CHAPTER 10.

An Act to consolidate the Enactments relating to Agricultural Holdings in Scotland.

[7th June 1923.]

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 :—

Compensation for Improvements on Holdings.

Right of tenant to compensation for improvements.

1.—(1) Where a tenant of a holding has made thereon any improvement comprised in the First Schedule to this Act, he shall, subject as in this Act mentioned, and, in a case where the lease was entered into on or after the first day of January, nineteen hundred and twenty-one, then, whether the improvement was or was not an improvement which he was required to make by the terms of his tenancy, be entitled, at the termination of the tenancy, on quitting his holding, to obtain from the landlord, as compensation for the improvement, such sum as fairly represents the value of the improvement to an incoming tenant.

(2) In the ascertainment of the amount of the compensation payable to a tenant under this section there shall be taken into account—

(*a*) any benefit which the landlord has given or allowed to the tenant in consideration of the tenant executing the improvement whether expressly stated in the lease to be so given or allowed or not; and

(*b*) as respects manuring as defined by this Act, the value of the manure required by the lease or by custom to be returned to the holding in respect of any crops grown on and sold off or removed from the holding within the last two

years of the tenancy or other less time for which the tenancy has endured, not exceeding the value of the manure which would have been produced by the consumption on the holding of the crops so sold off or removed.

(3) Nothing in this section shall prejudice the right of a tenant to claim any compensation to which he may be entitled under custom, agreement, or otherwise, in lieu of any compensation provided by this section.

Consent of landlord as to improvement in First Schedule, Part I.

2. Compensation under this Act shall not be payable in respect of any improvement comprised in Part I. of the First Schedule hereto, unless the landlord of the holding has, previously to the execution of the improvement, consented in writing to the making of the improvement, and any such consent may be given by the landlord unconditionally, or upon such terms as to compensation or otherwise as may be agreed upon between the landlord and the tenant, and, if any such agreement is made, any compensation payable under the agreement shall be substituted for compensation under this Act.

Notice to landlord as to improvement in First Schedule, Part II.

3.—(1) Compensation under this Act shall not be payable in respect of any improvement comprised in Part II. of the First Schedule hereto, unless the tenant of the holding has, not more than three nor less than two months before beginning to execute the improvement, given to the landlord notice in writing of his intention so to do, and of the manner in which he proposes to do the intended work, and upon such notice being given, the landlord and the tenant may agree on the terms as to compensation or otherwise on which the improvement is to be executed.

(2) If any such agreement is made, any compensation payable under the agreement shall be substituted for compensation under this Act.

(3) Or instead of making any such agreement the landlord may undertake to execute the improvement himself and, unless the notice of the tenant is previously withdrawn, proceed to do so in any reasonable and proper manner which he thinks fit, and recover from the tenant as rent a sum not exceeding five per centum per annum

on the outlay incurred, or not exceeding such annual sum payable for a period of twenty-five years as will repay that outlay in that period, with interest at the rate of three per centum per annum :

Provided that—

(*a*) the Board may by regulation substitute such percentages or period as they think fit for the percentages and period mentioned in this subsection, having due regard to the current rates of interest; and

(*b*) in default of any such agreement or undertaking or in the event of the landlord failing to execute the improvement within a reasonable time, the tenant may execute the improvement, and shall in respect thereof be entitled to compensation under this Act.

(4) The landlord and the tenant may by the lease or otherwise agree to dispense with any notice under this section, and any such agreement may provide for anything for which an agreement after notice under this section may provide, and in such case shall be of the same validity and effect as such last-mentioned agreement.

Agreements as to improvement in First Schedule, Part III.

4. Where any agreement in writing entered into before the first day of January, nineteen hundred and twenty-one, secures to the tenant of a holding, for any improvement comprised in Part III. of the First Schedule hereto, fair and reasonable compensation, having regard to the circumstances existing at the time of making the agreement, the compensation so secured shall as respects that improvement be substituted for compensation under this Act.

Further provisions as to improvements. [1920, s. 15 (3)–(7). 1920, s. 27. S.R.O. 1922.]

5.—(1) Subject to the provisions of this section, where a tenant desires to make on his holding or any part of his holding any improvement comprised in the Third Schedule to this Act and the landlord refuses, or within a reasonable time fails, to agree in writing that the holding or that part of the holding shall be treated as a market garden, the Board may, on the application of the tenant and after hearing the landlord or his representative, and after being satisfied that the holding or part of the holding

is suitable for the purposes of market gardening, direct that section forty-two of this Act shall, either in respect of all the improvements comprised in the said Third Schedule or in respect of some only of those improvements, apply to the holding or to that part thereof, and the said section shall apply accordingly as respects any improvements executed after the date on which the direction is given:

Provided that nothing in this subsection shall authorise the breaking up of meadow land or pasture.

Any direction given by the Board under this subsection shall be subject to such conditions, if any, for the protection of the landlord, as the Board may think fit to attach to the direction, and, where any such direction is given, the following provisions shall have effect:—

(*a*) If the tenancy is terminated by notice to quit given by the tenant or by reason of the tenant becoming notour bankrupt or executing a trust deed for behoof of his creditors, the tenant shall not be entitled to compensation in respect of any such improvements as are specified in the direction unless the tenant not later than one month after the date on which the notice to quit is given or the date of the bankruptcy or execution of the trust deed, as the case may be, or such later date as may be agreed, produces to the landlord an offer in writing by a substantial and otherwise suitable person (being an offer which is to hold good for a period of three months from the date on which it is produced), to accept a tenancy of the holding from the termination of the existing tenancy thereof, and on the terms and conditions of that tenancy so far as applicable, and, subject as hereinafter provided, to pay to the outgoing tenant all compensation payable under this Act, or under the lease, and the landlord fails to accept the offer within three months after the production thereof; and

(*b*) If the landlord accepts any such offer, the incoming tenant shall pay to the landlord on demand all sums payable to him by the outgoing tenant on the termination of the tenancy in

respect of rent or breach of contract or otherwise in respect of the holding, and any amount so paid may, subject to any agreement between the outgoing tenant and incoming tenant, be deducted by the incoming tenant from any compensation payable by him to the outgoing tenant; and

(*c*) If the direction relates to part only of the holding, the direction may, on the application of the landlord, be given subject to the condition that the tenant shall consent to the division of the holding into two parts (one such part being the part to which the direction relates) to be held at rents agreed by the landlord and tenant or in default of agreement settled by the Board, but otherwise on the same terms and conditions as the original holding, so far as applicable.

(2) A new tenancy created by the acceptance of a tenant in accordance with the provisions of this section on the terms and conditions of the existing tenancy shall not be deemed to be a new tenancy for the purposes of the provisions of this Act relating to demands for arbitration as to rent.

(3) In the exercise of their powers under this section, the Board shall have regard to the likelihood of the land being required for any purpose other than agriculture.

(4) If in any case a landlord or tenant by notice in writing given to the other party shall so require, the powers which under this section may be exercised by the Board shall in that case be exercised by an arbiter appointed and acting under and in accordance with the provisions of this Act.

(5) Where any agreement in writing secures to the tenant of a holding for any improvement to which the provisions of section forty-two of this Act apply, or are directed under this section to apply, fair and reasonable compensation, having regard to the circumstances existing at the time of making the agreement, the compensation so secured shall as respects that improvement be substituted for compensation under this Act.

Determination of claims to compensation.

6.—(1) If the tenant of a holding claims to be entitled to compensation, whether under this Act or under custom or agreement, or otherwise, in respect of any improvement comprised in the First Schedule to this Act, and if the landlord and tenant fail to agree as to the amount and time and mode of payment of the compensation, the difference shall be settled by arbitration.

(2) Where a claim for compensation under this Act has been referred to arbitration, and the compensation payable under an agreement is by this Act to be substituted for compensation under this Act, such compensation as is to be so substituted shall be awarded in respect of any improvement provided for by the agreement.

Right of tenant who has paid compensation to outgoing tenant.

7. Where an incoming tenant of a holding has, with the consent in writing of his landlord, paid to an outgoing tenant any compensation payable under or in pursuance of this Act in respect of the whole or part of any improvement, the incoming tenant shall be entitled on quitting the holding to claim compensation in respect of the improvement or part in like manner, if at all, as the outgoing tenant would have been entitled if he had remained tenant of the holding, and quitted it at the time at which the incoming tenant quits it.

Provision as to change of tenancy.

8. A tenant who has remained in his holding during two or more tenancies shall not, on quitting his holding, be deprived of his right to claim compensation under this Act in respect of improvements by reason only that the improvements were not made during the tenancy on the termination of which he quits the holding.

COMPENSATION IN RESPECT OF INCREASED OR DIMINISHED VALUE OF HOLDING.

Compensation for continuous adoption of special standard or system of farming.

9.—(1) Where a tenant on quitting a holding proves to the satisfaction of an arbiter appointed under this Act that the value of the holding to an incoming tenant has been increased during the tenancy by the continuous adoption of a standard of farming or a system of farming which has been more beneficial to the holding than the

standard or system (if any) required by the lease, the arbiter shall award to the tenant such compensation as in his opinion represents the value to an incoming tenant of the adoption of that standard or system:

Provided that—

(*a*) This section shall not apply in any case unless a record of the condition of the holding has been made under this Act or any Act by this Act repealed or in respect of any matter arising before the date of the record so made; and

(*b*) Compensation shall not be payable under this section unless the tenant has, before the termination of the tenancy, given notice in writing to the landlord of his intention to claim such compensation; and

(*c*) The arbiter in assessing the value to an incoming tenant shall make due allowance for any compensation agreed or awarded to be paid to the tenant for any improvement specified in the First Schedule to this Act which has caused or contributed to the benefit.

(2) Nothing in this section shall entitle a tenant to recover in respect of an improvement specified in the First Schedule or the Third Schedule to this Act any compensation which he would not have been entitled to recover if this section had not been passed.

(3) The continuous adoption of such a beneficial standard or system of farming as aforesaid shall be treated as an improvement for the purposes of the provisions of this Act relating to the determination of the rent properly payable in respect of a holding.

Compensation to landlord for deterioration of holding.

10. Where a landlord proves, to the satisfaction of an arbiter appointed under this Act, on the termination of the tenancy of a holding, that the value of the holding has been deteriorated during the tenancy by the failure of the tenant to cultivate the holding according to the rules of good husbandry or the terms of the lease, the arbiter shall award to the landlord such compensation

as in his opinion represents the deterioration of the holding due to such failure:

Provided that compensation shall not be payable under this section unless the landlord has, before termination of the tenancy, given notice in writing to the tenant of his intention to claim such compensation:

Provided also that nothing in this section shall prevent a landlord from claiming compensation for dilapidations or for the deterioration of the holding under the lease.

COMPENSATION FOR DAMAGE BY GAME.

Compensation for damage by game.

11.—(1) Where a tenant of a holding has sustained damage to his crops from game, the right to kill and take which is vested neither in him nor in anyone claiming under him other than the landlord, and which the tenant has not permission in writing to kill, he shall, subject as herein-after mentioned, be entitled to compensation from his landlord for such damage if it exceeds in amount the sum of one shilling per acre of the area over which the damage extends.

(2) The amount of compensation payable under this section shall, in default of agreement made after the damage has been suffered, be determined by arbitration, but no compensation shall be recoverable under this section unless notice in writing is given to the landlord as soon as may be after the damage was first observed by the tenant, and a reasonable opportunity is given to the landlord to inspect the damage—

(*a*) in the case of damage to a growing crop, before the crop is begun to be reaped, raised, or consumed; and

(*b*) in the case of damage to a crop reaped or raised, before it is begun to be removed from the land—

and unless notice in writing of the claim, together with the particulars thereof, is given to the landlord within one month after the expiration of the calendar year, or such other period of twelve months as by agreement between the landlord and tenant may be substituted therefor, in respect of which the claim is made.

(3) Where the landlord proves that, under a lease made before the first day of January, nineteen hundred and nine, any compensation for damage by game is payable by him, or that in fixing the rent to be paid under such lease allowance in respect of such damage to an agreed amount was expressly made, the arbiter shall make such deduction from the compensation which would otherwise be payable under this section as may appear just.

(4) Where the right to kill and take the game is vested in some person other than the landlord, the landlord shall be entitled to be indemnified by such other person against all claims for compensation under this section.

(5) For the purposes of this section, the expression "game" means deer, pheasants, partridges, grouse, and black game.

Compensation for Disturbance.

Compensation for disturbance.

12.—(1) Where the tenancy of a holding terminates by reason of a notice to quit given by the landlord, and in consequence of such notice the tenant quits the holding, then, unless the tenant—

(*a*) was not at the date of the notice cultivating the holding according to the rules of good husbandry; or

(*b*) had, at the date of the notice, failed to comply within a reasonable time with any notice in writing by the landlord served on him requiring him to pay any rent due in respect of the holding or to remedy any breach, being a breach which was capable of being remedied, of any term or condition of the tenancy consistent with good husbandry; or

(*c*) had, at the date of the notice, materially prejudiced the interests of the landlord by committing a breach which was not capable of being remedied of any term or condition of the tenancy consistent with good husbandry; or

(*d*) was at the date of the notice a person who had become notour bankrupt or executed a trust deed for behoof of his creditors; or

(*e*) has, after the thirty-first day of December, nineteen hundred and twenty, refused, or within a reasonable time failed, to agree to a demand made to him in writing by the landlord for arbitration as to the rent to be paid for the holding as from the next ensuing date at which the tenancy could have been terminated by notice to quit given by the landlord at the date of the said demand; or

(*f*) had, at the date of the notice, unreasonably refused, or within a reasonable time failed, to comply with a demand made to him in writing by the landlord requiring him to execute at the expense of the landlord an agreement setting out the existing terms of the tenancy;

and unless the notice to quit states that it is given for one or more of the reasons aforesaid, compensation for the disturbance shall be payable by the landlord to the tenant in accordance with the provisions of this section:

Provided that—

(i) compensation shall not be payable under this section in any case where the landlord has made to the tenant an offer in writing to withdraw the notice to quit and the tenant has unreasonably refused or failed to accept the offer; and

(ii) this section shall not apply where notice to quit was given on or before the twentieth day of May nineteen hundred and twenty; and

(iii) where notice to quit was given after that date but before the first day of January, nineteen hundred and twenty-one, this section shall apply whether or not the notice stated the reason or reasons for which it was given.

(2) The landlord of a holding may at any time apply to the Board for a certificate that the tenant is not cultivating the holding according to the rules of good husbandry, and, on any such application being made, the Board, after giving to the landlord and the tenant or their respective representatives an opportunity of being heard, shall, as they think proper, either grant or refuse

the certificate within one month after the date of the application.

The landlord or tenant may, within seven days after the notification to him of the refusal or grant by the Board of a certificate, require the question as to whether the holding is being cultivated according to the rules of good husbandry to be referred to an arbiter who may grant a certificate for the purpose of this subsection or revoke the certificate granted by the Board, and the award of the arbiter shall be given within twenty-eight days of the date on which the matter is referred to him.

Subject to any such appeal, a certificate granted under this subsection shall be conclusive evidence that the holding is not being cultivated according to the rules of good husbandry.

(3) Where the landlord of a holding refuses, or within a reasonable time fails to agree to, a demand made to him in writing by the tenant for arbitration as to the rent to be paid for the holding as from the next ensuing date at which the tenancy could have been terminated by notice to quit given by the tenant at the date of the said demand, and by reason of the refusal or failure the tenant exercises his power of terminating the tenancy by a notice stating that it is given for that reason, the tenant shall be entitled to compensation in the same manner as if the tenancy had been terminated by notice to quit given by the landlord. Provided that such compensation shall not be payable if the circumstances are such that a notice to quit could have been given by the landlord for any of the reasons mentioned in paragraphs (*a*), (*b*), or (*c*) of subsection (1) of this section.

(4) The provisions of this section relating to demands for arbitration as to the rent to be paid for a holding shall not apply where the demand, if made later than six months after the thirty-first day of December, nineteen hundred and twenty, is so made that the increase or reduction of the rent would take effect at some time before the expiration of five years from the commencement of the tenancy of the holding or from the date on which a previous increase or reduction of the rent took effect.

(5)—(*a*) Where a demand in writing for arbitration as to the rent to be paid for a holding has been made for the purposes of this section, and has been agreed to, whether in writing or otherwise, the question as to the rent shall be referred to arbitration.

(*b*) An arbiter, in determining for the purposes of this section what rent is properly payable in respect of a holding, shall not take into account any increase in the rental value which is due to improvements which have been executed thereon so far as they were executed wholly or partly by and at the expense of the tenant without any equivalent allowance or benefit made or given by the landlord in consideration of their execution and have not been executed by him under an obligation imposed by the terms of his lease, or fix the rent at a higher amount than would have been properly payable if those improvements had not been so executed, and shall not fix the rent at a lower amount by reason of any dilapidation or deterioration of land or buildings made or permitted by the tenant.

(6) The compensation payable under this section shall be a sum representing such loss or expense directly attributable to the quitting of the holding as the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods, implements of husbandry, fixtures, farm produce or farm stock on or used in connection with the holding, and shall include any expenses reasonably incurred by him in the preparation of his claim for compensation (not being costs of an arbitration to determine the amount of the compensation), but for the avoidance of disputes such sum shall, for the purposes of this Act, be computed at an amount equal to one year's rent of the holding, unless it is proved that the loss and expenses so incurred exceed an amount equal to one year's rent of the holding, in which case the sum recoverable shall be such as represents the whole loss and expenses so incurred up to a maximum amount equal to two years' rent of the holding.

In this subsection the expression "rent" means the rent after deduction of such an amount as the arbiter, failing agreement, may find to be equivalent to the amount

(if any) annually payable by the landlord in respect of the holding by way of—

(*a*) any public rates, taxes, or assessments which in England are by law a charge on the occupiers of lands; or

(*b*) any public rates or taxes or other public burdens the like whereof are not chargeable on lands in England.

(7) Compensation shall not be payable under this section—

(*a*) in respect of the sale of any goods, implements, fixtures, produce or stock unless the tenant has before the sale given the landlord a reasonable opportunity of making a valuation thereof; or

(*b*) unless the tenant has, not less than one month before the termination of the tenancy, given notice in writing to the landlord of his intention to make a claim for compensation under this section; or

(*c*) where the tenant with whom the lease was entered into has died within three months before the date of the notice to quit; or

(*d*) if in a case in which the tenant under section thirty of this Act accepts a notice to quit part of his holding as a notice to quit the entire holding, the part of the holding affected by the notice given by the landlord, together with any other part of the holding affected by any previous notice given under that section by the landlord to the tenant, is less than one-fourth part of the original holding, or the holding as proposed to be diminished is reasonably capable of being cultivated as a separate holding, except compensation in respect of the part of the holding to which the notice to quit related; or

(*e*) where the holding was let to the tenant by a corporation carrying on a railway, dock, canal, water, or other undertaking, or by a government department or a local authority, and possession of the holding is required by the corporation, department, or authority for the purpose (not being the use of the land for agriculture) for

which it was acquired by the corporation, department, or authority, or appropriated under any statutory provision; or

(*f*) in the case of a permanent pasture which the landlord has been in the habit of letting annually for seasonal grazing, and which has since the fourth day of August, nineteen hundred and fourteen, and before the first day of January, nineteen hundred and twenty-one, been let to a tenant for a definite and limited period for cultivation as arable land, on the condition that the tenant shall, along with the last or waygoing crop, sow permanent grass seeds; or

(*g*) where a written lease has been entered into (whether before or after the commencement of this Act), for the letting by the landlord to the tenant of a holding, which at the time of the creation of the tenancy had then been for a period of not less than twelve months in the occupation of the landlord, upon the express terms that if the landlord desires to resume that occupation before the expiration of a specified term not exceeding seven years the landlord should be entitled to give notice to quit without becoming liable to pay to the tenant any compensation for disturbance, and the landlord desires to resume occupation within the specified period, and such notice to quit has been given accordingly.

(8) In any case where a tenant holds two or more holdings, whether from the same landlord or different landlords, and receives notice to quit one or more but not all of the holdings, the compensation for disturbance in respect of the holding or holdings shall be reduced by such amount as is shown to the satisfaction of the arbiter to represent the reduction (if any) of the loss attributable to the notice to quit by reason of the continuance in possession by the tenant of the other holding or holdings.

(9) The landlord shall, on an application made in writing after the thirty-first day of December, nineteen hundred and twenty, by the tenant of a holding to whom a notice to quit has been given which does not state the reasons for which it is given, furnish to the tenant within twenty-eight days after the receipt of the application a

statement in writing of the reasons for the giving of the notice, and, if he fails unreasonably so to do, compensation shall be payable under this section as if the notice to quit had not been given for a reason specified in subsection (1) of this section.

(10) The expression "holding" in this section shall not include any land which forms part of any park, garden, or pleasure ground attached to and usually occupied with the mansion house, or any land adjoining the mansion house which is required for its protection or amenity, or any 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, and the compensation for disturbance payable in respect of a notice to quit given in respect of any such land or grass park shall be such compensation (if any) as is payable under the provisions of section thirteen of this Act.

(11) Compensation payable under this section shall be in addition to any compensation to which the tenant may be entitled in respect of improvements.

Compensation for disturbance in cases to which s. 12 does not apply.

13.—(1) This section applies only to any land or grass park being or forming part of a holding which is not included in the definition of holding for the purposes of section twelve of this Act.

(2) Where the landlord of any land or grass park to which this section applies, without good and sufficient cause, and for reasons inconsistent with good estate management, terminates the tenancy by notice to quit, the tenant upon quitting the land or grass park shall, in addition to the compensation (if any) to which he may be entitled in respect of improvements, be entitled to compensation for the loss or expense directly attributable to his quitting the land or grass park which the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods, or his implements of husbandry, produce, or farm stock, on or used in connection with the land or grass park:

Provided that no compensation under this section shall be payable—

(*a*) unless the tenant has given to the landlord a reasonable opportunity of making a valuation

of such goods, implements, produce and stock as aforesaid;

(*b*) unless the tenant has, within two months after he has received notice to quit, given to the landlord notice in writing of his intention to claim compensation under this section;

(*c*) where the tenant with whom a lease was entered into has died within three months before the date of the notice to quit;

(*d*) if the claim for compensation is not made within three months after the time at which the tenant quits the land or grass park.

Application of Act to cottages on holdings.

14. Where the occupation of a dwelling-house (including a garden attached thereto) forming part of a holding has been allowed by the tenant of the holding to a workman employed by him in agriculture on the holding, whether the occupation is under a lease or not, and the occupation is terminated on account of the termination by the tenant of the holding of the employment of the workman, the provisions of this Act as to compensation for disturbance in the case of a holding shall (subject as hereinafter provided and so far as the same are capable of application) apply as if the dwelling-house (including a garden attached thereto) were a holding and, where there is no lease, as if the person allowing the dwelling-house to be so occupied were the landlord and the workman were the tenant, and the notice to terminate the occupation were a notice to quit:

Provided that—

(1) compensation shall not be payable under this section if—

(*a*) the notice to terminate the occupation is given before the expiration of six weeks from the commencement of the occupation; or

(*b*) the tenant of the holding has, before giving the notice, obtained from the sheriff court for the district in which the dwelling-house is situate a certificate that the termination of the occupation is necessary or expedient to enable the holding to be worked properly or to better advantage; or

(*c*) the employment of the workman is for a year or half-year, and the occupation is terminated at the end of such period; or

(*d*) the workman does not cease to occupy the dwelling-house on the expiration of the notice to terminate his occupation thereof or on the expiration of a period of two months from the date when the notice was given whichever is the later; or

(*e*) the notice is given by reason of the employment of the workman having been terminated on account of his misconduct, and such reason shall be substituted for the reasons specified in subsection (1) of section twelve of this Act; and

(2) for the purpose of compensation the year's rent of the dwelling-house shall be taken to be the sum of seven pounds and sixteen shillings, or, if it is shown that that sum exceeds an amount equal to fifty-two times the weekly rental value of the dwelling-house let free from rates, then such last-mentioned amount; and

(3) subsections (2) and (3) and paragraph (*b*) of subsection (7) of section twelve of this Act shall not apply; and

(4) any question as to whether compensation is payable under this section or as to the amount payable shall, on the application of the tenant or workman, be determined by the sheriff court for the district in which the dwelling-house is situate, and the court may, in any case in which it appears to the court to be just, direct the payment by the tenant to the workman of a sum in respect of his expenses of appearing before the court, and any sum so directed to be paid shall be recoverable summarily from the tenant as a civil debt:

Provided also that, where under paragraph (*b*) of this section the tenant of a holding seeks to obtain a certificate from the sheriff court the workman shall be entitled to appear before the court, and shall, in the event of the certificate being refused, also be entitled to recover from the tenant such sum as the court may direct in respect of any expenses incurred by him in appearing before it.

ARBITRATION.

Matters to be referred to arbitration.

15.—(1) Any question or difference arising out of any claim by the tenant of a holding against the landlord for compensation payable under this Act or any Act by this Act repealed or for any sums claimed to be due to the tenant from the landlord for any breach of contract or otherwise in respect of the holding, or out of any claim by the landlord against the tenant for waste wrongly committed or permitted by the tenant or for any breach of contract or otherwise in respect of the holding, and any other question or difference of any kind whatsoever between the landlord and the tenant of the holding arising out of the termination of the tenancy of the holding or arising, whether during the tenancy or on the termination thereof, as to the construction of the lease shall be determined by arbitration.

(2) Any such claim as is mentioned in this section shall cease to be enforceable after the expiration of two months from the termination of the tenancy unless particulars thereof have been given by the landlord to the tenant or by the tenant to the landlord, as the case may be, before the expiration of that period:

Provided that, where a tenant lawfully remains in occupation of part of a holding after the termination of the tenancy, particulars of a claim relating to that part of the holding may be given within two months from the termination of the occupation.

(3) This section shall not apply in the case of a tenancy which terminated before the first day of January, nineteen hundred and twenty-one.

Procedure in arbitrations.

16.—(1) All questions which under this Act or under the lease are referred to arbitration shall, whether the matter to which the arbitration relates arose before or after the passing of this Act, be determined, notwithstanding any agreement under the lease or otherwise providing for a different method of arbitration, by a single arbiter in accordance with the provisions set out in the Second Schedule to this Act.

(2) If in any arbitration under this Act the arbiter states a case for the opinion of the sheriff on any question of law, the opinion of the sheriff on any question so stated shall be final, unless within the time and in accordance with the conditions prescribed by act of sederunt either

party appeals to either division of the Court of Session, from whose decision no appeal shall lie.

(3) The Arbitration (Scotland) Act, 1894, shall not apply to any arbitration under this Act. 57 & 58 Vict. c. 13.

(4) Any person who wilfully and corruptly gives false evidence before an arbiter or oversman in any arbitration under this Act shall be guilty of perjury, and may be dealt with, prosecuted, and punished accordingly.

(5) This section and the immediately preceding section shall not apply to valuations of sheep stocks, dung, fallow, straw, crops, fences, and other specific things the property of an out-going tenant, agreed under a lease to be taken over from him at the termination of a tenancy by the landlord or incoming tenant, or to any questions which it may be necessary to determine in order to ascertain the sum to be paid in pursuance of such agreement, and that whether such valuations and questions are referred to arbitration under the lease or not.

Constitution of panel of arbiters and provision as to arbiters' remuneration.

17.—(1) Such number of persons as may be appointed by the Lord President of the Court of Session, shall form a panel of persons from whom any arbiter nominated, otherwise than by agreement, for the purposes of an arbitration under and in accordance with the provisions of the Second Schedule to this Act shall be selected.

(2) The remuneration of an arbiter so nominated as aforesaid shall be such amount as is fixed by the Board, and the remuneration of an arbiter appointed by the parties to any such arbitration shall, in default of agreement between those parties and the arbiter, be such amount as on the application of the arbiter or either of the parties is fixed by the auditor of the sheriff court, subject to appeal to the judge of the court.

(3) The remuneration of an arbiter, when agreed or fixed under this section, shall be recoverable by the arbiter as a debt due from either of the parties to the arbitration, and any amount paid in respect of the remuneration of the arbiter by either of those parties in excess of the amount (if any) directed by the award to be paid by him in respect of the expenses of the award shall be recoverable from the other party to the arbitration.

(4) This section shall not apply as respects any arbiter nominated or appointed before the first day of January, nineteen hundred and twenty-one.

Provisions for expediting and reducing costs of arbitrations.

18.—(1) Subject as hereinafter provided, the Board may by rules make such provision (not being inconsistent with the rules contained in the Second Schedule to this Act) as they think desirable for expediting, or reducing the expenses of, proceedings on arbitrations under this Act.

(2) On an arbitration under this Act the arbiter—

(*a*) shall state separately in his award the amounts awarded in respect of the several claims referred to him; and

(*b*) may, if he thinks fit, make an interim award for the payment of any sum on account of the sum to be finally awarded.

(3) A rule made under this section shall be laid before each House of Parliament forthwith, and, if an address is presented to His Majesty by either House of Parliament within the next subsequent thirty days on which that House has sat next after any such rule is laid before it praying that the rule may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

Determination of claims for compensation where a holding is divided.

19.—(1) Where a holding has become vested in more than one person in several parts and the rent payable by the tenant of the holding has not been apportioned with his consent or under any statute, the tenant shall be entitled to require that any compensation payable to him under this Act shall be determined as if the holding had not been divided, and the arbiter shall, where necessary, apportion the amount awarded between the persons who for the purposes of this Act together constitute the landlord of the holding, and any additional expenses of the award caused by the apportionment shall be directed by the arbiter to be paid by those persons in such proportions as he shall determine.

(2) This section shall not apply in the case of a tenancy which terminated before the first day of January, nineteen hundred and twenty-one.

Recovery of compensation and other sums due.

20. Any award or agreement under this Act as to compensation expenses or otherwise may, if any sum payable thereunder is not paid within one month after it becomes due, be competently recorded for execution in the books of council and session or sheriff court books, and shall be enforceable in like manner as a recorded decree arbitral.

CHARGE ON HOLDING FOR COMPENSATION.

Power for landlord on paying compensation to obtain charge.

21.—(1) A landlord, on paying to the tenant the amount due to him under this Act, or under custom or agreement, or otherwise in respect of compensation for an improvement comprised in the First Schedule hereto, or in respect of compensation for disturbance, or on his defraying himself the cost of improvements proposed to be executed by the tenant, shall be entitled to obtain from the Board an authority to charge, in favour of himself, his executors, administrators, and assignees, the holding or the estate of which it forms part by executing and registering in the register of sasines,—

(i) if the landlord has a leasehold interest in the holding, an assignation of the lease in security and for repayment of the amount paid or any part thereof, and of the expense of executing and registering the same, with such interest and by such instalments as the Board may determine; and

(ii) in any other case, a bond and disposition in security over the holding or the estate of which it forms part for repayment of the amount paid or any part thereof, and of the expense of executing and registering the same, with such interest and by such instalments as the Board may determine.

(2) Where the landlord obtaining the charge is not absolute owner of the holding for his own benefit, no instalment or interest shall, by such bond and disposition in security or assignation, be made payable after the time when the improvement in respect whereof compensation is paid will, in the judgment of the Board, have become exhausted, and such bond and disposition in security or assignation shall specify the times at which the total amount charged and each instalment thereof is to be payable.

(3) Any charge under this section shall rank after all prior charges and burdens heritably secured upon the holding or estate.

(4) Where a holding or estate is charged by the landlord under this section, the charge shall not be deemed to be a contravention of any prohibition against charging or burdening contained in the deed or instrument under which the holding or estate is held by the landlord.

(5) The price of any entailed land sold under the provisions of the Entail Acts, when such price is entailed estate within the meaning of those Acts, may be applied by the landlord in respect of the remaining portion of the entailed estate, or in respect of any other estate belonging to him and entailed upon the same series of heirs, in payment of any expenditure and expenses incurred by him in pursuance of this Act for executing or paying compensation for any improvement mentioned in Part I. or Part II. of the First Schedule hereto, or in discharge of any charge with which the estate is burdened in pursuance of this Act or of any enactment hereby repealed in respect of the improvement.

Incidence of charge.

22. The sum charged by the order of the Board under this Act shall be a charge on the holding, or the estate of which it forms part, for the landlord's interest therein and for all interests therein subsequent to that of the landlord; but so that, in any case where the landlord's interest is an interest in a leasehold, the charge shall not extend beyond the interest of the landlord, his executors, administrators, and assignees.

Advance made by a company.

23. Any company now or hereafter incorporated by Parliament or incorporated under the Companies Acts, 1908 to 1917, and having power to advance money for the improvement of land, or for the cultivation and farming of land, may make an advance of money upon a bond and disposition in security or upon an assignation, as the case may be, executed upon the authority of the Board under this Act, or executed under any enactment hereby repealed, upon such terms and conditions as may be agreed upon between the company and the person entitled to the charge; and that company may assign any charge so acquired by them to any person or persons whomsoever.

Certificate as to charges.

24. Where a charge may be made under this Act for compensation, the person making the award shall, at the request and cost of the person entitled to obtain the charge, certify the amount to be charged and the term for which the charge may properly be made, having regard to the time at which each improvement in respect of which compensation is awarded is to be deemed to be exhausted.

REMOVING FOR NON-PAYMENT OF RENT.

Removal of tenants.

25. In any case in which the landlord's right of hypothec for the rent has ceased and determined—

(1) When six months rent of the holding is due and unpaid, it shall be lawful for the landlord to raise an action of removing before the sheriff against the tenant, concluding for his removal from the holding at the term of Whitsunday or Martinmas next ensuing after the action is brought, and, unless the arrears of rent then due are paid or caution is found to the satisfaction of the sheriff for the same, and for one year's rent further, the sheriff may decern the tenant to remove, and eject him at such term in the same manner as if the lease were determined, and the tenant had been legally warned to remove:

(2) A tenant so removed shall have the rights of an outgoing tenant to which he would have been entitled if his lease had naturally expired at such term of Whitsunday or Martinmas:

(3) The provisions of section five of the Act of sederunt anent removing of the fourteenth day of December, seventeen hundred and fifty-six, shall not apply in any case in which the procedure under this section is competent.

NOTICE OF TERMINATION OF TENANCY.

Notice of termination of tenancy.

26.—(1) Notwithstanding the expiration of the stipulated endurance of any lease, the tenancy shall not come to an end unless written notice has been given by either party to the other of his intention to bring the tenancy to an end—

(*a*) in the case of—

(i) leases for three years and upwards entered into before the twenty-fourth day of December, nineteen hundred and twenty, and

(ii) leases for two years and upwards entered into on or after the said date,

not less than one year nor more than two years before the termination of the lease; and

(*b*) in the case of—

(i) leases from year to year or for any other period less than three years entered into before the twenty-fourth day of December, nineteen hundred and twenty, and

(ii) leases from year to year or for any other period less than two years entered into on or after the said date,

not less than six months before the termination of the lease.

(2) Failing such notice by either party, the lease shall be held to be renewed by tacit relocation for another year and thereafter from year to year, and in the case of any lease so renewed the period of notice required to terminate the tenancy shall, where the notice is given after the thirty-first day of May, nineteen hundred and twenty-one, be not less than one year nor more than two years.

7 Edw. 7. c. 51.

(3) (*a*) The provisions of the Sheriff Courts (Scotland) Act, 1907, relating to removings shall, in the case of any holding to which this section applies, have effect subject to the provisions of this section.

(*b*) Notice by the landlord to the tenant under this section shall be given either in the same manner as notice of removal under section six of the Removal Terms (Scotland) Act, 1886, or in the form and manner prescribed by the Sheriff Courts (Scotland) Act, 1907, and shall come in place of the notice required by the last-mentioned Act.

49 & 50 Vict. c. 50.

(4) Nothing in this section shall affect the right of a landlord to remove a tenant who has been sequestrated under the Bankruptcy (Scotland) Act, 1913, or who by failure to pay rent or otherwise has incurred any irritancy of his lease or other liability to be removed.

3 & 4 Geo. 5. c. 20.

(5) The provisions of this section relative to notice shall not apply to any stipulation in a lease entitling the landlord to resume land for building, planting, feuing, or other purposes, or to subjects let for any period less than a year.

RESTRICTION OF NOTICES TO QUIT IN CASE OF SALE.

Restriction of notices to quit in case of sale.

27.—(1) On the making of any contract for sale of a holding or any part of a holding held by a tenant

from year to year, any then current and unexpired notice to determine the tenancy of the holding given to the tenant, either before or after the commencement of this Act shall, if the contract for sale is made by the person by whom the notice to quit was given, be null and void, unless the tenant has, after the nineteenth day of August, nineteen hundred and nineteen, and prior to such contract of sale, by writing agreed that such notice shall be valid.

(2) This section shall not apply to a contract for sale to a Government department or local authority for the purpose of providing small holdings or allotments or for any other public purpose made before the twentieth day of August, nineteen hundred and twenty-two.

BEQUEST OF LEASE.

Bequest of lease.

28. A tenant of a holding may, by will or other testamentary writing, bequeath his lease to any person (in this section referred to as the legatee) subject to the following provisions:—

(*a*) The legatee shall intimate the testamentary bequest to the landlord within twenty-one days after the death of the tenant, 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 by the legatee shall import acceptance of the lease by the legatee:

(*c*) Within one month after intimation has been made to the landlord he may intimate to the legatee that he objects to receive him as tenant under the lease:

(*d*) If the landlord makes no such intimation within one month, the lease shall be binding on the landlord and the legatee respectively, as landlord and tenant, as from the date of the death of the deceased tenant:

(*e*) If the landlord intimates that he objects to receive the legatee as tenant under the lease, the legatee may present a petition to the sheriff, praying for decree declaring that he is tenant under the lease as from the date of the death of

the deceased tenant, 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 decern and declare in terms of the prayer of the petition:

(*f*) The decision of the sheriff under such petition as aforesaid shall be final:

(*g*) Pending any proceedings under this section, the legatee shall have possession of the holding, unless the sheriff otherwise directs on cause shown:

(*h*) If the legatee does not accept the bequest, or if the bequest is declared to be null and void as aforesaid, the lease shall descend to the heir of the tenant in the same manner as if the bequest had not been made.

FIXTURES AND BUILDINGS.

Tenant's property in fixtures and buildings.

29.—(1) Any engine, machinery, fencing, or other fixture affixed to a holding by a tenant, and any building erected by him thereon for which he is not under this Act or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the landlord, shall be the property of and be removable by the tenant before or within a reasonable time after the termination of the tenancy:

Provided that—

(i) Before the removal of any fixture or building the tenant shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the landlord in respect of the holding:

(ii) In the removal of any fixture or building the tenant shall not do any avoidable damage to any other building or other part of the holding:

(iii) Immediately after the removal of any fixture or building the tenant shall make good all

damage occasioned to any other building or other part of the holding by the removal:

(iv) The tenant shall not remove any fixture or building without giving one month's previous notice in writing to the landlord of his intention to remove it:

(v) At any time before the expiration of such notice the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture or building comprised in the notice given by the tenant as aforesaid and any fixture or building thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord, who shall pay the tenant the fair value thereof to an incoming tenant of the holding.

(2) The provisions of this section shall apply to a fixture or building acquired since the thirty-first day of December, nineteen hundred, by a tenant in like manner as they apply to a fixture or building affixed or erected by a tenant, but shall not apply to any fixture or building affixed or erected before the first day of January, eighteen hundred and eighty-four.

MISCELLANEOUS RIGHTS OF LANDLORD AND TENANT.

Resumption of possession for cottages, &c.

30. Where a notice to quit is given by the landlord of a holding to a tenant from year to year with a view to the use of land for any of the following purposes:—

(i) The erection of farm labourers' cottages or other houses with or without gardens;

(ii) The provision of gardens for farm labourers' cottages or other houses;

(iii) The provision of allotments;

(iv) The provision of small holdings under the Small Landholders (Scotland) Acts, 1886 to 1919;

(v) The planting of trees;

(vi) The opening or working of any coal, ironstone, limestone, brick earth, or other mineral, or of a stone quarry, clay, sand, or gravel pit, or the construction of any works or buildings to be used in connection therewith;

(vii) The making of a watercourse or reservoir;

(viii) The making of any road, railway, tramroad, siding, canal, or basin, or any wharf, pier, or other work connected therewith;

and the notice states that it is given with a view to any such use—

(*a*) it shall, by virtue of this Act, be no objection to the notice that it relates to part only of the holding; and

(*b*) the provisions of this Act respecting compensation shall apply as if the part to which the notice relates were a separate holding; and

(*c*) the tenant shall be entitled to a reduction of rent proportionate to the part to which the notice relates, and in respect of any depreciation of the value to him of the residue of the holding caused by the severance, or by the use to be made of the part severed, and the amount of that reduction shall be settled as in case of compensation under this Act:

Provided that the tenant may, at any time within twenty-eight days after service of the notice to quit, serve on the landlord a notice in writing to the effect that he accepts it as a notice to quit the entire holding, to take effect at the expiration of the then current year of tenancy; and the notice to quit shall have effect accordingly.

Resumption of part of holding by landlord.

31. Where the landlord of a holding gives notice, in pursuance of a provision in that behalf contained in the lease, of his intention to resume possession of some part of the holding, the provisions of paragraphs (*b*) and (*c*) of the immediately preceding section of this Act (but not including the proviso thereto) shall apply as if the notice were such a notice to quit as is mentioned in that section:

Provided that, in assessing the compensation payable to the tenant and the reduction of rent, the arbiter shall take into consideration any benefit or relief allowed to the tenant under the lease in respect of any land resumed in pursuance of such provision.

Power of entry by landlord.

32. The landlord of a holding or any person authorised by him may at all reasonable times enter on the holding for the purpose of viewing the state of the holding.

Extension of meaning of "holding."

33.—(1) Where the land comprised in a lease is not a holding within the meaning of this Act by reason only of the fact that the land so comprised includes land (hereinafter referred to as "the non-statutory land") which, owing to the nature of the buildings thereon or the use to which it is put, would not, if it had been separately let, be a holding within the meaning of this Act, the provisions of this Act relating to compensation for improvements and disturbance shall, unless otherwise agreed in writing, apply to the part of the land exclusive of the non-statutory land as if that part were a separate holding.

(2) This section shall not apply in relation to a lease entered into before the first day of January, nineteen hundred and twenty-one.

Penal rents and liquidated damages.

34. Notwithstanding any provision in a lease making the tenant of a holding liable to pay a higher rent or other liquidated damages in the event of any breach or non-fulfilment of any of the terms or conditions in the lease, a landlord shall not be entitled to recover any sum in consequence of any such breach or non-fulfilment in excess of the damage actually suffered by him in consequence of the breach or non-fulfilment:

Provided that this section shall not apply to any of the terms or conditions in a lease prohibiting the breaking of permanent pasture, the grubbing of underwoods, or the felling, cutting, lopping, or injuring of trees, or regulating the burning of heather.

Freedom of cropping and disposal of produce.

35.—(1) Notwithstanding any custom of the country, or the provisions of any lease or agreement respecting the method of cropping of arable lands, or the disposal of crops, a tenant of a holding shall have full right to practise any system of cropping of the arable land on the holding, and to dispose of the produce of the holding, without incurring any penalty, forfeiture, or liability:

Provided that he shall previously have made, or, as soon as may be, shall make, suitable and adequate provision to protect the holding from injury or deterioration,

which provision shall, in the case of disposal of the produce of the holding, consist in the return to the holding of the full equivalent manurial value to the holding of all crops sold off or removed from the holding in contravention of the custom, lease, or agreement.

This subsection shall not apply—

(*a*) in the case of a tenancy from year to year, as respects the year before the tenant quits the holding or any period after he has given or received notice to quit which results in his quitting the holding; or

(*b*) in any other case, as respects the year before the expiration of the lease.

(2) If the tenant exercises his rights under this section in such a manner as to injure or deteriorate the holding, or to be likely to injure or deteriorate the holding, the landlord shall, without prejudice to any other remedy which may be open to him, be entitled to recover damages in respect of such injury or deterioration at any time, and, should the case so require, to obtain an interdict restraining the exercise of the rights under this section in that manner.

(3) A tenant shall not be entitled to any compensation in respect of improvements comprised in Part III. of the First Schedule to this Act which have been made for the purpose of making such provision to protect the holding from injury or deterioration as is required by this section.

(4) In this section the expression "arable land" shall not include land in grass which by the terms of any lease is to be retained in the same condition throughout the tenancy.

Prohibition of removal of manure, &c., after notice to terminate the tenancy.

36. Where notice to terminate the tenancy of a holding is given, either by the tenant or by the landlord, the tenant shall not, subject to any agreement to the contrary, at any time after the date of the notice, sell or remove from the holding any manure or compost, or any hay or straw or roots grown in the last year of the tenancy, unless and until he has given the landlord or incoming tenant a reasonable opportunity of agreeing to purchase on the termination of the tenancy at their fair market value, or at such other value as is provided by the lease, the said manure, compost, hay, straw, or roots.

Record of holding.

37. If the landlord or tenant of a holding at any time during the tenancy so requires, a record of the condition of the buildings, fences, gates, roads, drains, ditches and cultivation of the holding, and, if so required by the tenant, a record of any existing improvements executed by the tenant or for which the tenant with the consent in writing of his landlord has paid compensation to an outgoing tenant, and of any fixtures or buildings which under section twenty-nine of this Act the tenant is entitled to remove, shall be made by a person to be appointed in default of agreement by the Board, and in default of agreement the cost of making any such record shall be borne by the landlord and tenant in equal shares.

PERSONS UNDER DISABILITY.

Appointment of guardian.

38. Where a landlord or tenant is a pupil or minor, or is of unsound mind, not having a tutor, curator, or other guardian, the sheriff on the application of any person interested may appoint to him a tutor or curator for the purposes of this Act, and may recall the appointment and appoint another tutor or curator if and as occasion requires.

Provision as to limited owners.

39. Subject to the provisions of this Act in relation to Crown, Ecclesiastical, and Charity lands, a landlord, whatever may be his estate or interest in the holding, may give any consent, make any agreement, or do or have done to him any act in relation to improvements in respect of which compensation is payable under this Act, which he might give or make or do or have done to him if he were absolute owner of the holding.

CROWN LANDS.

Application to Crown lands.

40.—(1) This Act shall apply to land belonging to His Majesty in right of the Crown.

(2) With respect to any such land, for the purposes of this Act the Commissioners of Woods or other the proper officer or body having charge of the land for the time being, or, in case there is no such officer or body, then such person as His Majesty may appoint in writing under the Royal Sign Manual, shall represent His Majesty, and shall be deemed to be the landlord.

29 & 30 Vict. c. 62.

(3) The power given to the Treasury by section one of the Crown Lands Act, 1866 (being a power to direct the cost of certain improvements to be charged to capital and repaid out of income), shall extend to any compensation under this Act payable by the Commissioners of Woods in respect of an improvement comprised in Part I. or Part II. of the First Schedule hereto.

(4) Any compensation under this Act payable by those Commissioners, in respect of an improvement comprised in Part III. of the First Schedule hereto, shall be paid as part of the expenses of the management of the land revenues of the Crown.

ECCLESIASTICAL AND CHARITY LANDS.

Application to glebe and charity land.

41.—(1) The powers by this Act conferred on a landlord in respect of charging land shall not be exercised by ministers in respect of their glebes, except with the approval in writing of the presbytery of the bounds, and shall not be exercised by trustees for ecclesiastical, educational, or charitable purposes, except with the previous approval in writing of the Secretary for Scotland.

(2) This section shall apply in relation to the exercise of any power, whether before or after the commencement of this Act.

SPECIAL PROVISIONS AS TO MARKET GARDENS.

Special provisions as to market gardens.

42.—(1) In the case of a holding in respect of which it is agreed by an agreement in writing made on or after the first day of January, eighteen hundred and ninety-eight, that the holding shall be let or treated as a market garden—

(i) the provisions of this Act shall apply as if the improvements comprised in the Third Schedule to this Act were comprised in Part III. of the First Schedule to this Act:

Provided that—

(*a*) in the case of Crown lands, compensation in respect of an improvement comprised in paragraphs (1), (2), and (5) of the said Third Schedule shall be paid in the same manner and out of the same funds as if it

were an improvement comprised in Part I. of the said First Schedule ; and

(*b*) the right of an incoming tenant to claim compensation in respect of the whole or part of an improvement which he has purchased may be exercised, although his landlord has not consented in writing to the purchase :

(ii) the provisions of this Act relating to tenant's property in fixtures and buildings shall extend to every fixture or building affixed or erected by the tenant to or upon the holding, or acquired by him since the thirty-first day of December, nineteen hundred, for the purposes of his trade or business as a market gardener :

(iii) it shall be lawful for the tenant to remove all fruit trees and fruit bushes planted by him on the holding and not permanently set out ; but, if the tenant does not remove such fruit trees and fruit bushes before the termination of his tenancy, they shall remain the property of the landlord, and the tenant shall not be entitled to any compensation in respect thereof.

(2) Where under a lease current on the first day of January, eighteen hundred and ninety-eight, a holding was at that date in use or cultivation as a market garden with the knowledge of the landlord, and the tenant thereof has then executed thereon, without having received previously to the execution thereof any written notice of dissent by the landlord, any improvement comprised in the Third Schedule to this Act, the provisions of this section shall apply, in respect of that holding, as if it had been agreed in writing after that date that the holding should be let or treated as a market garden, so however that the improvements in respect of which compensation is payable under those provisions as so applied shall include improvements executed before as well as improvements executed after that date :

Provided that, where such a tenancy was a tenancy from year to year, the compensation payable in respect of an improvement comprised in the Third Schedule to this Act shall be such (if any) as could have been claimed if this Act had not been passed.

(3) Where the land to which such agreement relates or so used and cultivated consists of part of a holding only, this section shall apply as if that part were a separate holding.

GENERAL.

Prohibition of appeal from sheriff-substitute.

43. Where any jurisdiction committed by this Act to the sheriff is exercised by the sheriff-substitute, there shall be no appeal to the sheriff.

Expenses in sheriff court.

44. The Court of Session may, by act of sederunt, prescribe a scale of expenses for proceedings in the sheriff court under this Act, and such expenses shall be taxed by the auditor of the sheriff court.

Avoidance of contract inconsistent with Act.

45. Subject to the provisions of this Act, any contract or agreement made by a tenant of a holding by virtue of which his right to claim compensation under this Act is taken away or limited shall to that extent be void.

General savings of rights.

46. Except as in this Act expressed, nothing in this Act shall prejudicially affect any power, right, or remedy of a landlord, tenant, or other person, vested in or exerciseable by him by virtue of any other Act or law, or under any custom of the country, or otherwise, in respect of a lease or other contract, or of any improvements, deteriorations, away-going crops, fixtures, tax, rate, teind, rent, or other thing.

Validity of consents, &c.

47. It shall be no objection to any consent in writing or agreement in writing under this Act signed by the parties thereto or by any persons authorised by them that the consent or agreement has not been executed in accordance with the statutes regulating the execution of deeds in Scotland.

Improvements executed under repealed enactments. 8 Edw. 7. c. 64.

48. Except as otherwise expressly provided by this Act, the compensation in respect of an improvement made or begun before the first day of January, nineteen hundred and nine (being the date of the commencement of the Agricultural Holdings (Scotland) Act, 1908), or made upon a holding held under a lease, other than a lease from year to year, current on the first day of January, eighteen hundred and eighty-four, shall be such (if any) as could have been claimed if this Act had not been

passed, but the procedure for the ascertainment and recovery thereof shall be such as is provided by this Act, and the amount so ascertained shall be payable, recoverable, and chargeable as if it were compensation under this Act.

Interpretation.

49.—(1) In this Act, unless the context otherwise requires,—

"Lease" means a letting of or agreement for letting land for a term of years, or for lives, or for lives and years, or from year to year;

"Termination of tenancy" means the termination of a lease by reason of effluxion of time, or from any other cause;

"Landlord" means any person for the time being entitled to receive the rents and profits or to take possession of any holding;

"Tenant" means the holder of land under a lease;

"Landlord" or "tenant" includes the executors, administrators, assignees, legatee, disponee, or next-of-kin, husband, guardian, curator bonis, or trustee in bankruptcy, of a landlord or tenant;

"Absolute owner" means the owner or person capable of disposing by disposition or otherwise of the fee simple or dominium utile of the whole interest of or in land, although the land, or his interest therein, is burdened, charged, or encumbered;

"Holding" means any piece of land held by a tenant which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or in whole or in part cultivated as a market garden, and which is not let to the tenant during his continuance in any office, appointment, or employment held under the landlord;

"Market garden" means a holding cultivated, wholly or mainly, for the purpose of the trade or business of market gardening;

"Board" means the Board of Agriculture for Scotland;

"Manuring" means any of the improvements numbered twenty-five, twenty-six, and twenty-seven in Part III. of the First Schedule hereto;

"Rules of good husbandry" means (due regard being had to the character of the holding) so far as is practicable, having regard to its character and position—

(*a*) the maintenance of the land (whether arable, meadow, or pasture), clean and in a good state of cultivation and fertility, and in good condition; and

(*b*) the maintenance and clearing of drains, embankments, and ditches; and

(*c*) the maintenance and proper repair of fences, stone walls, gates, and hedges; and

(*d*) the execution of repairs to buildings, being repairs which are necessary for the proper cultivation and working of the land on which they are to be executed; and

(*e*) such rules of good husbandry as are generally recognised as applying to holdings of the same character and in the same neighbourhood as the holding in respect of which the expression is to be applied:

Provided that the foregoing definition shall not imply an obligation on the part of any person to maintain or clear drains, embankments, or ditches, if and so far as the execution of the works required is rendered impossible (except at prohibitive or unreasonable expense) by reason of subsidence of any land or the blocking of outfalls which are not under the control of that person, or in its application to land in the occupation of a tenant imply an obligation on the part of the tenant—

(i) to maintain or clear drains, embankments, or ditches, or to maintain or properly repair fences, stone walls, gates, or hedges where such work is not required to be done by him under his lease; or

(ii) to execute repairs to buildings which are not required to be executed by him under his lease.

CORRIGENDUM.

PUBLIC GENERAL ACTS, 1923.

13 & 14 GEO. 5, CH. 10, AGRICULTURAL HOLDINGS (SCOTLAND) ACT, 1923.

[In pursuance of 13 & 14 Geo. 5, Ch. 25, section 2, Agriculture (Amendment) Act, 1923.]

After section 49, *subsection* (4), *insert the following as section* 49, *subsection* (5).

(5) Unless or until a tenant of a holding shall have received notice that the person theretofore entitled to receive the rents and profits of the holding (hereinafter referred to as "the original landlord") has ceased to be so entitled, and also notice of the name and address of the person who has become entitled to receive such rents and profits, any notice, request, demand or other instrument which the tenant shall serve upon or deliver to the original landlord shall be deemed to have been served upon or delivered to the landlord of such holding.

Provisions as to serving notice.

(2) References to the terms, conditions, or requirements of a lease of or of an agreement relating to a holding shall be construed as including references to any obligations, conditions, or liabilities implied by the custom of the country in respect of the holding.

(3) The designations of landlord and tenant shall continue to apply to the parties until the conclusion of any proceedings taken under or in pursuance of this Act in respect of compensation for improvements, or under any agreement made in pursuance of this Act.

(4) Anything which by or under this Act is required or authorised to be done to, by, or in respect of the landlord of a holding may be done to, by, or in respect of any agent of the landlord duly authorised in that behalf.

Repeal.

50. The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule :

Provided that—

(*a*) all orders and acts of sederunt made, and scales of expenses, and instruments issued and notices, consents, certificates, and directions given and having effect under any enactment hereby repealed shall have effect as if they had been made, issued, or given under this Act:

(*b*) the mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals. 52 & 53 Vict. c. 63.

Commencement.

51. This Act shall come into operation at the expiration of one month after the passing thereof.

Short title and extent.

52.—(1) This Act may be cited as the Agricultural Holdings (Scotland) Act, 1923.

(2) This Act shall extend to Scotland only.

SCHEDULES.

Sections 1, 2, 3, 4, 6, 9, 21, 35, 40, 42, 49.

FIRST SCHEDULE.

PART I.

IMPROVEMENTS TO WHICH CONSENT OF LANDLORD IS REQUIRED.

(1) Erection, alteration, or enlargement of buildings.

(2) Formation of silos.

(3) Laying down of permanent pasture.

(4) Making and planting of osier beds.

(5) Making of water meadows or works of irrigation.

(6) Making of gardens.

(7) Making or improvement of roads or bridges.

(8) Making or improvement of watercourses, ponds, wells, or reservoirs, or of works for the application of water power or for supply of water for agricultural or domestic purposes.

(9) Making or removal of permanent fences.

(10) Planting of hops.

(11) Planting of orchards or fruit bushes.

(12) Protecting young fruit trees.

(13) Reclaiming of waste land.

(14) Warping or weiring of land.

(15) Embankments and sluices against floods.

(16) Erection of wirework in hop gardens.

(17) Provision of permanent sheep-dipping accommodation.

(18) In the case of arable land the removal of bracken, gorse, tree roots, boulders, or other like obstructions to cultivation.

[N.B.—*This part is subject as to market gardens to the provisions of the Third Schedule.*]

PART II.

IMPROVEMENT IN RESPECT OF WHICH NOTICE TO LANDLORD IS REQUIRED.

(19) Drainage.

PART III.

IMPROVEMENTS IN RESPECT OF WHICH CONSENT OF OR NOTICE TO LANDLORD IS NOT REQUIRED.

(20) Chalking of land.

(21) Clay-burning.

(22) Claying of land or spreading blaes upon land.

(23) Liming of land.

(24) Marling of land.

(25) Application to land of purchased artificial or other purchased manure.

(26) Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn, cake, or other feeding stuff not produced on the holding.

(27) Consumption on the holding by cattle, sheep, or pigs, or by horses other than those regularly employed on the holding, of corn proved by satisfactory evidence to have been produced and consumed on the holding.

(28) Laying down temporary pasture with clover, grass, lucerne, sainfoin, or other seeds, sown more than two years prior to the termination of the tenancy, in so far as the value of the temporary pasture on the holding at the time of quitting exceeds the value of the temporary pasture on the holding at the commencement of the tenancy for which the tenant did not pay compensation.

(29) Repairs to buildings, being buildings necessary for the proper cultivation or working of the holding, other than repairs which the tenant is himself under an obligation to execute:

Provided that the tenant, before beginning to execute any such repairs, shall give to the landlord notice in writing of his intention, together with particulars of such repairs, and shall not execute the repairs unless the landlord fails to execute them within a reasonable time after receiving such notice.

SECOND SCHEDULE.

Sections 16, 17, 18.

RULES AS TO ARBITRATION.

APPOINTMENT OF ARBITER.

1. A person agreed upon between the parties, or in default of agreement nominated by the Board on the application in writing of either of the parties, shall be appointed arbiter.

2. If a person appointed arbiter dies, or is incapable of acting, or for seven days after notice from either party requiring him to act fails to act, a new arbiter may be appointed as if no arbiter had been appointed.

3. Neither party shall have power to revoke the appointment of the arbiter without the consent of the other party.

4. Every appointment, notice, revocation, and consent under this part of these rules must be in writing.

TIME FOR AWARD.

5. The arbiter shall make and sign his award within twenty-eight days of his appointment or within such longer period as the Board may (whether the time for making the award has expired or not) direct.

REMOVAL OF ARBITER.

6. Where an arbiter has misconducted himself the sheriff may remove him.

EVIDENCE.

7. The parties to the arbitration, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbiter on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbiter all samples, books, deeds, papers, accounts, writings, and documents, within their possession or power respectively which may be required or called for, and do all other things which during the proceedings the arbiter may require.

8. The arbiter shall have power to administer oaths, and to take the affirmation of parties and witnesses appearing, and witnesses shall, if the arbiter thinks fit, be examined on oath or affirmation.

STATEMENT OF CASE.

9. The arbiter may at any stage of the proceedings, and shall, if so directed by the sheriff (which direction may be given on the application of either party), state in the form of a special case for the opinion of the sheriff any question of law arising in the course of the arbitration.

AWARD.

10. The arbiter shall, on the application of either party, specify the amount awarded in respect of any particular improvement or any particular matter the subject of the award, and the

award shall fix a day not later than one month after the delivery of the award for the payment of the money awarded as compensation, expenses, or otherwise, and shall be in such form as may be prescribed by the Board.

11. The award to be made by the arbiter shall be final and binding on the parties and the persons claiming under them respectively.

12. The arbiter may correct in an award any clerical mistake or error arising from any accidental slip or omission.

13. When an arbiter has misconducted himself, or an arbitration or award has been improperly procured, the sheriff may set the award aside.

EXPENSES.

14. The expenses of and incidental to the arbitration and award shall be in the discretion of the arbiter, who may direct to and by whom and in what manner those expenses or any part thereof are to be paid, and the expenses shall be subject to taxation by the auditor of the sheriff court on the application of either party, but that taxation shall be subject to review by the sheriff.

15. The arbiter shall, in awarding expenses, take into consideration the reasonableness or unreasonableness of the claim of either party, either in respect of amount or otherwise, and any unreasonable demand for particulars or refusal to supply particulars, and generally all the circumstances of the case, and may disallow the expenses of any witness whom he considers to have been called unnecessarily and any other expenses which he considers to have been incurred unnecessarily.

FORMS.

16. Any forms for proceedings in arbitrations under this Act which may be prescribed by the Board shall, if used, be sufficient.

THIRD SCHEDULE.

Sections 5, 9, 42.

IMPROVEMENTS SUBJECT TO SPECIAL PROVISIONS IN THE CASE OF MARKET GARDENS.

(1) Planting of standard or other fruit trees permanently set out;

(2) Planting of fruit bushes permanently set out;

(3) Planting of strawberry plants;

(4) Planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years;

(5) Erection or enlargement of buildings for the purpose of the trade or business of a market gardener.

Section 50.

FOURTH SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
8 Edw. 7. c. 64	The Agricultural Holdings (Scotland) Act, 1908.	The whole Act, so far as not already repealed.
10 Edw. 7. & 1 Geo. 5. c.30.	The Agricultural Holdings (Scotland) Amendment Act, 1910.	The whole Act.
9 & 10 Geo. 5. c. 63.	The Agricultural Land Sales (Restriction of Notices to Quit) Act, 1919.	The whole Act.
10 & 11 Geo. 5. c. 76.	The Agriculture Act, 1920	Part II. Section thirty-three. Section thirty-four, except the definition of "agricultural committee." The First Schedule.
11 & 12 Geo. 5. c. 17.	The Agriculture (Amendment) Act, 1921.	The whole Act.
11 & 12 Geo. 5. c. 48.	The Corn Production Acts (Repeal) Act, 1921.	Section five.