



# Crofters Holdings (Scotland) Act 1886

## 1886 CHAPTER 29

An Act to amend the Law relating to the Tenure of Land by Crofters in the Highlands and Islands of Scotland, and for other purposes relating thereto. [25th June 1886]

WHEREAS it is expedient to amend the law relating to the tenure of land by crofters in the Highlands- and Islands of Scotland :

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:

### *I—Security of Tenure*

#### **1 A crofter shall not be removed except for breach of statutory conditions**

A crofter shall not be removed from the holding of which he is tenant except in consequence of the breach of one or more of the conditions following (in this Act referred to as statutory conditions), but he shall have no power to assign his tenancy.

- (1) The crofter shall pay his rent at the terms at which it is due and payable:
- (2) The crofter shall not execute any deed purporting to assign his tenancy:
- (3) The crofter shall not, to the prejudice of the interest of the landlord, persistently injure the holding by the dilapidation of buildings or, after notice has been given by the landlord to the crofter not to commit, or to desist from, the particular injury specified in such notice, by the deterioration of the soil:
- (4) The crofter shall not, without the consent of his landlord in writing, subdivide his holding or sublet the same or any part thereof, or erect or suffer to be erected thereon any dwellinghouse otherwise than in substitution for those already upon the holding at the time of the passing of this Act:

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*Status: This is the original version (as it was originally enacted).*

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- (5) 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 holding, and which, the Crofters Commission shall find to be reasonable:
- (6) The crofter shall not do any act whereby he becomes notour bankrupt within the meaning of the Bankruptcy (Scotland) Act, 1856, and the Debtors (Scotland) Act, 1880, and shall not execute a trust deed for behoof of creditors :'
- (7) The landlord, or any person or persons authorised by him in that behalf (he or they making reasonable compensation for any damage to be done or occasioned thereby), shall have the right to enter upon the holding for any of the purposes following (that is to say) :
- Mining or taking minerals, or digging or searching for minerals;
  - Quarrying or taking stone, marble, gravel, sand, clay, slate, or other workable mineral;
  - Cutting or taking timber or peats, excepting timber and other trees planted by the crofter or his predecessors in the holding, being of the same family, or that may be necessary for ornament or shelter, and excepting also such peats as may be required for the use of the holding;
  - Opening or making roads, fences, drains, and watercourses ;
  - Passing and re-passing to and from the shore of the sea or any loch with or without horses and carriages for exercising any right of property or other right belonging to the landlord;
  - Viewing or examining at reasonable times the state of the holding and all buildings or improvements thereon ;
  - Hunting, shooting, fishing, or taking game or fish, wild birds, or vermin. The word " game " for the purposes of this subsection means deer, hares, rabbits, pheasants, partridges, quails, landrails, grouse, blackgame, capercailzie, ptarmigan, woodcock, snipe, wild duck, .widgeon, and teal;
- And the crofter shall not obstruct the landlord, or any person or persons authorised by him in that behalf as aforesaid, in the exercise of any right reserved or conferred by this sub-section.
- (8) The crofter shall not on his holding, without the consent of his landlord, open any house for the sale of intoxicating liquors.

## 2 Provision, for resumption, by landlord

Notwithstanding the provisions contained in the preceding section, the Crofters Commission may, on the application of the landlord, and upon being satisfied that he desires to resume the holding or part thereof, for some reasonable purpose, having relation to the good of the holding or of the estate, including the using, letting, or feuing the land proposed to be resumed, for the building of dwellings, or for small allotments for fishermen, or for harbours, piers, boat shelters, or other buildings connected with the fishing industry, or for churches or other places of religious worship, or for schools, or for planting, or for roads practicable for carriages from the croft or crofts to the high road or the sea shore, authorise the resumption thereof by the landlord upon such terms and conditions as the Crofters Commission shall think fit, and may require the crofter to surrender his holding, in whole or in such part, to the landlord, upon the landlord making adequate compensation to the crofter, either by letting to him other land of

equivalent value in the neighbourhood, or by reduction of rent, or by compensation in money, or otherwise as the Crofters Commission shall determine.

### **3 Removal of crofter for breach of conditions**

When one year's rent of the holding, but less than two years rent, is due and unpaid, the crofter shall be liable to be removed in manner provided by section twenty-seven of the Agricultural Holdings (Scotland) Act, 1883.

When two years rent of the holding is due and unpaid, or when the crofter has broken any other of the statutory conditions, he shall forfeit his tenancy, and shall be liable to be removed in manner provided by the fourth section of the Act of Sederunt anent Removing of the fourteenth day of December one thousand seven hundred and fifty-six.

## *II—Rent*

### **4 Present rent**

The rent payable, as one of the statutory conditions, shall be the present rent, that is to say, the yearly rent including money and any prestations other than money, payable for the year current at the passing of this Act, unless and until the present rent is altered in manner provided by this Act.

### **5 Rent altered by agreement**

The rent may be altered by agreement between the landlord and the crofter to such amount and for such period as may be agreed on; and the rent so agreed on shall be the rent payable by the crofter so long as such agreement subsists, and after the expiry thereof so long as no different rent shall have been fixed by the Crofters Commission upon the application of the landlord or the crofter, and so long as no new agreement between the landlord and the crofter shall have been made.

### **6 Fixed rent**

- (1) The landlord or the crofter may apply to the Crofters Commission to fix the fair rent to be paid by such crofter to the landlord for the holding, and thereupon the Crofters Commission, after hearing the parties and considering all the circumstances of the case, holding, and district, and particularly after taking into consideration any permanent or unexhausted improvements on the holding and suitable thereto which have been executed or paid for by the crofter or his predecessors in the same family, may determine what is such fair rent, and pronounce an order accordingly.
- (2) The rent fixed by the Crofters Commission (in this Act referred to as the fixed rent) shall be deemed to be the rent payable by the crofter as from the first term of Whitsunday or Martinmas next succeeding the decision of the Crofters Commission, and shall come in place of the present rent, and, save by mutual agreement, the fixed rent shall not be altered for a period of seven years from such term.
- (3) Where the Crofters Commission shall fix a rent which shall be less in amount than the present rent, the crofter shall be entitled, at the next payment of rent, to deduct from the amount of the fixed rent such sum or sums as he may have paid over and above

the amount of the fixed rent in respect of the period between the date of the notice of application to fix the fair rent and the date when such rent was fixed.

- (4) When an application is lodged with the Crofters Commission to fix a fair rent, it shall be in the power of the Crofters Commission, either under the same or under another application of the crofter, to sist all proceedings for the removal of the crofter in respect of non-payment of rent till the said application is finally determined, upon such terms as to payment of rent or otherwise as they shall think fit.
- (5) In the proceedings on such application the Crofters Commission shall take an account of the amount of arrears of rent due or to become due before the application is finally determined, and may take evidence of all the circumstances which have led to such arrears, and shall decide whether, in view of such circumstances, the whole or what part of such arrears ought to be paid, and whether in one payment or by instalments, and at what dates the same should be paid, and the amount and dates so fixed shall be deemed to be the total amount of such arrears due by the crofter, and the terms at which the same become payable.

### *III—Renunciation of Tenancy*

#### **7 Renunciation of tenancy**

A crofter shall be entitled, upon one year's notice in writing to the landlord, to renounce his tenancy as at any term of Whitsunday or Martinmas.

### *IV—Compensation for Improvements*

#### **8 Compensation to crofter for improvements on removal**

When a crofter renounces his tenancy or is removed from his holding, he shall be entitled to compensation for any permanent improvements, provided that—

- (a) The improvements are suitable to the holding ;
- (b) The improvements have been executed or paid for by the crofter or his predecessors in the same family;
- (c) The improvements have not been executed in virtue of any specific agreement in writing under which the crofter was bound to execute such improvements.

#### **9 Compensation to cottar for improvements on removal**

When a cottar if not paying rent is removed from his dwelling and any land or buildings occupied by him in connexion therewith, or if paying rent renounces his tenancy or is removed, he shall be entitled to compensation for any permanent improvements, provided that—

- (a) such improvements are suitable to the subject;
- (b) such improvements shall have been executed or paid for by the cottar or his predecessors in the same family ;
- (c) such improvements have not been executed in virtue of any specific agreement in writing under which the cottar was bound to execute such improvements.

The provisions of the preceding section and of this section shall not apply to any buildings erected by a crofter or a cottar in violation of any interdict or other judicial order.

## **10 Principle of valuation**

Improvements shall be valued under this Act at such sum as fairly represents the value of the improvement to an incoming tenant, provided that in fixing the amount of compensation payable, the value of any assistance or consideration which may be proved to have been given by the landlord or his predecessors in title, in respect of such improvements shall be taken into account, and deducted from, such compensation, and the value of any deterioration committed or permitted by the tenant within the four years preceding shall also be deducted from the said compensation.

### *V—Enlargement of Holdings*

## **11 Application by crofters for enlargement**

It shall be lawful for any five or more crofters resident on neighbouring holdings in a crofting parish, where any landlord or landlords after application made to him or them have refused to let to such crofters available land on reasonable terms for enlarging the holdings of such crofters, to apply to the Crofters Commission setting forth that in the said parish or in an adjacent crofting parish there is land available for the enlargement of such holdings which they are willing to take on lease, hut which the landlord or landlords refuse to let on reasonable terms ; that is to say, on such terms as are usually obtained in the letting of land of the like quality, and similarly situated in the same district, for other purposes than that of a deer forest, or of a grouse moor, or other sporting purpose.

## **12 Intimation to landlords**

The Crofters Commission shall, upon receiving such an application as aforesaid, intimate the same to the landlord or landlords therein alleged to have refused to let available land for the enlargement of such holdings as aforesaid, and shall afford such landlord or landlords, and the crofters by whom the application is made, an opportunity of being heard thereupon, and shall ascertain as far as possible how far the small size of the holdings has been due to the action of the landlord or of the crofters, and shall make such other inquiry as to them shall appear necessary or proper; and if they are satisfied—

- (1) That there is land in the parish, or in an adjacent crofting parish, available for enlarging the holdings of the said crofters, but that the landlord or landlords refuse to let the same for that purpose on reasonable terms ;
- (2) That the applicants are willing and able to pay a fair rent therefor, and that in the event of an order for the letting thereof being made, the applicants are able properly to cultivate the same in so far as it consists of arable land and properly to stock the same in so far as it consists of pasture land;

the Crofters Commission may make an order for a lease of the said land, or such part or parts thereof as they may think proper, to the applicants, or one or more of them, at a fair rent, and upon such terms and conditions as the Crofters Commission shall consider just.

It shall be competent for the Crofters Commission by an order under this section to provide, if this shall appear to them to be just and expedient, for admitting the crofters who have applied as aforesaid, to participate in common pasture occupied by other crofters, or for conferring upon the applicants rights of pasturage common as among themselves over available land specified in the order, upon such terms and conditions as the Crofters Commission shall

It shall be competent for the Crofters Commission to draw up a scheme regulating the use by crofters on the same estate of seaweed for the reasonable purposes of their holdings, peat bogs, and heather or grass used for thatching purposes, and to include the charge for all these in the fixed rent.

### **13 Available land**

- (1) Land shall not be deemed available land for the purposes of this Act unless it lies contiguous or near to land already in the occupancy of the crofters making the application, and belongs to the same landlord or landlords as the land occupied by the said crofters :
- (2) If the land is subject to an existing lease for a term of years, entered into prior to the commencement of this Act (not being a lease for the purposes of a deer forest, or of a grouse moor, or for other sporting purpose), it shall not be competent to assign any part thereof for the enlargement of the holdings of the crofters who have made the application, unless with the assent of the landlord or landlords and of the tenant or tenants of such land, and upon such terms as such landlord or landlords and tenant or tenants shall voluntarily agree to :
- (3) It shall not be competent for the Crofters Commission to assign land for the enlargement of the crofters holdings—
  - (a) If the land forms part of any garden, policy, park, plantation, or other wood ; or
  - (b) If the land forms part of any farm, whether subject to a lease or not, unless the Crofters Commission are satisfied that the part proposed to be assigned for the enlargement of the crofters holdings, can be so assigned without material damage to the letting value of the remainder ;
  - (c) If the land forms part of an existing farm or other holding, unless the rent or annual letting value of such farm or holding shall exceed one hundred pounds ;
  - (d) If the land is arable or improved pasture in the immediate vicinity of a residence or farm steading, or is land which could not be assigned for the enlargement of the crofters holdings without substantially impairing the amenity of such residence or farm steading;
  - (e) If: the land form part of a deer forest, and if the assignation of such land for the purposes of this Act would seriously impair the use of the remainder as a deer forest, and would act injuriously on the prosperity of the inhabitants generally of the district in which such deer forest is situated.
- (4) The aggregate value of the land assigned for the enlargement of the crofters holdings shall not exceed one third of the rent or annual letting value of the farm or other holding from which it is taken, when the annual value of the holding is between one hundred pounds and one hundred and fifty pounds, or one half when the annual value is above one hundred and fifty pounds and below three hundred pounds, or two thirds when the annual value of the holding is above three hundred pounds.

- (5) It shall not be competent for the Crofters Commission to grant the application of the crofters for the enlargement of their holdings, to the extent or effect of raising the annual value of their holdings respectively to a higher amount than fifteen pounds each,

#### **14 Deduction from rent in case of lands held for sporting purposes**

Where a portion of any land held under lease for the purposes of a deer forest or of a grouse moor, or for other sporting purpose, is assigned by the Crofters Commission for the enlargement of the holding or holdings of a crofter or crofters under this Act, the Crofters Commission shall, when they so assign such land, fix the amount of the deduction (if any) which in their judgment ought to be made from the rent payable by the tenant under the lease to the landlord, in respect of the portion of the land held under the same having been assigned as aforesaid, and thereafter the tenant under the lease shall be liable to the landlord only in the balance of the rent thereby stipulated, after deduction of the sum so fixed.

#### **15 Assigned land**

Land assigned by the Crofters Commission under the authority of this Act shall be deemed to be part of the holding or holdings to which it is so assigned, and shall be subject to the provisions of this Act relative to crofters holdings.

#### **16 Bequest of holding**

A crofter may, by will or other testamentary writing, bequeath his right to his holding to one person, being a member of the same family; that is to say, his wife or any person who, failing nearer heirs, would succeed to him in case of intestacy (herein-after called the "legatee"), subject to the following provisions:

- (a) The legatee shall intimate the testamentary bequest to the landlord or his known agent within twenty-one days after the death of the crofter, unless he is prevented by some unavoidable cause from making intimation within that time, and in that event he shall make intimation as soon as possible thereafter:
- (b) Intimation to the landlord or his known agent by the legatee shall import acceptance of the crofter's right to the holding by the legatee:
- (c) Within one month after intimation has been made to the landlord or his known agent, he may intimate to the legatee that he objects to receive him as crofter in the holding:

If the landlord or his known agent makes no such intimation within one month, the legatee shall come into the place of the crofter in the holding as from the date of the death of the deceased crofter:

- (d) If the landlord, or his known agent intimates that he objects to receive the legatee as crofter in the holding, the legatee may present a petition to the sheriff, praying for decree declaring that he is the crofter therein as from the date of the death of the deceased crofter, of which petition due notice shall be given to the landlord, who may enter appearance and state his grounds of objection; and if any reasonable ground of objection is established to the satisfaction of the sheriff, he shall declare the bequest to be null and void; but otherwise he shall decree and declare in terms of the prayer of the petition:
- (e) The decision of the sheriff under such petition as aforesaid shall be final:

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- (f) Where the legatee shall have presented a petition to the sheriff as aforesaid, the legatee pending any proceedings shall have possession of the holding unless the sheriff shall otherwise direct on cause shown:
- (g) If the legatee shall accept the bequest, and the bequest is not declared to be null and void as aforesaid, the legatee shall be entitled to possess the holding on the same terms and conditions as if he had been, the nearest heir of the crofter:
- (h) If the legatee does not accept the bequest, or if the bequest is declared to be null and void as aforesaid, the right to the holding shall descend to the heir of the crofter, in the same manner as if the bequest had not been made.

Provided always, that in the case of any legatee, or heir-at-law more distant than wife, son, grandson, daughter, grand-daughter, brother, or son-in-law, it shall be competent to the landlord on his own part, or on the part of neighbouring crofters, to represent that, for the purpose of enlarging their holding or holdings, the holding ought to be added to them; and in all cases in which the sheriff shall determine in favour of such representation, the heir, or the legatee, as the case may be, who, but for such determination, would have succeeded to the holding, shall have right to any claim of compensation for improvements thereon which would have been competent to the deceased crofter if he had been removed at the date of his death : provided further, that if in any such case the landlord shall fail, within six months after the determination of the sheriff, to add the holding to one or more of the adjoining holdings, it shall be competent to the neighbouring crofters to apply to the Crofters Commission, who shall make an order assigning the holding to one or more of the neighbouring crofters for the enlargement of his or their holding or holdings.

#### *VI—Crofters Commission*

### **17 Appointment of three Commissioners**

With a view to the execution, of this Act, it shall be lawful for Her Majesty to appoint three Commissioners, in this Act designated "the Crofters Commission."

One of the said Commissioners shall be a person who can speak the Gaelic language.

One of the said Commissioners shall be a person who at the date of his appointment shall be an advocate of the Scottish bar of not less than ten years

If any vacancy occurs in the office of Commissioner by death, resignation, incapacity, or otherwise, Her Majesty may by warrant under the Royal Sign Manual appoint some other qualified person to fill the vacancy.

It shall be the duty of the Crofters Commission to hold sittings in such places to which this Act applies, and in such order and subject to such regulations, as the Secretary for Scotland may prescribe.

The Crofters Commission may appoint such officers, including valuers and assessors, as also clerks or persons holding inferior situations, at such remuneration as the Treasury may sanction, and the Commissioners shall receive such remuneration as the Treasury may sanction out of moneys to be provided by Parliament.



## **18 Commission to make report of their proceedings**

The Crofters Commission shall once in every year after the year one thousand eight hundred and eighty-six make a report to the Secretary for Scotland as to their proceedings under this Act, and every such report shall be presented to Parliament.

## **19 Area covered by the Act**

The Crofters Commission after due inquiry shall ascertain what parishes or islands or districts forming aggregates of parishes, within the counties of Argyll, Inverness, Ross and Cromarty, Sutherland, Caithness, Orkney, and Shetland, are crofting parishes, or aggregates of crofting parishes, and shall determine that this Act shall apply to such parishes.

Such determination shall be reported to the Secretary for Scotland in one or more reports, and may be confirmed by him with or without modification.

From and after the date of such confirmation, this Act shall apply to the parishes included in the determination.

Every such determination, when confirmed, shall be laid before Parliament.

Within the parishes to which this Act is determined to apply as aforesaid, this Act shall apply to every crofter who is the tenant of a holding at the passing of this Act, and to his heirs and legatees, in the same manner as if the tenancy were a lease.

In the event of the heirs at law of the crofter being heirs portioned, the eldest of such heirs portioners shall succeed to the tenancy without division.

## **20 Procedure in fixing fair rent**

When an application is made to the Crofters Commission to fix a fair rent, intimation thereof shall be given to the other party interested in, the holding, landlord or crofter, as the case may be, and the Crofters Commission shall appoint a time and place at which parties shall be heard in reference, to the matter of the

It shall be competent for the Commissioners in case of such application to visit the holding, if they think fit, as also to call in the aid of an assessor or assessors, specially qualified by local knowledge or otherwise, and to hear the case wholly or partially with the aid of such assessor or assessors, or they may obtain a valuation or report from a competent valuer or valuers appointed by them for the purpose.

## **21 Procedure in enlarging holdings**

When an application for an enlargement of crofters' holdings is made to the Crofters Commission, they shall intimate such application to the landlord or landlords, as also to the tenant or tenants, and any other person or persons in the occupation of or otherwise interested in the land proposed to be added to the crofters holdings, including heritable creditors holding securities over the same, and shall give notice of the time or times, and place or places, at which parties will be heard in regard to the matter of the application.

It shall be competent to the Commissioners to visit the place to which the application relates, and also if they shall think fit, to call in the assistance of an assessor or assessors, or of a valuer or valuers, as herein-before provided.

In assigning land for the enlargement of crofters holdings, it shall be competent for the Commissioners, if they think fit, to make such order or orders with respect to the erection and maintenance of fencing of the said land as they shall consider necessary or expedient, and to decern that the expense of such erection and maintenance shall be paid by the person or persons interested, as the Crofters Commission shall consider just, having regard to the advantage accruing to the said person or persons respectively from such

It shall also be competent to the Commissioners to decide summarily any questions relating to the boundaries or marches between crofters' holdings, including grazings, or between crofters' holdings, including grazings and adjoining lauds.

In the event of any dispute arising as to whether a person is a " crofter " within the meaning of this Act, it shall be competent for the Commissioners to determine such question summarily.

## **22 Duration of powers as to enlargement of holdings**

The powers of the Crofters Commission with respect to the enlargement of crofters holdings shall continue for a period of five years from the passing of this Act.

## **23 Delegation of Commissioners duties**

In executing the provisions of this Act, it shall be competent for the Crofters Commission to delegate the duties thereby prescribed, to two of their number, but any determination arrived at by such two Commissioners shall be subject to review, upon appeal, by the whole three Commissioners.

## **24 Taking evidence and expenses before Crofters Commission**

In any application under this Act it shall be competent to any of the parties thereto to demand, and for the Crofters Commission to order that the evidence shall be taken upon oath, and it shall also be competent to the Crofters Commission to make such order as to expenses as they think fit. .

## **25 Finality of Commissioners decision**

The decision of the Crofters Commission in regard to any of the matters committed to their determination by this Act shall be final.

## **26 Use of sheriff court houses**

The Crofters Commission may use, free of charge, for holding its sittings the court houses commonly used as sheriff courts, when the same are not required by the sheriffs, and the officers of such courts shall be bound to attend the sittings of the Crofters Commission, and perform similar duties to those which they are required to perform on the occasion of sittings of the sheriff court, with right to exact the same fees as are exigible by them for service at the sittings of the sheriff court.

**27 Record of proceedings; transmission of applications by sheriff clerk; sheriff clerk's remuneration**

There shall be kept in the sheriff clerk's office of the county to which, or to any part of which this Act applies, a book to be called the "Crofter's Holdings Book." In this book the sheriff clerk shall record every order of the Crofters Commission with the application on which it proceeds, and any other proceeding in the case which the Commissioners may think necessary to be

It shall be the duty of the Crofters Commission to send such orders and applications to the sheriff clerk to be recorded.

In any county to which this Act applies which is divided into districts for judicial purposes, the "Crofters Holdings Book," applicable to the holdings within any district in which there is a resident sheriff clerk or sheriff clerk depute having an office, shall be kept by the sheriff clerk or sheriff clerk depute resident within the district.

Every application shall be addressed to the Crofters Commission at the sheriff clerk's office, and it shall be the duty of the sheriff clerk to transmit the same to the Crofters Commission, according to such regulations as the Secretary for Scotland may prescribe.

The sheriff clerks shall receive such remuneration as the Treasury may sanction out of moneys to be provided by Parliament.

**28 Execution of orders made by Commission**

Any order of the Crofters Commission or two of their number acting as herein-before provided may be presented to the sheriff, and the sheriff, if satisfied that the order has been made in conformity with the provisions of this Act, and has been duly recorded, may pronounce decree in conformity with such order on which execution and diligence shall proceed.

**29 Forms of procedure**

The Crofters Commission may, subject to the approval of the Secretary for Scotland, frame and issue such printed forms of application and other forms of procedure as they shall think proper.

It shall be in the power of the Crofters Commission to make rules with reference to proceedings before the Commission, and also, with the approval of the Treasury, to fix a scale of costs and fees to be charged in carrying the Act into execution, and the taxation of such costs and fees, and the persons by whom, and the manner in which, such costs and fees are to be paid.

**30 Sole arbiter may be chosen**

Where, in any proceeding under this Act, the Crofters Commission is empowered to pronounce an order, the landlord and the crofter may agree to accept the decision of a sole arbiter mutually chosen instead of the decision, of the Crofters Commission, and in that case any order pronounced by such sole arbiter shall, when recorded in the "Crofter's Holdings Book" along with the agreement to accept his decision, be as effectual to all intents and purposes as an order of the Crofters Commission; and all

regulations applicable to the Crofters Commission, and to the orders pronounced by them, shall apply to any sole arbiter and the orders pronounced by him.

### **31 Saving of 46 & 47 Vict. c. 62**

Nothing in this Act shall affect the provisions of the Agricultural Holdings (Scotland) Act, 1883, provided that:

Where any improvements are valued under the said Act with a view to compensation to be paid to a crofter, such valuation shall be made, unless the landlord and the crofter otherwise agree, by the Crofters Commission, according to the procedure prescribed by this Act.

### **32 Loans for the purchase and equipment of fishing boats**

For the purpose of enabling the Fishery Board for Scotland established under the Fishery Board (Scotland) Act, 1882, to make advances by way of loan to persons engaged in the prosecution of the fishing industry, whether crofters or others, in crofting parishes in all or any of the counties to which this Act applies, and abutting upon the sea, it shall be lawful for the Treasury to advance to the Fishery Board such sums as may from time to time be placed at their disposal by Parliament for the purpose.

The purposes to which the sums advanced as aforesaid shall be applied by way of loan shall be deemed to include the building, purchase, or repair of vessels, boats, and gear for fishing purposes, and any other purpose of the like nature, for the benefit or encouragement of the fishing industry within the localities above specified, which may be sanctioned by the Fishery Board, with consent of the Secretary for Scotland.

The loans in making which the said sums shall be applied, shall be made by the Fishery Board upon such terms as to repayment, security, rate, and payment of interest, and otherwise, as the Secretary for Scotland, with the consent of the Treasury, shall determine.

All moneys due in respect of loans made under this Act may be recovered by the Fishery Board summarily, in manner provided by the Summary Jurisdiction Acts, and the secretary of the Board for the time being shall have power to sue for and recover such moneys, in name of the Board.

A certificate, purporting to be signed by the chairman and secretary of the Fishery Board, stating the amount due from any person in respect of any loan made to him under this Act, together with the interest thereon, shall, until the contrary is proved, be evidence of the amount due and of the liability of the person therein named to pay the same.

If at any time while any part of a loan under this Act remains unpaid, the Fishery Board are satisfied that the borrower is not carrying into effect the undertaking for which the loan was made, they may forthwith sue for and recover summarily the loan and all moneys due by him in respect

All moneys recovered by the Fishery Board in repayment of such loans, and interest thereon, shall be paid by the Fishery Board to the account of Her Majesty's Exchequer, as the Treasury may from time to time direct.

The Fishery Board shall, in the annual report to be made by them to the Secretary for Scotland, in terms of the Fishery Board (Scotland) Act, 1882, and the Secretary for Scotland Act, 1885, give an account of their intromissions under this Act during the preceding year.

### **33 Saving in case of holdings in possession of servants**

Nothing in this Act shall apply to any holding or building let to a person during his continuance in any office, appointment, or employment of the landlord, or of any tenant of the landlord, nor to any holding or building let at a nominal rent, or without rent, as a pension for former service, or on account of old age or poverty, nor to any holding or building let to a person during his tenure of any office such as that of minister of religion or schoolmaster, nor to any innkeeper or tradesman placed in the district by the landlord for the benefit of the neighbourhood.

### **34 Definitions**

In this Act " crofter " means any person who at the passing of this Act is tenant of a holding from year to year, who resides on his holding, the annual rent of which does not exceed thirty pounds in money, and which is situated in a crofting parish, and the successors of such person in the holding, being his heirs or legatees.

" Crofting parish " means a parish in which there are at the commencement of this Act, or have been within eighty years prior thereto, holdings consisting of arable land held with a right of pasturage in common with others, and in which there still are tenants of holdings from year to year, who reside on their holdings, the annual rent of which respectively does not exceed thirty pounds in money, at the commencement of this Act.

" Cottar " means the occupier of a dwelling-house situate in a crofting parish with or without land who pays no rent to the landlord, as also the tenant from year to year of a dwelling-house situated in a crofting parish who resides therein, and who pays to the landlord therefor an annual rent not exceeding six pounds in money, whether with or without garden ground, but without arable or pasture land.

" Permanent improvements " means the improvements specified in the Schedule to this Act.

" Holding " means any piece of land held by a crofter, consisting of arable or pasture land, or of land partly arable and partly pasture and which has been occupied and used as arable or pasture land whether such pasture land is held by the crofter alone, or in common with others) immediately preceding the passing of this Act, including the site of his dwelling-house and any offices or other conveniences connected therewith, but does not include garden ground only, appurtenant to a house.

" Treasury " means the Commissioners of Her Majesty's

Other expressions have the same meanings as in the Agricultural Holdings (Scotland) Act, 1883.

### **35 Short title**

This Act may be cited as the Crofters Holdings (Scotland) Act, 1886.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE

### PERMANENT IMPROVEMENTS

- 1 Dwelling-house.
- 2 Farm offices.
- 3 Subsoil or 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 carriages from the holding or holdings to the public road or the sea shore.
- 10 All other improvements which, in the judgment of the Crofters Commission, shall add to the value of the holding to an incoming tenant.