



Crofters Holdings (Scotland) Act 1886

1886 CHAPTER 29 49 and 50 Vict

PART V

ENLARGEMENT OF HOLDINGS

Modifications etc. (not altering text)

C1 Pt. V amended by [Small Landholders \(Scotland\) Act 1911 \(c. 49\), s. 16](#)

11 Application by crofters for enlargement.

It shall be lawful for any . . . ^{F1} crofters resident on neighbouring holdings in a . . . ^{F1} parish, where any landlord or landlords after application made to him or them have refused to let such crofters available land on reasonable terms for enlarging the holdings of such crofters, to apply . . . ^{F1} setting forth that in the said parish or in an adjacent . . . ^{F1} parish there is land available for the enlargement of such holdings which they are willing to take on lease, but 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.

Textual Amendments

F1 Words repealed by [Small Landholders \(Scotland\) Act 1911 \(c. 49\), Sch. 2](#)

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

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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 . . . ^{F2} 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 determine. 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.

Textual Amendments

F2 Words repealed by [Small Landholders \(Scotland\) Act 1911 \(c. 49\)](#), **Sch. 2**

Modifications etc. (not altering text)

C2 [S. 12](#) restricted by [Crofters \(Scotland\) Act 1955 \(3 & 4 Eliz. 2 c. 21\)](#), s. 38(3), **Sch. 6 Pt. I**

13 Available land.

- (1) ^{F3}
- (2) ^{F3}
- (3) It shall not be competent for the Crofters Commission to assign land for the enlargement of the crofters holdings—
 - (a) ^{F3}
 - (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) ^{F3}
- (5) ^{F3}

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Textual Amendments

F3 Ss. 4, 13(1)(2)(3)(a)–(d)(4)(5), 17, 22, 23, 28 repealed by [Small Landholders \(Scotland\) Act 1911](#) (c. 49), [Sch. 2](#)

14 **F4**

Textual Amendments

F4 S. 14 repealed by [Small Landholders and Agricultural Holdings \(Scotland\) Act 1931](#) (c. 44), [Sch. 2](#)

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 [^{F5}his son-in-law 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 ^{M1}Succession (Scotland) Act, 1964] (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 [^{F6}two months] 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 [^{F6}Land Court] 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 [^{F6}Land Court] he shall declare the bequest to be null and void; but otherwise he shall decern and declare in terms of the prayer of the petition:
- (e) The decision of the [^{F6}Land Court] under such petition as aforesaid shall be final [^{F7}and shall be intimated by the landlord to the executor of the deceased tenant].

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- (f) Where the legatee shall have presented a petition to the [^{F6}Land Court] as aforesaid, the legatee [^{F8}with the consent of the executor in whom the tenancy is vested under section 14 of the ^{M2}Succession (Scotland) Act 1964] pending any proceedings shall have possession of the holding unless the [^{F6}Land Court] 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:
- [^{F9}(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 be treated as intestate estate of the deceased tenant in accordance with Part I of the Succession (Scotland) Act 1964; and where a tenancy is transferred under section 16 of the said Act of 1964, the executor of the deceased tenant shall as soon as may be furnish particulars of the transferee to the landlord who shall accept the transferee as tenant]

F10

Textual Amendments

- F5** Words substituted with saving by Succession (Scotland) Act 1964 (c. 41), s. 34(1), **Sch. 2 para. 9**
- F6** Words substituted by Small Landholders (Scotland) Act 1911 (c. 49), **s. 20**
- F7** Words added with saving by Succession (Scotland) Act 1964 (c. 41), s. 34(1), **Sch. 2 para. 10**
- F8** Words inserted with saving by Succession (Scotland) Act 1964 (c. 41), s. 34(1), **Sch. 2 para. 11**
- F9** S. 16 para. (h) substituted with saving by Succession (Scotland) Act 1964 (c. 41), s. 34(1), **Sch. 2 para. 12**
- F10** Proviso repealed with saving by Succession (Scotland) Act 1964 (c. 41), s. 34(2), **Sch. 3**

Modifications etc. (not altering text)

- C3** S. 16 restricted by Crofters (Scotland) Act 1955 (3 & 4 Eliz. 2 c. 21), s. 38(3), **Sch. 6 Pt. I**; saved by Succession (Scotland) Act 1964 (c. 41), **s. 29(2)**
- C4** S. 16 paras (a)—(h) saved by Succession (Scotland) Act 1964 (c. 41), **s. 16(8)**

Marginal Citations

- M1** 1964 c. 41.
- M2** 1964 c. 41.

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