



Crofting Reform etc. Act 2007

2007 asp 7

PART 2

CROFTS

13 Bequest of tenancy of croft

(1) Section 10 of the 1993 Act (bequest of croft) is amended as follows.

(2) For subsection (1), there is substituted—

“(1) A crofter may, by will or other testamentary writing, bequeath the tenancy of his croft to any one natural person.”.

(3) In subsection (2)—

- (a) after the word “landlord”, where it first occurs, there is inserted “ and send a copy of the notice to the Commission, both ”;
- (b) for the word “2” there is substituted “ 4 ”;
- (c) for the words “unavoidable cause” there is substituted “ cause, being a cause which the Commission accept is unavoidable, ”;
- (d) after the words “give such notice” there is inserted “ (and send such a copy) ”;
- (e) for the word “4” there is substituted “ 6 ”;
- (f) after the word “given” there is inserted “ (and copy sent) ”;
- (g) after the words “the provisions of this subsection”, there is inserted “ or subsection (2A) below ”; and
- (h) the words from “The giving of such notice” to the end are repealed.

(4) After subsection (2) there is inserted—

“(2A) Notice under subsection (2) above of the bequest may be given by an executor of the deceased crofter authorised for that purpose by the legatee.

(2B) The giving of notice to the landlord in accordance with the provisions of subsection (2) or (2A) above shall import acceptance of the bequest; and the legatee if—

- (a) he is a member of the deceased crofter's family; or

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- (b) he is a person other than a member of the deceased crofter's family and the landlord does not intimate objection to the legatee in accordance with subsection (3) below,
- shall come into the place of the deceased crofter (as from the date of death of the deceased crofter) on the relevant date mentioned in subsection (2D) below.
- (2C) Where notice is given in accordance with the provisions of subsection (2) or (2A) above and—
- (a) the legatee is a member of the deceased crofter's family, the Commission shall notify the legatee of the information they require for the purpose of updating the Register of Crofts in relation to the tenancy; or
- (b) the legatee is a person other than a member of the deceased crofter's family and the Commission receive no intimation of objection to the legatee in accordance with subsection (3) below, they shall notify the legatee—
- (i) to that effect; and
- (ii) of the information referred to in paragraph (a) above.
- (2D) The Commission shall notify the legatee when they are satisfied that he has provided the information required by them in their notification to him under subsection (2C) above; and the “relevant date” referred to in subsection (2B) above is the date on which the Commission notify the legatee under this subsection.”.
- (5) For subsection (3), there is substituted—
- “(3) Where the legatee is a person other than a member of the deceased crofter's family, the landlord may, within one month (or such longer period as may be determined by the Commission on an application made to them by the landlord) after the date of the notice given to him in accordance with subsection (2) or (2A) above, intimate to—
- (a) the legatee; and
- (b) the Commission,
- that he objects to the legatee becoming tenant of the croft; and any such intimation shall state the grounds of objection.”.
- (6) In subsection (4), for paragraph (b) there is substituted—
- “(b) not so satisfied, they shall—
- (i) notify the landlord and the legatee to that effect; and
- (ii) notify the legatee of the information they require for the purpose of updating the Register of Crofts in relation to the tenancy.”.
- (7) After that subsection, there is inserted—
- “(4A) In a case where subsection (4)(b) above applies, the Commission shall notify the legatee when they are satisfied that he has provided the information required by them in their notification to him under sub-paragraph (ii) of that subsection; and, if no appeal is made under subsection (4B) below against the Commission's decision under subsection (4)(b) above, the legatee shall come into the place of the deceased crofter (as from the date of the deceased

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crofter's death) on the date on which the Commission notify the legatee under this subsection.

- (4B) The legatee or, as the case may be, the landlord may, within 42 days after the giving of notification of the Commission's decision under paragraph (a) or (b) of subsection (4) above in relation to the objection, appeal by way of stated case, on one or more of the grounds mentioned in section 52A(3) of this Act, to the Land Court against that decision.
- (4C) In an appeal under subsection (4B) above the Court may—
- (a) confirm the decision;
 - (b) direct the Commission to come to a different decision; or
 - (c) remit the case to the Commission without so directing them.
- (4D) Where, on an appeal under subsection (4B) above, the Land Court directs the Commission to decide that a bequest under subsection (1) above be upheld, the legatee shall come into the place of the deceased crofter (as from the date of the deceased crofter's death) on the date the Court directs under this subsection.
- (4E) A legatee who comes into the place of a deceased crofter in accordance with subsection (2B), (4A) or, as the case may be, (4D) above, in doing so—
- (a) becomes liable for such debts of the deceased crofter's estate as are attributable to the tenancy; and
 - (b) shall, if requested to do so by the executor, pay the reasonable expenses necessarily and wholly incurred by the executor in relation to the administration and management of the tenancy during the period beginning with the date of the deceased crofter's death and ending immediately before the date when the legatee so comes into the place of the deceased crofter; and such expenses—
 - (i) shall, in the event of a dispute as to amount, be determined by the Land Court on the application of the executor or the legatee; and
 - (ii) shall not fall to be met from the deceased crofter's estate.
- (4F) Notwithstanding that a legatee comes into the place of the deceased crofter as mentioned in subsection (4E) above, the tenancy is an asset of the deceased crofter's estate, available along with the other assets of the estate to meet the other expenses of administration, and debts, of the estate; and any such legatee is liable to contribute to such expenses and debts accordingly.”.

Commencement Information

II S. 13 in force at 28.1.2008 by S.S.I. 2007/568, art. 2

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