

# Small Landholders (Scotland) Act, 1911.

[1 & 2 GEO. 5. CH. 49.]

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## ARRANGEMENT OF SECTIONS.

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A.D. 1911.

### Section.

1. Crofters Acts applied throughout Scotland.
2. Who to be landholders.
3. Constitution of Scottish Land Court.
4. Constitution of Board of Agriculture for Scotland.
5. Moneys placed at disposal of Board of Agriculture.
6. Application of moneys.
7. Powers to facilitate the constitution of new holdings.
8. Provisions regulating loans to landholders.
9. Loans for buildings.
10. Additional statutory conditions.
11. Obligations of new holders under Public Health Act.
12. Use by landlord of water rising on a holding.
13. Present rent.
14. Adjustment of rights by Land Court.
15. Registration of new holders.
16. Amendment of law as to enlargement of holdings.
17. Amendment of law as to vacant holdings.
18. Amendment of law as to renunciation of holdings.
19. Declaration of law as to resumption of holdings.
20. Amendment of law as to bequest of holdings.
21. Assignment of holding.
22. Loss of rights by heir in certain cases.
23. Arrears of rent to be set off against compensation for improvements.
24. Amendment of law as to regulation of common grazings, &c.
25. Jurisdiction of Land Court.
26. Supplementary provisions and restrictions.
27. Special provision for the Island of Lewis.
28. Transfer of powers and duties.

A.D. 1911. Section.

- 29. Transfer of property.  
30. Transfer of officers.  
31. Definitions.  
32. Provisions as to statutory small tenants.  
33. Register of small holdings.  
34. Act to apply to Crown land.  
35. Small holdings may be constituted outside Act.  
36. Short title and construction.  
37. Extent of Act.  
38. Commencement of Act.  
39. Repeal.

SCHEDULES.



## CHAPTER 49.

An Act to encourage the formation of Small Agricultural Holdings in Scotland, and to amend the Law relating to the Tenure of such Holdings (including Crofters' Holdings); to establish a Board of Agriculture for Scotland; and for other purposes connected therewith. A.D. 1911.  
[16th December 1911.]

**BE** it enacted by the King'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 :

1. From and after the commencement of this Act, and subject to the provisions thereof, the Crofters Acts shall be read and construed as if the expression "landholder" were substituted for the expression "crofter" occurring therein, and shall have effect throughout Scotland. Crofters Acts applied throughout Scotland.

2.—(1) In the Crofters Acts and this Act (herein-after referred to collectively as the Landholders Acts) the word "holding" means and includes— Who to be landholders.

- (i) As from the commencement of this Act, every holding which at the commencement of this Act is held by a crofter to whom in respect of such holding the Act of 1886 applies (herein-after referred to as an existing crofter);
- (ii) As from the commencement of this Act, and subject as herein-after provided, every holding which at the commencement of this Act is held by a tenant from year to year who resides on or within two miles from the holding, and by himself or his family cultivates the holding with or without hired labour (herein-after referred to as an existing yearly tenant);
- (iii) As from the termination of the lease, and subject as herein-after provided, every holding which at the commencement of this Act is held under a lease for a

A.D. 1911.  
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term longer than one year by a tenant who resides on or within two miles from the holding, and by himself or his family cultivates the holding with or without hired labour (such tenant, or his heir or successor, as the case may be, holding under the lease at the termination thereof being herein-after referred to as a qualified leaseholder) :

Provided that such tenant from year to year or leaseholder—

(a) shall (unless disqualified under section twenty-six of this Act) be held an existing yearly tenant or a qualified leaseholder within the meaning of this section in every case where it is agreed between the landlord and tenant or leaseholder, or in the event of dispute, proved to the satisfaction of the Land Court, that such tenant or leaseholder or his predecessor in the same family has provided or paid for the whole or the greater part of the buildings or other permanent improvements on the holding without receiving from the landlord or any predecessor in title payment or fair consideration therefor; and

(b) In every other case shall not be held an existing yearly tenant or a qualified leaseholder within the meaning of this section, but shall (unless disqualified under section twenty-six of this Act) in respect of the holding be subject to the provisions of this Act regarding statutory small tenants ;

(iv) As from the date of registration, every holding which is constituted by the registration of an applicant in respect thereof on his application under the provisions of this Act respecting the constitution of new holdings (herein-after referred to as a new holder).

(2) In the Landholders Acts the word “landholder” means and includes, as from the respective dates above mentioned, every existing crofter, every existing yearly tenant, every qualified leaseholder, and every new holder, and the successors of every such person in the holding being his heirs or legatees.

**3.**—(1) It shall be lawful for His Majesty, on the recommendation of the Secretary for Scotland, as from the commencement of this Act, and from time to time as vacancies occur, to appoint not more than five persons, to be designated the Scottish Land Court (in this Act referred to as the Land Court) and to appoint one of such persons to be Chairman of the Court.

(2) The Chairman 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' standing, and shall forthwith on his appointment have the same rank and tenure of office as if he had been appointed a Judge of the Court of Session.

(3) One of the said persons shall be a person who can speak the Gaelic language.

(4) It shall be lawful for the Secretary for Scotland to remove any member of the Land Court (other than the Chairman) for inability or misbehaviour. Every order of removal shall state the reasons for which it is made, and no such order shall come into operation until it has lain before both Houses of Parliament for not less than thirty days while Parliament is sitting, nor if either House passes a resolution objecting to it.

(5) If and when the Chairman is temporarily unable to attend, or his office is vacant, the Secretary for Scotland may appoint to act temporarily in his place any person having the qualification required for holding the office of Chairman and the person so appointed shall, during such inability or vacancy, have the same powers and perform the same duties as if he were the Chairman.

(6) The Secretary for Scotland shall from time to time appoint a fit person to act as principal clerk to the Land Court.

(7) The Land Court may appoint or employ such assessors, surveyors, law agents, valuers, clerks, messengers, and other persons required for the due performance of their duties, as the Treasury, on the recommendation of the Secretary for Scotland, may sanction.

(8) Any Crofters Commissioner or officer of the Crofters Commission in office at the commencement of this Act, who may not be appointed a member or an officer of the Land Court, shall receive such compensation as the Treasury may determine.

(9) There shall be paid to the Chairman of the Land Court a salary not exceeding two thousand pounds a year, and to each of the other members a salary not exceeding twelve hundred pounds a year, and such salaries shall be charged on and paid out of the Consolidated Fund of the United Kingdom, or the growing produce thereof. The Chairman shall have the same right to a retiring annuity proportionate to his salary, subject to the like conditions and incidents as if he had been appointed a judge of the Court of Session, and every such annuity shall be charged and paid as aforesaid.

(10) There shall be paid to each of the other persons appointed or employed under this section such salary or remuneration as the Treasury may sanction; and all such salaries and remuneration and the expenses of the Land Court incurred in the execution of their duties, to such amount as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.

(11) The Land Court shall submit such estimates and keep such accounts of their receipts and expenditure, and their accounts shall be audited in accordance with such regulations, as the Treasury may direct.

(12) It shall be lawful for the Land Court from time to time to make rules for conducting the business of the Court.

A.D. 1911.

Constitution  
of Board of  
Agriculture  
for Scotland.

4.—(1) It shall be lawful for His Majesty, on the recommendation of the Secretary for Scotland as from the commencement of this Act, and from time to time as vacancies occur, to appoint not more than three persons to be designated the Board of Agriculture for Scotland (in this Act referred to as the Board) and to appoint one of such persons to be Chairman of the Board. Any act or thing required or authorised to be done by the Board may be done by any one or more of the members thereof as the Secretary for Scotland may from time to time direct. Provided that all deeds, writs, and documents to be signed or executed by or on behalf of the Board may be signed or executed by any one of the members thereof and the secretary to the Board. The Board may sue or be sued under the designation aforesaid, and service on them of all legal processes and notices shall be effected by service on their secretary.

(2) The Board shall be charged with the general duty of promoting the interests of agriculture, forestry, and other rural industries in Scotland, and shall also exercise and perform any powers and duties which are or may be conferred on or transferred to them under the provisions of this Act. In the discharge of their duties they shall comply with such instructions or regulations as may from time to time be issued by the Secretary for Scotland, and they shall submit an annual report of their proceedings to him, which report shall be laid before both Houses of Parliament.

(3) The Board may undertake the collection and preparation of statistics relating to agriculture, forestry, and other rural industries, and may make or aid in making such inquiries, experiments, and research, and collect or aid in collecting such information relating thereto as they think advisable.

(4) It shall be the duty of the Board to promote, aid, and develop instruction in agriculture, forestry, and other rural industries.

(5) The Board shall take such steps as they think proper for the promotion and development of agricultural organisation and co-operation.

(6) Without prejudice to the provisions of the immediately preceding subsections, such one of the members of the Board as the Secretary for Scotland shall from time to time appoint shall be designated the Commissioner for Small Holdings and shall be specially charged with the duties herein-after committed to him.

(7) The Secretary for Scotland shall from time to time appoint a fit person to act as secretary to the Board.

(8) The members of the Board shall hold office during His Majesty's pleasure. The Board may, subject to the approval of the Secretary for Scotland, appoint or employ such officers, clerks, and other persons as the Treasury may sanction.

(9) The members of the Board and other persons appointed or employed under this section shall respectively receive such

A.D. 1911.

salary or remuneration as the Treasury may sanction, and all such salaries or remuneration and the expenses of the Board incurred in the execution of their duties, to such amount as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.

(10) The Board shall submit such estimates and keep such accounts of their receipts and expenditure, and their accounts shall be audited in accordance with such regulations as the Treasury may direct.

(11) The powers and duties of the Board of Agriculture and Fisheries exercisable in or in relation to Scotland, under the enactments specified in the First Schedule to this Act or under any local Act, shall be transferred to the Board, or, in the case of the powers and duties of any officer, to such member or officer of the Board as the Board nominate for the purpose.

(12) Subject as herein-after provided, it shall be lawful for His Majesty in Council by Order, made after consultation with the Board of Agriculture and Fisheries and the Secretary for Scotland and with the consent of the Treasury, to transfer to the Board any powers and duties of the Board of Agriculture and Fisheries exercisable in or in relation to Scotland which are not transferred by this Act and to make any adjustment consequential on any transfer by or under this section, and to provide for any matter necessary or proper for giving full effect to any such transfer.

(13) Before any such Order is made, the draft thereof shall be laid before each House of Parliament for not less than two months while Parliament is sitting, and, if either House, before the expiration of such period of two months, presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

(14) Nothing in this section shall transfer or authorise the transfer of any powers or duties under the Survey Act, 1870, or any powers or duties exercisable under the Diseases of Animals Act, 1894, or any enactment amending or extending the same.

33 & 34 Vict.  
c. 13.

57 & 58 Vict.  
c. 57.

5. The following moneys shall be placed at the disposal of the Board for the purposes herein-after specified:—

Moneys  
placed at  
disposal of  
Board of  
Agriculture.  
59 & 60 Vict.  
c. 37.

(a) The annual sum of fifteen thousand pounds available under subsection two of section four of the Agricultural Rates, Congested Districts, and Burgh Land Tax Relief (Scotland) Act, 1896, during the continuance of that Act; and

(b) Any sums not exceeding one hundred and eighty-five thousand pounds annually voted by Parliament for the said purposes.

The said moneys shall in the financial year commencing on the first day of April nineteen hundred and twelve, and in any

A.D. 1911. — subsequent financial year, be paid into one fund hereby constituted under the name of the Agriculture (Scotland) Fund.

Any sum standing to the credit of the Congested Districts (Scotland) Fund at the commencement of this Act, and any sums required by the provisions of any Act to be carried to the Congested Districts (Scotland) Fund, shall, at and after the commencement of this Act, be carried to the Agriculture (Scotland) Fund.

Application  
of moneys.

6. The Agriculture (Scotland) Fund shall be applied for the following purposes, that is to say, for the purpose of facilitating the constitution of new landholders' holdings, the enlargement of landholders' holdings, and the improvement and rebuilding of dwelling-houses or other buildings of landholders and cottars in terms of the Landholders Acts or the Congested Districts (Scotland) Act, 1897, and for the purpose of exercising the other powers and duties conferred on or transferred to the Board under the provisions of this Act, in accordance with schemes to be approved by the Secretary for Scotland.

60 & 61 Vict.  
c. 53.

Powers to  
facilitate the  
constitution  
of new hold-  
ings.

7.—(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) It shall be the duty of the Commissioner for Small Holdings to report from time to time to the Board, after due inquiry, what demand for small holdings exists in any district, and after consultation (where practicable) with the landlord or landlords what land (if any) is available to meet that demand, without causing undue displacement of farm servants presently employed on or about such land, under what conditions such land is cultivated, and what employment it affords.

(3) Where the Commissioner for Small Holdings is satisfied that there is a demand for small holdings and that suitable land exists, it shall be his duty to negotiate with the landlords of such land with a view to the adjustment of a scheme for the registration by agreement of any one or more new holders in respect of such land.

(4) Failing agreement, such land may, otherwise than by agreement, be made available for the registration of new holders in the manner and subject to the conditions herein-after prescribed.

(5) In proceeding under this section, the Board shall take steps to ascertain what land is falling or is about to fall out of lease where the present tenant is not an offerer, and shall preferably select such land (if otherwise suitable) for the constitution of new holdings otherwise than by agreement.

(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.

(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, upon consideration of a report by the Commissioner for Small Holdings, 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 (except as regards dwelling-houses or other buildings) 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.

(8) Where the Board are of opinion that damage or injury will be done to any tenant in respect that the land forms part or the whole of his tenancy, they shall pay compensation as may be agreed between the Board and such tenant.

(9) Where the Commissioner for Small Holdings reports that the landlord refuses to negotiate, or where, after submitting to the landlord a scheme for the constitution of one or more new holdings on the land, he reports that no agreement can be reached, it shall be lawful for the Board, after due notice and after hearing any party who desires to be heard, to intimate to the landlord and to other parties concerned that it is in the public interest that one or more new holdings should be constituted on the land in accordance with the said scheme, and that they propose to apply to the Land Court to make an order or orders for the constitution of one or more new holdings on the land in accordance with such scheme, to be occupied by new holders, at a fair rent and upon such terms and conditions not inconsistent with the Landholders Acts as the Land Court consider just; and thereafter to apply accordingly.

(10) Before making such an order, the Land Court shall give all parties having a right or interest in the land an opportunity of being heard.

(11) The Land Court shall thereafter determine, with due regard to the provisions of the Landholders Acts, and by order or orders declare—

(a) In respect of what land, if any, specified in the scheme, one or more holdings for new holders may respectively be constituted, and up to what date the power to

A.D. 1911.

constitute them otherwise than by agreement may be exercised ;

- (b) What is the fair rent for each new holding ;
- (c) What land, if any, specified in the scheme is to be excluded therefrom ; and
- (d) Whatever else may be necessary for the purpose of making the scheme effective and of adjusting the rights of all parties interested in or affected by the proceedings :

Provided that, where the Land Court are of opinion that damage or injury will be done to the letting value of the land to be occupied by a new holder or new holders, or of any farm of which such land forms part, or to any tenant in respect that the land forms part or the whole of his tenancy, or to any landlord either in respect of an obligation to take over sheep stock at a valuation or in respect of any depreciation in the value of the estate of which the land forms part in consequence of and directly attributable to the constitution of the new holding or holdings as proposed, they shall require the Board, in the event of the scheme being proceeded with, to pay compensation to such amount as the Land Court determine after giving parties an opportunity of being heard and, if they so desire, of leading evidence in the matter : Provided always that, where within twenty-one days after the receipt from the Land Court of an order under this subsection a landlord or a tenant, as the case may be, intimates to the Land Court and to the Board that he claims compensation to an amount exceeding three hundred pounds and that he desires to have the question whether damage or injury entitling him to compensation as aforesaid will be done, together with the amount of such compensation (if any), to be settled by arbitration instead of by the Land Court, the same shall be settled accordingly ; and, at any time within fourteen days after the said intimation, failing agreement with the Board as to the appointment of an arbiter, it shall be lawful for him to apply to the Lord Ordinary on the Bills for such appointment, and the Lord Ordinary shall, forthwith on receipt of such application, nominate a single arbiter to decide the questions aforesaid, whose award shall be final, and binding on the Board, in the event of the scheme being proceeded with ; and, if no final award be given within three months from the date when the arbiter is nominated, the questions aforesaid shall be decided by the Land Court as herein-before provided :

Provided that the Arbitration (Scotland) Act, 1894, shall not apply, and the Second Schedule to the Agricultural Holdings (Scotland) Act, 1908, shall apply to any such arbitration with the exception of paragraphs one, five, ten, eleven, and sixteen thereof, and with the substitution of the Lord Ordinary for the sheriff and the auditor of the Court of Session for the auditor of the Sheriff Court : And provided further that, in the event

of the scheme not being proceeded with, the expenses of parties reasonably incurred in connection with the arbitration as the same may be allowed by the auditor of the Court of Session shall be paid by the Board.

In determining the amount of compensation under any provision of this Act, no additional allowance shall be made on account of the constitution or enlargement of any holding being compulsory.

(12) In or after making such an order, the Land Court (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 one hundred and fifty 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

A.D. 1911.  
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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 give any consent for the purposes of this section.

60 & 61 Vict.  
c. 53.

(18) Notwithstanding anything contained in the 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.

(19) Any member of the Land Court, or the Board, 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 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.

Provisions  
regulating  
loans to  
landholders.

**8.—**(1) The agreement for any assistance given to a landholder by way of loan under the immediately preceding section shall be recorded in the Landholders Holdings Book, and, as recorded, shall have the effect of transferring to the Board all rights of the landholder and his statutory successors to compensation for permanent improvements up to the amount of any outstanding liability owing to the Board; provided that the amount of such compensation when claimed shall, in such case in the event of dispute, be assessed by the Land Court, and provided further that any amount due to the Board from a landlord under this section may, if the Board on the application of the landlord so determine, be deemed to be a loan to the landlord (secured on the holding and on any buildings thereon) within the meaning of section six of the Congested Districts (Scotland) Act, 1897, to which the provisions of that section shall apply.

(2) In the event of breach by a landholder of the conditions of repayment of any loan under the immediately preceding section, the Land Court may, on the application of the Board, and after consideration of any objections stated by the landlord, make an order for the removal of the landholder from the holding as if he had broken a statutory condition, and for the assignation of the holding to some one person (being an applicant therefor) subject to such conditions as they see fit, and such person shall thereupon succeed to the holding of the landholder and shall be deemed to be his statutory successor.

A.D. 1911.

(3) All moneys received for payment of interest or repayment of principal or otherwise in respect of any loan made by the Board under the immediately preceding section shall be paid to the fund out of which the loan was made.

(4) The Land Court shall, on the application of the Board or of the landlord or the landholder, append to their order fixing a fair rent for a holding a record specifying the condition of the cultivation of the holding, and of the buildings and other permanent improvements thereon, and by whom such permanent improvements have been executed or paid for.

9. The Board may, where they are of opinion that assistance should be provided for the improvement or rebuilding of dwelling-houses or other buildings of landholders or cottars, provide such assistance by way of loan, subject to the like conditions and incidents as loans made under section seven, and, if made to a landholder, subject to the provisions of section eight of this Act.

Loans for  
buildings.

10. The following conditions are hereby prescribed as statutory conditions additional to or in modification of those prescribed in section one of the Act of 1886 :—

Additional  
statutory  
conditions.

(1) The landholder shall, by himself or his family, with or without hired labour, cultivate his holding, without prejudice to the right (which is hereby conferred upon him) to make such use thereof for subsidiary or auxiliary occupations as in case of dispute the Land Court may find to be reasonable and not inconsistent with the cultivation of the holding; provided that the expression "cultivate" in this subsection shall include the use of a holding for horticulture or for any purpose of husbandry, inclusive of the keeping or breeding of live stock, poultry, or bees, and the growth of fruit, vegetables, and the like :

(2) The expression "passing of this Act" in subsection four of section one of the Act of 1886 shall, in the application of that subsection to landholders other than existing crofters and the statutory successors of existing crofters, be construed as meaning the date at which the Landholders Acts first applied to the holding: Provided always that nothing in the said subsection shall be construed as debarring a landholder from subletting his dwelling-house to holiday visitors; and provided further that the provision as to dwelling-houses in the said subsection shall not apply to a new holder, but a new holder and his statutory successors shall not, without the consent in writing of the landlord and the Board, erect or suffer to be erected on the holding more than one dwelling-house :

A.D. 1911.

- (3) Nothing in subsection (7) of section one of the Act of 1886 shall be construed as precluding a landholder from recovering any compensation for damage by game which under section nine of the Agricultural Holdings (Scotland) Act, 1908, is recoverable by a tenant, and the last-mentioned section shall apply accordingly with the substitution of the Land Court for arbitration.

Obligations of new holders under Public Health Act. 60 & 61 Vict. c. 38.

**11.** Where buildings or other premises within the meaning of the Public Health (Scotland) Act, 1897, have been erected on a holding by or for a new holder, all duties or liabilities imposed on the owner of such premises under any provision relating to the removal or remedy of a nuisance or the provision of a water supply contained in the said Act shall, so long as the landlord receives no rent or other consideration in respect of such buildings or other premises (and failing agreement with the landlord to the contrary), be transferred to and discharged by the landholder, and the said Act shall be read and construed accordingly.

Use by landlord of water rising on a holding.

**12.** A landlord may, on payment of compensation for any surface damage, use for any estate purpose any springs of water rising on a holding and not required for the use thereof: Provided that any dispute as to the requirements of the holding or the amount of compensation under this section shall be determined by the Land Court; and provided further that nothing here in contained shall be construed as affecting the rights of any persons other than the landlord and the landholder.

Present rent.

**13.** The rent payable by a landholder 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,—

- (a) In the case of existing crofters, payable for the year current at the passing of the Act of 1886, or, where the rent so payable has been altered in terms of that Act, payable for the year current at the commencement of this Act;
- (b) In the case of existing yearly tenants, payable for the year current at the commencement of this Act; and
- (c) In the case of qualified leaseholders or statutory small tenants becoming landholders, and in the case of new holders, and in the case of landholders whose holdings are enlarged, payable or fixed in respect of the last year of the lease or tenancy, or at the date of registration, or at the date of enlargement, as the case may be—

in each case, unless and until the present rent is altered in manner provided by the Landholders Acts.

Adjustment of rights by Land Court.

**14.** In the case of resumption by a landlord, or in the case of an existing yearly tenant or a qualified leaseholder or statutory small tenant becoming a landholder, the rights of parties

A.D. 1911.

interested, so far as affected by the operation of this Act, at the date of resumption or date when such tenant or leaseholder becomes a landholder, as the case may be, shall, in the event of dispute, be adjusted by order of the Land Court, which order they are hereby empowered to pronounce on the application of any party interested.

**15.**—(1) The procedure in connection with applications for registration of new holders under this Act shall be regulated as may be prescribed in rules of the Land Court. Registration of new holders.

(2) Registration of a new holder under this Act shall be constituted by an order of the Land Court granting registration, duly recorded, with the application on which it proceeds, in the Landholders Holdings Book.

**16.**—(1) The provisions of the Act of 1886, relative to the enlargement of holdings, are hereby extended to an application for enlargement of a holding by a single landholder or two or more landholders, and shall apply in the case of an application by a single landholder as nearly as may be in the same manner and to the same effect as in the case of an application by two or more landholders : Amendment of law as to enlargement of holdings.

Provided that all applications for enlargement under section eleven of the Act of 1886 shall be made to the Board, and subsections (7), (8), (9), (10), (11), (12), (13), (16), (17), and (18) of the section of this Act relative to the constitution of new holdings shall, with the necessary modifications, apply as fully for the purpose of applications for enlargement as for the purpose of the constitution of new holdings ; and the expressions "application" and "applicants," where occurring in section twelve or section twenty-one of the Act of 1886, shall be construed as meaning an application from the Board under subsection (9) aforesaid and the persons referred to in such application.

(2) Section thirteen of the Act of 1886 with the exception of subsection (3) (e) thereof shall cease to have effect, provided that land shall not be deemed available land for the enlargement of a holding otherwise than by agreement, unless it is land in respect of which a person would be admissible to registration otherwise than by agreement as a new holder under this Act, and, if arable land, unless it lies contiguous or near to land already in the occupancy of the landholder making the application ; and provided further that a holding shall not be enlarged so that the rent or acreage thereof shall exceed the rent or acreage competent for a new holding under this Act.

**17.** Where, by reason of renunciation, removal, failure of a statutory successor, or otherwise, a holding has at any time ceased or is about to cease to be held by a landholder, the landlord shall forthwith intimate the fact in writing to the Board, and shall not, if the Land Court on their application after Amendment of law as to vacant holdings.

A.D. 1911. hearing the landlord so determine, and during such period and subject to such conditions (which shall include payment of compensation to the landlord by the Board to such amount as may be agreed, or as, in case of dispute, may be determined by the Land Court, in respect of any loss arising out of such determination) as the Land Court may prescribe, be entitled without the consent of the Board to let the holding otherwise than to a neighbouring landholder for the enlargement of his holding, or to a new holder :

Provided that where, under the provisions of the Landholders Acts, the holding was, otherwise than by agreement, constituted as a new holding or enlarged, it shall be the duty of the Land Court, upon an application by the landlord, after hearing the Board, to assess any damage or injury done by the constitution or enlargement of the holding, as the case may be, to the landlord through non-payment of rent in respect of the holding, or depreciation in the letting value of the land comprised in the holding, or through the imposition of liabilities in respect of, or the payment of compensation for, permanent improvements thereon, and to require the Board to pay the landlord compensation in respect of such damage or injury to such amount as the Land Court determine, subject to the like procedure and right of alternative arbitration as provided in subsection (11) of section seven of this Act, but nothing in this proviso contained shall apply to the case of a holding ceasing to be held by a landholder by reason of resumption by the landlord or by reason of the sale of the holding to the landholder.

Amendment of law as to renunciation of holdings.

**18.** Section seven of the Act of 1886 shall be amended by the insertion at the end thereof of the following words :—

Provided that such notice shall not, without the consent of the Land Court, be effective unless, within two months from the date of notice, the landlord or the landholder intimates the same in writing to the Board, and provided further that, except by agreement with the Board, the landholder shall not, without the like consent, be entitled to renounce his tenancy so long as any liability owing by him to the Board is not wholly discharged.

Declaration of law as to resumption of holdings.

**19.** Without prejudice to the generality of the power to authorise resumption by the landlord for some reasonable purpose having relation to the good of the holding or of the estate, conferred by section two of the Act of 1886, the feuing of land, or the occupation by a landlord for the purpose of personally residing thereon of a holding, being his only landed estate, or the protection of an ancient monument or other object of historical or archæological interest from destruction or injury, shall respectively be deemed a reasonable purpose as aforesaid.

Amendment of law as to bequest of holdings.

**20.** Section sixteen of the Act of 1886 is hereby amended by the substitution of "Land Court" for "sheriff" wherever occurring therein, and of the words "two months" for the



words "twenty-one days" occurring in subsection (a) thereof, and shall be read and construed accordingly with the necessary modifications. A.D. 1911.

**21.** In the event of a landholder being unable to work his holding through illness, old age, or infirmity, he may apply to the Land Court for leave to assign his holding to a member of his family, being his wife or any person who, failing nearer heirs, would succeed him in the case of intestacy, and if, after intimation to the landlord and any other party interested, and such hearing or inquiry as the Land Court may consider necessary, it appears to the Land Court that such assignment would be reasonable and proper, it shall be competent to the Land Court to grant such leave on such terms and conditions, if any, as may to them seem fit. Assignment of holding.

**22.** Where, owing to the failure of the landholder to bequeath his tenancy or of the legatee to accept the bequest, the right of the tenancy devolves upon the heir-at-law of the landholder, the landlord may give notice in writing to such heir, if his name and address are known to or can by due diligence be ascertained by the landlord, requiring him to state whether or not he elects to accept the tenancy, and in case such heir shall not, within six weeks after the receipt of such notice, declare that he elects to accept the tenancy, his rights to the tenancy shall pass to the next heir, and the same procedure shall apply: Provided that, if such heir be furth of the United Kingdom, the Land Court may grant such extension of the period herein-before specified as may seem to them to be reasonable. And provided further that, if the name and address of such heir or next heir are not known to, or cannot by due diligence be ascertained by, the landlord, and no application is made by them with regard to the succession to the holding during six months after the death of the last landholder, failure of a statutory successor shall be deemed to have taken place. Loss of rights by heir in certain cases.

**23.** If a landholder either renounces or is removed from his holding, the landlord shall be entitled to set off all rent due or to become due against any sum found to be due to the landholder or to the Board for improvements made on the holding. Arrears of rent to be set off against compensation for improvements.

**24.**—(1) The Land Court may prescribe such regulations as to the exercise of pasture, grazing or other rights held or to be held in common under the Landholders Acts as they think expedient. Amendment of law as to regulation of common grazings, &c.

(2) The Land Court shall cause any proceeding under the immediately preceding subsection to be intimated to any person or persons, whether landholders or not, using or claiming to use the pasture or grazing or other rights to which the proceeding relates, and shall hear such person or persons on his or their application, and make such inquiry as they may deem necessary, and may make applicable to such person or persons any

A.D. 1911. regulations prescribed under such proceeding: Provided that such regulations may contain provision for the removal by any person prescribed in the regulations of any stock placed on the common pasture or grazing in contravention of the regulations.

(3) Any person committing a breach of any regulations prescribed under this section or an infringement of any scheme drawn up by the Crofters Commission or the Land Court, as the case may be, under the powers conferred by section twelve of the Act of 1886, shall be liable on conviction before the sheriff under the Summary Jurisdiction Acts to a penalty not exceeding forty shillings, and, in the case of a continuing offence, to a further penalty not exceeding five shillings for each day during which such offence shall have been continued after written warning from the committee or from the Land Court, and any such penalty shall be recoverable by imprisonment in terms of the Summary Jurisdiction Acts.

(4) The Land Court may suspend or remove members of a committee under the Act of 1891 as amended, if satisfied that they are not properly carrying out the regulations respecting a common pasture or grazing, and may appoint or provide for the appointment of other persons (whether landholders or not) in their place. Where those interested in a common pasture or grazing decline to act on such a committee, the Land Court may appoint any person or persons in the neighbourhood, whether landholders or not, with the powers and duties of such a committee. Where the Land Court are satisfied that in lieu of such a committee a grazings constable should be appointed or elected for any township or group of townships or persons interested, they may make provision accordingly, and any regulations making such provision shall be deemed to be regulations prescribed under this section, and the grazings constable may enforce such regulations, and shall be paid by assessment upon those using the pasture or grazing in manner provided by the Land Court, but not in excess of sixpence in the pound of rent.

The words "not being less than three or more than five," occurring in section two of the Act of 1891, are hereby repealed.

(5) The Land Court may, on the application of the landlord, or landlords, or any landholder, and for such period and on such conditions as they consider equitable, apportion a common grazing into separate parts for the exclusive use of the several townships or persons interested, either as arable ground or as pasture, if satisfied that such apportionment is for the good of the estate or estates, and of the holdings or tenancies concerned.

(6) The Land Court may, on the application of the landlord, or landlords, or any landholder, apportion lands held runrig among the holders thereof in such manner as appears to them in the circumstances of each case to be just and expedient.

25.—(1) The Land Court shall be a body corporate with a common seal. Judicial notice shall be taken by all courts of justice of the corporate seal of the Land Court, and any order or other instrument purporting to be signed with it shall be received as evidence without further proof. All orders and determinations of the Land Court shall be in writing.

A.D. 1911.  
Jurisdiction  
of Land Court.

(2) For the purposes of the Landholders Acts, the Land Court shall have full power and jurisdiction to hear and determine all matters, whether of law or fact, and no other court shall review the orders or determinations of the Land Court: Provided that the Land Court may, if they think fit, and shall, on the request of any party, state a special case on any question of law arising in any proceedings pending before them, for the opinion of either Division of the Court of Session, who are hereby authorised finally to determine the same.

(3) The Land Court may, without prejudice to any provision contained in section seven of this Act, ascertain the facts in any case by hearing parties and examining witnesses, or by means of affidavits, or by such other mode of inquiry as they may deem appropriate, and may require the production of all books, papers, plans, and documents relating to the case, and, without prejudice to the provisions of section twenty-four of the Act of 1886, they may summon and examine on oath such witnesses as they think fit to call or allow to appear before them. They may, when sitting in open court, report in writing to the Lord Ordinary on the Bills any person who has been guilty of contempt of court; and the Lord Ordinary may punish such person as if the contempt had been committed in his own court: Provided that, when the Chairman is so sitting, he shall have the same power as the Lord Ordinary to punish contempt of court.

(4) The Land Court may determine the amount of the expenses in any proceedings before the Court and the proportion to be borne by the different parties.

(5) Three members of the Land Court shall be a quorum: Provided that it shall be lawful for the Land Court to delegate such of their powers as they think expedient to any one member or to any two members of the Court, with or without the assistance of one or more land valuers, assessors, or other skilled persons, and from time to time to revoke, alter, or modify any such delegation of powers; but any order or determination arrived at under such delegation shall be subject to review upon appeal by three or more members of the Court (including, where such court of review consists of three members, not more than one member who was a party to such order or determination) sitting together, one of whom shall be the Chairman of the Land Court.

(6) An order of the Land Court may be presented to the sheriff, and the sheriff, if satisfied that the order has been duly recorded, shall pronounce decree in conformity with such order on which execution and diligence shall proceed.

A.D. 1911.

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Supplement-  
ary provi-  
sions and  
restrictions.

**26.**—(1) For the purposes of the Landholders Acts, a holding shall be deemed to include any right in pasture or grazing land held or to be held by the tenant or landholder whether alone or in common with others, and the site of any dwelling-house erected or to be erected on the holding or held or to be held therewith, and of any offices or other conveniences connected with such dwelling-house.

(2) A person shall not be admissible to registration as a new holder under this Act in respect of land belonging to more than one landlord, or in respect of more than one holding, and shall not be held an existing yearly tenant or a qualified leaseholder in respect thereof, unless such land or holdings have been worked as one holding.

(3) A person shall not be held an existing yearly tenant or a qualified leaseholder under this Act in respect of—

- (a) Any land the present rent of which within the meaning of this Act exceeds fifty pounds in money, unless such land (exclusive of any common pasture or grazing held or to be held therewith) does not exceed fifty acres (but without prejudice to the power of the Land Court, in determining from time to time a fair rent, to fix a rent exceeding fifty pounds); or
- (b) Any land being garden ground only, appurtenant to a house, or any land to which as the site of or as required for the protection of or for access to an ancient monument or other object of historical or archaeological interest the Land Court determine that the Landholders Acts should not apply; or
- (c) Any land within the parliamentary, police, or municipal boundary of any burgh or police burgh; or
- (d) Any land being a market garden within the meaning of the Agricultural Holdings (Scotland) Act, 1908; or
- (e) Any land being or forming part of any glebe, or any small holding under the Small Holdings Act, 1892, or any allotment under the Allotments (Scotland) Act, 1892, or the Local Government (Scotland) Act, 1894; or
- (f) Any land that is not a holding within the meaning of the Agricultural Holdings (Scotland) Act, 1908; or
- (g) Any land being woodland, or being or forming part of the home farm of any estate, or of any policy or park, or of any pleasure ground or other land used for the amenity or convenience of any residence or farm-steading; or being permanent grass park held for the purposes of a business or calling not primarily agricultural or pastoral, including that of butcher, cattle-dealer, and the like; or
- (h) Any land *bonâ fide* held and used for purposes of public recreation; or

8 Edw. 7. c. 64.

55 & 56 Vict.  
c. 31.55 & 56 Vict.  
c. 54.57 & 58 Vict.  
c. 58.

- (i) Any land acquired, whether compulsorily or by agreement, for any undertaking of a public nature, under the authority of any Act of Parliament or any order having the force of an Act of Parliament.

(4) A person shall not be admissible to registration as a new holder under this Act in respect of any land referred to in paragraphs (a), (b), (c), (d), or (e), or, except by agreement, in respect of any land referred to in paragraphs (g), (h), or (i) of the immediately preceding subsection, or in respect of any holding which is not either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral.

(5) Nothing in this Act shall operate to prevent the registration of a new holder or the enlargement of a holding (whether by agreement or otherwise in either case) in respect of land comprised in a deer forest or otherwise kept or preserved mainly or exclusively for sporting purposes, but subject always to the provisions of section seven and section sixteen of this Act, as the case may be.

(6) Notwithstanding anything contained in subsection (1) of this section, the holding of any existing yearly tenant or qualified leaseholder within the meaning of this Act shall not, for the purposes of the Landholders Acts, be deemed to include any lands or heritages at the commencement of this Act forming part of such holding and occupied by a sub-tenant of such existing yearly tenant or qualified leaseholder, whether paying rent or not.

(7) A person shall not be held an existing yearly tenant or a qualified leaseholder under this Act in respect of a holding referred to in section thirty-three of the Act of 1886, but nothing in that section shall operate to prevent the registration of a new holder by agreement in respect of a holding referred to therein, or the application of the Landholders Acts to such new holder and his statutory successors in respect of the holding. For the word "nor" where last occurring in that section the word "or" is hereby substituted.

(8) The provisions of section two of this Act shall extend to and include joint tenants being existing crofters, existing yearly tenants, or qualified leaseholders; but not more than one person shall be registered as a new holder in respect of any holding, and (without prejudice to the continuance of a joint tenancy through statutory successors) where at any time after the commencement of this Act a holding is held by a single landholder, or a holding which has been held in joint tenancy ceases to be so held, it shall not be competent for more than one person to be a landholder in respect of such holding.

(9) Except so far as may be inconsistent with any express provision of this Act, the tenancy of a landholder under the Landholders Acts shall, in the case of every existing crofter, be deemed to be in all respects a continuance of his tenancy as a

A.D. 1911. crofter under the Crofters Acts, and all contracts and other deeds and documents shall be read and construed accordingly.

(10) A person shall not be subject to the provisions of this Act regarding statutory small tenants who in terms of this section would be disqualified from being an existing yearly tenant or a qualified leaseholder.

Special provision for the Island of Lewis.

**27.** In the Island of Lewis, in so far as it lies within the county of Ross and Cromarty, a person shall not be held an existing yearly tenant or qualified leaseholder under this Act in respect of any land the present rent of which within the meaning of this Act exceeds thirty pounds in money, unless such land (exclusive of any common pasture or grazing land held or to be held therewith) does not exceed thirty acres (but without prejudice to the power of the Land Court, in determining from time to time a fair rent, to fix a rent exceeding thirty pounds).

Transfer of powers and duties.

60 & 61 Vict. c. 53.

**28.—**(1) From and after the commencement of this Act, the Crofters Commission established by section seventeen of the Act of 1886, and the Congested Districts (Scotland) Commissioners established by the Congested Districts (Scotland) Act, 1897, shall cease to exist, and all the powers and duties vested in or imposed on the Crofters Commission by any Act of Parliament in force at such date shall, subject to the provisions of this Act, be vested in, transferred to, and imposed on the Land Court, and all the powers and duties vested in or imposed on the Congested Districts (Scotland) Commissioners by the Congested Districts (Scotland) Act, 1897, shall, subject as aforesaid, be vested in, transferred to, and imposed on the Board, and, except as otherwise provided by this Act, all such powers and duties shall be exercised and performed by the Land Court or the Board, as the case may be, as nearly as may be in like manner and subject to the same conditions, liabilities, and incidents respectively as such powers and duties might before such date have been exercised and performed by such Commission or Commissioners respectively, and, in the construction and for the purposes of any Act of Parliament, contract, order, regulation, decree, award, or other document made, passed, entered into, or executed, or of any action or proceeding raised before such date, the name of the Land Court or the Board, as the case may be, shall be deemed to be substituted for such Commission or Commissioners respectively.

(2) All powers and duties transferred to the Board from the Board of Agriculture and Fisheries by this Act, or any Order in Council made in pursuance thereof, shall be exercised and performed by the Board as nearly as may be in like manner and subject to the same conditions, liabilities, and incidents as such powers and duties might before the date of transfer have been exercised and performed by the Board of Agriculture and Fisheries; and, in the construction and for the purposes of any

Act of Parliament, contract, order, regulation, decree, award, or other document made, passed, entered into, or executed, or of any action or proceeding raised before the date of transfer, but so far only as may be necessary for the exercise of the powers or the discharge of the duties transferred, the name of the Board shall be substituted for the Board of Agriculture and Fisheries. A.D. 1911.

**29.** All property belonging to, or held in trust for, the Congested Districts (Scotland) Commissioners shall, from and after the commencement of this Act, pass to and vest in and be held in trust for the Board, subject to all debts and liabilities affecting the same, and, subject to the provisions of this Act, shall be held by the Board for the purposes for which it is now held or would have been held if this Act had not passed. Transfer of property.

**30.** Such of the persons employed by the Crofters Commission as the Secretary for Scotland, with the consent of the Treasury, may determine shall, from and after the commencement of this Act, be attached to and be officers of the Land Court, and such of the persons employed by the Congested Districts (Scotland) Commissioners as the Secretary for Scotland, with the consent of the Treasury, may determine, shall, from and after the commencement of this Act, be attached to and be officers of the Board; and (without prejudice to any existing rights) persons so transferred shall thereafter, if in the case of any of such persons the Treasury so determine, be permanent civil servants of the Crown within the meaning of section seventeen of the Superannuation Act, 1859: Transfer of officers.  
22 Vict. c. 26.

Provided that any officer of the Congested Districts (Scotland) Commissioners in office at the commencement of this Act who may not be appointed an officer of the Board shall receive such compensation as the Treasury may determine.

**31.**—(1) In this Act—

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|  | Definitions.         |
| The expression "Act of 1886" means the Crofters Holdings (Scotland) Act, 1886:   | 49 & 50 Vict. c. 29. |
| The expression "Act of 1887" means the Crofters Holdings (Scotland) Act, 1887:   | 50 & 51 Vict. c. 24. |
| The expression "Act of 1891" means the Crofters Common Grazings Regulation Act, 1891:  | 54 & 55 Vict. c. 41. |
| The expression "Act of 1908" means the Crofters Common Grazings Regulation Act, 1908:  | 8 Edw. 7. c. 50.     |
| The expression "Crofters Acts" means the Act of 1886, the Act of 1887, the Act of 1891, and the Act of 1908:   |                      |
| The expression "statutory successor" means any person who in terms of the Landholders Acts as the case may be has succeeded or may succeed to a holding whether as heir-at-law or legatee of his immediate predecessor being a crofter or landholder in occupation of the holding: |                      |

A.D. 1911.

The expression "termination of the lease" means the expiration of the lease through the running out of the stipulated term of endurance or through the parties, or either of them, exercising their right to take advantage of a break stipulated for in the lease or through any agreement between the parties being made, or other circumstances arising whereby the lease is terminated.

59 & 60 Vict.  
c. 37.

(2) In the Crofters Acts, the Agricultural Rates, Congested Districts, and Burgh Land Tax Relief (Scotland) Act, 1896, and the Congested Districts (Scotland) Act, 1897, the expression "holding" shall be substituted for the expression "croft," and the expression "crofting parish" shall be construed as meaning a parish to which the Crofters Acts applied at the commencement of this Act.

60 & 61 Vict.  
c. 53.

(3) In the Act of 1886 (except in the case of references to the passing or the title thereof and except in section thirty-two thereof) the expression "this Act" or "the Act" shall be construed as meaning the Landholders Acts.

(4) In section two of the Act of 1887 the expression "principal Act" where first occurring shall be construed as meaning the Landholders Acts, and the expression "the Crofters Holdings Act, 1886," shall be construed as meaning the Act of 1886 or this Act, as the case may be.

(5) If not inconsistent with the context, references in any Act of Parliament to a crofter shall be construed as references to a landholder within the meaning of this Act.

58 & 59 Vict.  
c. 41.

(6) Notwithstanding anything contained in this or any other Act the expression "lessee" in section four of the Lands Valuation (Scotland) Amendment Act, 1895, shall include a landholder in the same way and to the same effect as if a landholder were a lessee holding under a lease or agreement, the stipulated duration of which is twenty-one years or under from the date of entry under the same.

Provisions as  
to statutory  
small tenants.

**32.** With respect to statutory small tenants, the following provisions shall have effect:—

(1) A statutory small tenant means and includes a tenant from year to year, or leaseholder, not otherwise disqualified in terms of this Act, in regard to whom section two of this Act provides that he shall not be held an existing yearly tenant or a qualified leaseholder, and the successors of such tenant or leaseholder in the holding, being his heirs, legatees (if within the relationship specified in section sixteen of the Act of 1886), or assignees (if assignation be permitted by the lease):

(2) Except so far as expressly applied by this Act, the Landholders Acts shall not apply to statutory small tenants:



A.D. 1911.

- (3) A holding which is or has been held by a statutory small tenant shall not be merged in or amalgamated with any other holding as defined in the Agricultural Holdings (Scotland) Act, 1908, except with the sanction of the Board :
- (4) Except in any case where the landlord satisfies the Land Court that there is reasonable ground of objection to a statutory small tenant (herein-after in this section referred to as the tenant) and the Land Court find accordingly, the tenant for the time being shall, notwithstanding any agreement to the contrary, be entitled on any determination of the tenancy to a renewal thereof on the terms and conditions herein-after specified :
- (5) Except so far as varied by this section, the Agricultural Holdings (Scotland) Acts, 1908 and 1910, shall apply in the case of the tenancy of a statutory small tenant in the same manner as if the tenancy were a lease, and, for the purposes of those Acts and otherwise, the tenancy, as renewed from time to time, shall be deemed to be a lease current for the period of renewal : 10 Edw. 7. &  
1 Geo. 5. c. 30.
- (6) Subject to the provisions of the last-mentioned Acts and of this section, the landlord and the tenant may agree upon the terms and conditions of the renewed tenancy :
- (7) Failing agreement, the landlord or the tenant may apply to the Land Court to fix an equitable rent, or to fix the period for which the tenancy is to be renewed, and the Land Court may thereafter determine the rent to be paid by the tenant, or the period of renewal, or both, as the case may be.
- (8) In determining the rent the Land Court shall, so far as practicable, act on their own knowledge and experience, taking into consideration all the circumstances of the case, holding, and district, including the rent at which the holding has been let, the proposed conditions of the renewed tenancy, the improvements made by the landlord and tenant respectively, and the then condition and value of such improvements ; and shall fix as the rent to be paid by the tenant the rent which, in their opinion, would be an equitable rent for the holding between the landlord and the tenant as a willing lessor and a willing lessee : Provided that they shall allow no rent in respect of any improvements made by or at the expense of the tenant or any predecessor in title for which he or his predecessor, as the case may be, has not received payment or fair consideration from the landlord or his predecessor :

A.D. 1911.

(9) Subject as aforesaid, the terms and conditions of the renewed tenancy shall (except so far as agreed to be varied) be those of the determining tenancy, in the same way and to the same effect, as nearly as may be, as if the tenancy had been continued for the full period of renewal under tacit relocation, and the tenant shall be entitled, if he so desires, to a renewal on those terms and conditions :

1 Geo. 5. c. 30.

(10) The Agricultural Holdings (Scotland) Acts, 1908 and 1910, as applied by this section, shall be varied as follows (that is to say) :—

In the Second Schedule to the Agricultural Holdings (Scotland) Act, 1908, the Land Court shall be substituted for the Board, and where in terms of that schedule a person is nominated as arbiter by the Land Court his remuneration shall be paid by the Land Court :

(11) In the event of the landlord on the renewal of the tenancy failing to provide such buildings as will enable the tenant to cultivate the holding according to the terms of the lease or agreement or at any time failing to maintain the buildings and permanent improvements required for the cultivation and reasonable equipment of the holding, in so far as the tenant is not required at common law or by express agreement in writing to do so, it shall be lawful for the tenant to apply to the Land Court to so find and declare, and, if the Land Court after hearing parties (if they desire to be heard) and after giving the landlord (if he so desires) an opportunity of remedying his failure as aforesaid shall so find and declare, the tenant shall, as from the date specified in the finding, become a landholder, and the definition of landholder in this Act shall include such tenant and his successors in the holding, being his heirs or legatees :

(12) It shall be lawful for the Board to provide model forms of agreements for optional use by landlords and tenants under this section, provided that nothing herein contained shall make the use of any such form compulsory :

(13) In the event of any dispute arising as to whether a person is a statutory small tenant within the meaning of this Act, it shall be competent for the Land Court to determine such question summarily :

(14) Subsection (4) of section six, section twenty, and section twenty-seven of the Act of 1886, section two of the Act of 1887 down to the word "summarily," and subsection (19) of section seven, subsection (4) of section eight, section twelve, section twenty-five, and subsection (1) of section twenty-six of this

A.D. 1911.

Act shall, with the substitution of "statutory small tenant" for "landholder," and "equitable rent" for "fair rent," and with any other necessary modifications, apply for the purposes of this section as they apply for the purposes of the Landholders Acts :

- (15) Without prejudice to any agreement between the parties, the Land Court may, on the application of the landlord, and upon being satisfied that he desires to resume the holding or part thereof for building, planting, feuing, or some other reasonable purpose having relation to the good of the holding or the estate (including any purpose specified in section nineteen of this Act), authorise the resumption thereof by the landlord, subject to the payment of the like compensation to the tenant in respect of improvements on or in connection with the land resumed, to which a tenant would be entitled under the Agricultural Holdings (Scotland) Act, 1908, on the determination of his tenancy, and in addition, where part only of the holding is resumed, to such reduction of rent as may be agreed between the parties, or, in case of dispute, determined by the Land Court.

**33.**—(1) It shall be the duty of the Board to compile and from time to time to revise a register of small holdings (whether held by landholders or statutory small tenants or not) throughout Scotland, in such form and containing such particulars as may be approved by the Secretary for Scotland.

Register of  
small holdings.

(2) For the purposes of this section, the expression "small holding" means any holding within the meaning of the Agricultural Holdings (Scotland) Act, 1908, which either does not exceed fifty acres, or, if exceeding fifty acres, is of an annual value as entered in the valuation roll not exceeding fifty pounds.

(3) Where a landlord and a tenant agree or the Land Court decide that the tenant is a landholder or a statutory small tenant, as the case may be, within the meaning of this Act, it shall be the duty of such landlord and tenant and of the Land Court to communicate such agreement or decision to the Board for the purposes of the small holdings register: Provided that a person shall not be held a landholder or a statutory small tenant by reason only that he is entered as such on the small holdings register.

**34.** This Act shall apply to lands vested in His Majesty in right of the Crown, and under the management of the Commissioners of Woods to such extent as the Commissioners of Woods may agree, but shall not apply to lands which are held by or on behalf of the Admiralty, War Office, or any other Government Department or which under statutory powers have

Act to apply  
to Crown land.

A.D. 1911. been acquired, or subjected to servitudes or restrictions for the purposes of the Naval or Military Forces of the Crown.

Small holdings  
may be  
constituted  
outside Act.

**35.** Nothing in this Act contained shall prejudice or in any way affect the right of any owner of land, at any time after the commencement of this Act, to constitute and equip a small holding, as defined in the section of this Act providing for a register of small holdings, and to let such holding to any person at such rent, for such period, and on such terms and conditions as may be agreed on between them, and none of the provisions of this Act shall, except by the joint consent of such owner and such person, apply to such holding :

Provided that, as regards land comprised in a scheme referred to in an intimation to a landlord made in terms of subsection (9) of section seven of this Act, the said right shall not, while such scheme is under consideration, be exercised without the consent of the Land Court.

Short title and  
construction.

**36.** This Act may be cited as the Small Landholders (Scotland) Act, 1911, and shall be read and construed with the Crofters Acts ; and the Crofters Acts and this Act may be cited as the Small Landholders (Scotland) Acts, 1886 to 1911.

Extent of Act.

**37.** This Act shall extend to Scotland only.

Commence-  
ment of Act.

**38.** This Act shall commence on the first day of April nineteen hundred and twelve.

Repeal.

**39.** The Acts specified in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule :

Provided that such repeal so far as relating to lighthouses shall not operate so as to preclude the Board from maintaining or from defraying the expense of maintaining any lighthouse at the passing of this Act maintained by or at the expense of the Congested Districts (Scotland) Commissioners, unless and until the expense of such maintenance is by arrangement with the Board (which the Board are hereby empowered to enter into on such terms as may be agreed) undertaken by some other authority.

SCHEDULES.

A.D. 1911.

FIRST SCHEDULE.

Section 4.

The Acts specified in Part II. of the First Schedule to the Board of Agriculture Act, 1889, and any enactment amending or extending the same.

- The Sale of Food and Drugs Acts, 1875 to 1907.
- The Destructive Insects and Pests Acts, 1877 and 1907.
- The Markets and Fairs (Weighing of Cattle) Acts, 1887 and 1891.
- The Merchandize Marks (Prosecutions) Act, 1894.
- The Light Railways Act, 1896.
- The Fertilizers and Feeding Stuffs Act, 1906.
- The Agricultural Holdings (Scotland) Acts, 1908 and 1910.
- The Housing and Town Planning Act, 1909.
- The Development and Road Improvement Funds Acts, 1909 and 1910.

SECOND SCHEDULE.

Section 39.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
49 & 50 Vict. c. 29.	Crofters Holdings (Scotland) Act, 1886.	<p>In section two, the words "for fishermen" and "connected with the fishing industry."</p> <p>In section three, the words "shall forfeit his tenancy and."</p> <p>Section four.</p> <p>In subsection (3) of section six, the words "at the next payment of rent."</p> <p>In section eleven, the words "five or more," the words "to the Crofters Commission," and the word "crofting" wherever that word occurs.</p> <p>In section twelve, the word "crofting."</p> <p>Subsection (1), subsection (2), paragraphs (a), (b), (c), and (d) of subsection (3), and subsections (4) and (5) of section thirteen.</p> <p>In section fourteen, the words "for the purposes of a deer forest, or of a grouse moor, or for other sporting purposes."</p> <p>Section seventeen.</p> <p>Section nineteen, from the beginning thereof to the word "aforesaid," and from "who" to "Act."</p> <p>Section twenty-two.</p>

A.D. 1911

Session and Chapter.	Short Title.	Extent of Repeal.
49 & 50 Vict. c. 29— <i>cont.</i>	- - - -	Section twenty-three. Section twenty-four, from “and it” to end of section. Section twenty-eight. In section thirty-two, the words “in all or any of the counties to which this Act applies and.” In section thirty-four, from “‘crofter’ means” to “in money at the commencement of this Act”; and from “‘holding’ means” to “appurtenant to a house.”
50 & 51 Vict. c. 24.	Crofters Holdings (Scotland) Act, 1887.	In section two, the words from “within” to “after the passing of this Act,” and from “and they” to “case.”
51 & 52 Vict. c. 63.	Crofters Commission (Delegation of Powers) Act, 1888.	The whole Act.
54 & 55 Vict. c. 41.	Crofters Common Grazings Regulation Act, 1891.	In section two, the words “in any township or townships situated in a crofting parish or parishes within the meaning of the ‘principal Act’”; and the words “of the township.”
59 & 60 Vict. c. 37.	Agricultural Rates, Congested Districts, and Burgh Land Tax Relief (Scotland) Act, 1896.	In subsection (2) of section four, the words “for the improvement of congested districts in the Highlands and Islands of Scotland.”
60 & 61 Vict. c. 53.	Congested Districts (Scotland) Act, 1897.	Section one. Section two. Subsections (1) and (2) of section three. In subsection (1) (d) of section four, the words “from congested districts to other districts in Scotland.” In subsection (1) (f) of section four, the word “lighthouses.” Section eight.

Printed by EYRE and SPOTTISWOODE, LTD.,

FOR

ROWLAND BAILEY, Esq., C.B., M.V.O., the King's Printer of Acts of Parliament.