) A landlord who has given his consent in pursuance of subsection (1)(a) above shall notify the Commission of the assignment and the name of the assignee.]
- (3) The Commission shall give notice to the landlord of any application made to them for their consent to the assignment of a croft and before [<sup>F7</sup>deciding whether to give or to withhold] their consent shall afford to the crofter and to the landlord an opportunity of making representations to them.
- (4) In considering any application made as aforesaid the Commission shall take into account the family and other circumstances of the crofter and of the proposed assignee of the croft and the general interests of the township in which the croft is situated, . . . <sup>F8</sup>
- (5) Where a crofter assigns his croft otherwise than with the consent in writing of the Commission [<sup>F9</sup>in a case where he is required to obtain such consent in pursuance of subsection (1) above] . . . <sup>F8</sup> such assignment and any deed purporting so to assign the croft shall be null and void and the Commission may declare the croft to be vacant.
- [<sup>F10</sup>(6) An assignment to which the Commission have given their consent under this section shall take effect at the term of Whitsunday or Martinmas first occurring not less than two months after the date on which such consent was intimated to the crofter, unless before the said term of Whitsunday or Martinmas, as the case may be, the crofter or his [<sup>F11</sup>executor] or legatee and the assignee jointly give to the Commission notice in writing that they do not intend to proceed with the assignment.]
- [<sup>F12</sup>(7) Any reference in this section to a croft shall include a reference to a part of a croft, being a part consisting of any right in pasture or grazing land deemed by virtue of section 3(5) of this Act to form part of a croft.
- (8) In this section “member of his family”, in relation to a crofter, has the same meaning as “member of the crofter’s family” has in section 10(7) of this Act.]

#### Textual Amendments

- F6** S. 8(1)(2) substituted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [Sch. 2 para. 6\(a\)](#)
- F7** Words substituted by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 1 Pt. II para. 10](#)
- F8** Words repealed by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 3](#)
- F9** Words inserted by [Crofting Reform \(Scotland\) Act 1976 \(c. 21\)](#), [Sch. 2 para. 6\(b\)](#)
- F10** S. 8(6) added by [Crofters \(Scotland\) Act 1961 \(c. 58\)](#), [Sch. 1 Pt. II para.10](#)

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**F11** Word substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), **Sch. 2 Pt. 1 para. 1**

**F12** S. 8(7)(8) added by Crofting Reform (Scotland) Act 1976 (c. 21), **Sch. 2 para. 6(c)**

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

**C3** S. 8 extended by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 15**

**9 Sub-division of croft. U.K.**

A crofter shall not, except with the consent in writing of the landlord and of the Commission, sub-divide his croft, and any sub-division of a croft otherwise than with such consent shall be null and void.

**10 Bequest of croft. U.K.**

(1) A crofter may, by will or other testamentary writing, bequeath the tenancy of his croft to any one person; but where the power conferred by this subsection is exercised in favour of a person not being a member of the crofter's family, the bequest shall be null and void unless the Commission, on application made to them by the legatee, otherwise determine.

(2) A person to whom the tenancy of a croft is bequeathed as aforesaid (in this section referred to as "the legatee") shall, if he accepts the bequest, give notice of the bequest to the landlord within two months after the death of the crofter, unless he is prevented by some unavoidable cause from giving such notice within that time, and in that event he shall give such notice within a further period of four months. If no such notice is given in accordance with the provisions of this subsection the bequest shall become null and void.

The giving of such notice shall import acceptance of the bequest and, unless the landlord intimates objection to the Commission under the next following subsection, the legatee shall come into the place of the deceased crofter in the croft as from the date of the death of the deceased crofter, and the landlord shall notify the Commission accordingly.

(3) Where notice has been given as aforesaid to the landlord he may within one month after the giving of the notice intimate to the legatee and to the Commission that he objects to receive the legatee as tenant of the croft and shall state the grounds of his objection.

(4) If, after affording to the legatee and to the landlord an opportunity of making representations to them, the Commission are satisfied that the objection is reasonable, they shall declare the bequest to be null and void, and shall notify the landlord and the legatee accordingly. If they are not so satisfied they shall notify the landlord and the legatee to that effect, and the legatee shall thereupon come into the place of the deceased crofter in the croft as from the date of the death of the deceased crofter.

(5) If the bequest becomes null and void under this section, the right to the croft shall <sup>F13</sup>be treated as intestate estate of the deceased crofter in accordance with Part I of the <sup>M5</sup>Succession (Scotland) Act 1964.]

(6) Subject to the foregoing provisions of this section, any question arising with respect to the validity or effect of the bequest shall be determined by any court having jurisdiction

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to determine the validity and effect of the whole testamentary writings of the deceased crofter.

- (7) In this section the expression “member of the crofter’s family” means the wife or husband of the crofter or his son-in-law or daughter-in-law <sup>F14</sup>or any one of the persons who would be, or would in any circumstances have been, entitled to succeed to the estate on intestacy by virtue of the <sup>M6</sup>Succession (Scotland) Act 1964.]

#### Textual Amendments

**F13** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), Sch. 2 Pt. I para. 2

**F14** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), Sch. 2 Pt. I para. 3

#### Marginal Citations

**M5** 1964 c. 41.

**M6** 1964 c. 41.

### <sup>F15</sup>11 Succession to croft. **U.K.**

- (1) Where, owing to the failure of a crofter to bequeath the tenancy of his croft or of such a bequest to receive effect, the right to the tenancy of the croft falls to be treated as intestate estate of the deceased crofter in accordance with Part I of the <sup>M7</sup>Succession (Scotland) Act 1964, and the tenancy is transferred in pursuance of section 16(2) of that Act, the executor of the deceased crofter shall as soon as may be furnish particulars of the transferee to the landlord, who shall accept the transferee as tenant; and the landlord shall notify the Commission accordingly.
- (3) If at the expiry of three months from the relevant date, that is to say—
- where the deceased crofter has exercised his power to bequeath the tenancy of the croft in favour of a person not being a member of the deceased crofter’s family and the Commission, on application made to them by the legatee, have refused to determine that the bequest shall not be null and void, from the date of the Commission’s refusal;
  - where the deceased crofter has otherwise failed to bequeath the tenancy, from the date of death of the deceased crofter;
  - where the deceased crofter has bequeathed the tenancy and the bequest has become null and void under section 10(2) of this Act, from the date on which the bequest became null and void as aforesaid;
  - where the deceased crofter has bequeathed the tenancy and the Commission have declared the bequest to be null and void under section 10(4) of this Act, from the date on which the Commission notified the landlord and the legatee to that effect,

the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section, the landlord shall forthwith notify the Commission to that effect.

- (4) If at the expiry of the three months aforesaid it appears to the Commission, whether from a notification under subsection (3) of this section or otherwise, that the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section, the Commission may give notice in such manner as they

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may think proper, whether by advertisement or otherwise, to persons who may claim to be entitled—

- (a) to succeed to the intestate estate of the deceased crofter, or
  - (b) to claim legal rights or the prior rights of a surviving spouse out of that estate, requiring them if they desire to have the tenancy of the croft transferred to them in or towards satisfaction of their entitlement or claim to give intimation accordingly to the Commission before such date as may be specified in the notice, being a date not earlier than six months after the relevant date within the meaning of subsection (3) of this section; and the Commission may, subject to the provisions of subsection (4A) of this section, nominate as successor to the tenancy any one of the persons who have so given intimation.
- (4A) The Commission shall, before nominating any person as successor to the tenancy of the croft in pursuance of subsection (4) of this section, consult with the executor (if any) of the deceased crofter, and the Commission shall not nominate any person as successor unless it appears to them—
- (a) that that person is a person entitled to succeed to the intestate estate of the deceased crofter, or to claim legal rights or the prior rights of a surviving spouse out of that estate, and
  - (b) that adequate provision is being, or will be, made for the settlement of the entitlement or claim in the said intestate estate of any other person who is known to them to be entitled to succeed to, or to claim any such rights out of, that estate.
- (4B) The Commission shall give notice to the landlord of any person nominated by them in pursuance of subsection (4) of this section, and the landlord shall accept that person as successor to the tenancy of the croft.
- (4C) The nomination by the Commission, in pursuance of subsection (4) of this section, of any person as successor to the tenancy of the croft shall transfer the interest of the tenant under that tenancy to that person, and such transfer shall be in or towards satisfaction of that person's entitlement or claim in the intestate estate of the deceased crofter.
- (5) If at the expiry of one month from the end of the period referred to in section 16(3)(b) of the <sup>M8</sup>Succession (Scotland) Act 1964 the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) of this section and the Commission have not nominated any person as successor under subsection (4) thereof, the Commission may declare the croft to be vacant and, if they do so, shall notify the landlord accordingly.
- (6) Where the Commission have under the foregoing provisions of this section nominated a person as successor to the tenancy or, as the case may be, have declared the croft to be vacant, any right of any person (other than the person so nominated) in, or in relation to, the tenancy shall be extinguished.
- (7) Where a croft has been declared under subsection (5) of this section to be vacant, the landlord shall be liable—
- (a) if the deceased crofter was at the date of his death under any liability to the Secretary of State in respect of any loan, to pay to the Secretary of State the whole or so much of the value of the improvements on the croft as will discharge the liability of the deceased crofter, and to pay to the executor of the deceased crofter, if a claim is made in that behalf not later than twelve months

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after the date on which the croft was declared to be vacant, any balance of the value aforesaid;

- (b) if at the date of his death the deceased crofter was not under any such liability to the Secretary of State and a claim is made in that behalf as aforesaid, to pay to the executor of the deceased crofter the value of the improvements on the croft.

In this subsection the expression “the value of the improvements on the croft” means such sum as may be agreed, or as, failing agreement, may be determined by the Land Court, to be the sum which would have been due by the landlord by way of compensation for permanent improvements if the deceased crofter had immediately before his death renounced his tenancy.

- (7A) Where a croft has been declared under subsection (5) of this section to be vacant consequent on the death after the commencement of the <sup>M9</sup>Crofters (Scotland) Act 1961, of a crofter who immediately before his death was qualified as mentioned in the next following subsection, and the value of the improvements on the croft is determined by the Land Court under the last foregoing subsection, the executor of the crofter may request the Land Court to determine what would have been the value of the improvements on the croft if the said Act had not been passed, and if the value last mentioned is greater than the value determined by the Land Court under the last foregoing subsection, the difference between the two said values shall be payable to the executor by the Secretary of State:

Provided that the Secretary of State shall be entitled to set off any amount due to him by the crofter at the date of his death in respect of a loan made under subsection (2) or (3) of section twenty-two of this Act or subsection (7) of section seven or section nine of the Act of 1911 against any sum payable to the executor by the Secretary of State under this subsection.

- (7B) The reference in the last foregoing subsection to a crofter who immediately before his death was qualified is a reference to a crofter—
  - (a) whose tenancy of the croft in question began before the commencement of the <sup>M10</sup>Crofters (Scotland) Act 1961, or
  - (b) who held the tenancy of such croft as statutory successor to his immediate predecessor in the tenancy and each of whose predecessors (being in each case a person whose tenancy of the croft began after the commencement of the said Act) held such tenancy as statutory successor to his immediate predecessor.]

#### Textual Amendments

- F15** S. 11 substituted by virtue of Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), s. 8, Sch. 2 Pt. II in relation to the estate of any person dying after 25.11.1968

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

- C4** S. 11(7)(a)(7A) amended (1.4.1991) by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 8(9)(a)(b)
- C5** S. 11(7A) modified by [Highlands and Islands Development \(Scotland\) Act 1965 \(c. 46\)](#), s. 8(3)(b).

#### Marginal Citations

- M7** 1964 c. 41.  
**M8** 1964 c. 41.  
**M9** 1961 c. 58.



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M10 1961 c. 58.

## 12 Resumption of croft or part of croft by landlord. U.K.

(1) The Land Court may, on the application of the landlord and on being satisfied that he desires to resume the croft, or part thereof, for some reasonable purpose having relation to the good of the croft or of the estate or to the public interest, authorise the resumption thereof by the landlord upon such terms and conditions as they may think fit, and may require the crofter to surrender his croft, in whole or in part, to the landlord accordingly, upon the landlord making adequate compensation to the crofter either by letting to him other land of equivalent value in the neighbourhood or by compensation in money or by way of an adjustment of rent or in such other manner as the Land Court may determine.

[<sup>F16</sup>(1A) A sum awarded as compensation under subsection (1) above shall, if the Land Court so determine, carry interest as from the date when such sum is payable at the same rate as would apply (in the absence of any such statement as is provided for in Rule 66 of the Act of Sederunt (Rules of Court, consolidation and amendment) 1965) in the case of decree or extract in an action commenced on that date in the Court of Session if interest were included in or exigible under that decree or extract; Provided that this subsection shall not affect any case in which the hearing has begun before the coming into force of section 30 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.]

(2) For the purposes of the foregoing subsection the expression “reasonable purpose” shall include the using, letting or feuing of the land proposed to be resumed for the building of dwellings, or for small allotments, or for harbours, piers, boat shelters or other like buildings, or for churches or other places of religious worship, or for schools, or for halls or community centres, or for planting, or for roads practicable for vehicular traffic from the croft or township to the public road or to the seashore [<sup>F17</sup>or for any other purpose likely to provide employment for crofters and others in the locality], and the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.

(3) Where an application is made, with the consent of a majority of the persons sharing in a common grazing and with the approval of the Commission, for authority to resume any land forming part of the common grazing for the purpose of using, letting or otherwise disposing of it for the planting of trees, the Land Court shall not withhold their authority for such resumption.

[<sup>F18</sup>(3A) Where a grazings committee have, under section 25(1C) of this Act, planted trees on land forming part of a common grazing, it shall not be competent for an application to be made under subsection (1) above in respect of that land while it continues to be used as woodlands.]

[<sup>F19</sup>(4) The provisions of the <sup>M11</sup>Crofters (Scotland) Acts 1955 and <sup>M12</sup>1961, shall cease to apply to any land on its being resumed in pursuance of an order authorising its resumption made under this section by the Land Court, without prejudice, however, to the subsequent exercise of any powers conferred by any enactment for. . . . <sup>F20</sup> the enlargement of existing crofts.]

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#### Textual Amendments

- F16** S. 12(1A) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 75:2), s. 30(1)
- F17** Words inserted by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 11
- F18** S. 12(3A) inserted (S.) (1.4.1992) by Crofter Forestry (Scotland) Act 1991 (c. 18, SIF 2:4), s. 2(1); S.I. 1992/504, art.2
- F19** S. 12(4) added by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. II para. 11
- F20** Words repealed by Crofting Reform (Scotland) Act 1976 (c. 21), Sch. 3

#### Marginal Citations

- M11** 1955 c. 21.
- M12** 1961 c. 58.

### 13 Provisions as to removal of crofter. **U.K.**

- (1) When—
- (a) one year's rent of a croft is unpaid, or
  - (b) a crofter has broken one or more of the statutory conditions (other than the condition as to payment of rent),
- the Land Court may, on the application of the landlord and after considering any objections stated by the crofter, make an order for the removal of the crofter.
- (2) When a crofter whose rights to compensation for permanent improvements have been transferred in whole or in part to the Secretary of State under section twenty-three of this Act—
- (a) has abandoned his croft; or
  - (b) has broken any of the statutory conditions (other than the condition as to payment of rent); or
  - (c) has broken any of the conditions of repayment of a loan contained in the agreement for the loan;
- the Land Court may, on the application of the Secretary of State and after considering any objections stated by the crofter or the landlord, make an order for the removal of the crofter.
- (3) If a crofter is removed from his croft, the landlord shall be entitled to set off all rent due or to become due against any sum found to be due [<sup>F21</sup>by the landlord] to the crofter or to the Secretary of State for permanent improvements made on the croft.

#### Textual Amendments

- F21** Words inserted by Crofters (Scotland) Act 1961 (c. 58), Sch. 1 Pt. I para. 3

### [<sup>F22</sup>14 Compensation for improvements and compensation for deterioration or damage. **U.K.**

- (1) Where—
- (i) a crofter renounces his tenancy or is removed from his croft, or

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- (ii) the tenancy of a croft, being a tenancy the interest of the tenant under which is comprised in the estate of a deceased crofter, is terminated in pursuance of section 16(3) of the Succession (Scotland) Act, 1964,

the crofter or, as the case may be, the executor of the deceased crofter shall, subject to the provisions of this Act, be entitled to compensation for any permanent improvement made on the croft if—

- (a) the improvement is suitable to the croft; and
- (b) the improvement was executed or paid for by the crofter or, as the case may be, the deceased crofter, or any of the predecessors of the crofter or of the deceased crofter in the tenancy; and
- (c) either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the crofter or, as the case may be, the deceased crofter was bound to execute the improvement or, if the improvement was executed in pursuance of such an agreement, the crofter has not received or, as the case may be, the deceased crofter did not receive and his executor has not received, by way of reduction of rent or otherwise, fair consideration for the improvement.

- (2) Where—

- (a) a person on becoming the tenant of a croft has with the consent of the landlord paid to the outgoing tenant any compensation due to him in respect of any permanent improvement and has agreed with the Secretary of State to assume any outstanding liability to the Secretary of State of the outgoing tenant in respect of any loan made to him; or
- (b) on a person becoming the tenant of a croft the Secretary of State on his behalf has paid to the landlord a sum representing the value to such person of an existing improvement on the croft;

such person shall for the purposes of the foregoing subsection be deemed to have executed or paid for the improvement.

For the purposes of paragraph (a) of this subsection a landlord who has not paid the compensation due either to the outgoing tenant or to the Secretary of State and has not applied to the Secretary of State to determine under subsection (4) of section twenty-three of this Act that any amount due by him to the Secretary of State by virtue of subsection (3) of that section shall be deemed to be a loan by the Secretary of State to him shall be deemed to have given his consent.

- (3) The provisions of subsection (1) of this section shall not apply to any buildings erected by a crofter in contravention of any interdict or other judicial order.

- (6) Where—

- (a) a crofter renounces his tenancy or is removed from his croft, or
- (b) the tenancy of a croft, being a tenancy the interest of the tenant under which is comprised in the estate of a deceased crofter, is terminated in pursuance of section 16(3) of the <sup>M13</sup>Succession (Scotland) Act 1964,

the landlord shall be entitled to recover from the crofter or, as the case may be, from the executor of the deceased crofter compensation for any deterioration of, or damage to, any fixed equipment provided by the landlord committed or permitted by the crofter or, as the case may be, by the deceased crofter or his executor.

- (7) The amount of the compensation payable under the last foregoing subsection shall be the cost, as at the date of the crofter's quitting the croft or, as the case may be, of

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the termination of the tenancy, of making good the deterioration or damage; and the landlord shall be entitled to set off the amount so payable against any compensation payable by him in respect of permanent improvements.

(8) The amount of the compensation payable under subsection (1) or subsection (6) of this section shall, failing agreement, be fixed by the Land Court.

(9) Where—

- (a) a crofter has given notice of renunciation of his tenancy, or
- (b) the landlord of the croft either gives to the executor of a deceased crofter, or receives from such an executor, notice terminating the tenancy of the croft in pursuance of section 16(3) of the <sup>M14</sup>Succession (Scotland) Act 1964,

the Land Court may, on the joint application of the crofter or, as the case may be, the executor of the deceased crofter and the land lord or, where the crofter's rights to compensation for permanent improvements have been transferred in whole or in part under section twenty-three of this Act to the Secretary of State, on the joint application of the Secretary of State and the landlord, assess prior to the renunciation or, as the case may be, the termination the amounts which will on renunciation or termination become due under this section by the landlord by way of compensation for permanent improvements and by the crofter or executor by way of compensation for deterioration or damage; and the amounts so assessed shall, on renunciation or, as the case may be, termination, become due accordingly.

(10) Nothing in this Act shall affect the provisions of the [<sup>F23</sup>Agricultural Holdings (Scotland) Act 1991], with respect to the payment to outgoing tenants of compensation for improvements:

Provided that—

- (a) where any improvements are valued under that Act with a view to the payment of compensation to a crofter or to the executor of a deceased crofter, the valuation shall, unless the landlord and the crofter or executor otherwise agree in writing, be made by the Land Court; and
- (b) compensation shall not be payable under that Act for an improvement for which compensation is payable under this Act.

(11) Notwithstanding anything in this section—

- (a) a crofter who immediately before the commencement of this Act was a statutory small tenant, or
- (b) the statutory successor of such a crofter, or
- (c) the executor of such a crofter or of such a statutory successor,

shall not be entitled, in respect of any permanent improvement made or begun before the commencement of this Act, to any compensation to which he would not have been entitled if his tenancy had expired immediately before the commencement of this Act.]

#### Textual Amendments

**F22** S. 14 substituted by virtue of [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1968 \(c. 70\)](#), s. 8, [Sch. 2 Pt. II](#) in relation to the estate of any person dying after 25.11.1968

**F23** Words in s. 14(10) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(1), 89(2), [Sch. 11 para.5](#) (with s. 45(3), [Sch.12 para. 3](#))

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

- C6** S. 14(1) amended by Crofters (Scotland) Act 1961 (c. 58), **s. 6(1)**; excluded by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 6(2)(a)**
- C7** S. 14(1)(a) extended by Crofters (Scotland) Act 1961 (c. 58), **s. 5(2)(3)**
- C8** S. 14(1)(a) modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 95(4), 335, **Sch. 8 Pt. IV para. 13(3)**
- C9** S. 14(6) excluded by Crofting Reform (Scotland) Act 1976 (c. 21), **s. 6(2)(b)**

**Marginal Citations**

- M13** 1964 c. 41.
- M14** 1964 c. 75.

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