



Crofters (Scotland) Act 1955

1955 CHAPTER 21

Crofting Tenure

11 Succession to croft

- (1) Where, owing to the failure of a crofter to bequeath the tenancy of his croft or of such a bequest to receive effect, the right to the tenancy of the croft devolves upon the heir-at-law of the crofter, the landlord shall, subject to the provisions of subsection (2) of this section, accept as successor to the tenancy any heir of the deceased crofter, being a person who, failing nearer heirs, would be entitled to succeed to the tenancy, who within three months from the date on which the right to the croft devolved upon the heir-at-law makes application to the landlord to be accepted as tenant; and the landlord shall notify the Commission accordingly:

Provided that the landlord shall not under this subsection accept any person as successor to the tenancy unless he is satisfied that there is no nearer heir who desires to succeed to the tenancy.

- (2) In the event of the landlord not being satisfied as to any matter as to which he is required under this section to be satisfied or of any dispute arising thereunder with respect to the right of any person to be accepted as successor to the tenancy, the landlord shall, and any other person having an interest may, refer the question to the Commission for their determination, and the Commission shall determine it accordingly.
- (3) If at the expiry of three months from the date on which the right to the croft devolved upon the heir-at-law no person has been accepted by the landlord as successor to the tenancy, the landlord shall forthwith notify the Commission to that effect.
- (4) If at the expiry of the three months aforesaid it appears to the Commission, whether from a notification under the last foregoing subsection or otherwise, that no person has been accepted by the landlord as successor to the tenancy, the Commission shall give notice in such manner as they may think proper, whether by advertisement or otherwise, to persons who may claim to be entitled to succeed to the tenancy requiring them if they desire so to succeed to give intimation accordingly to the Commission before such date as may be specified in the notice, being a date not earlier than six

Status: This is the original version (as it was originally enacted).

months after the date on which the right to the croft devolved as aforesaid; and the Commission shall nominate as successor to the tenancy that one of the persons who have so given intimation who appears to them to be the nearest heir of the deceased crofter. The Commission shall give notice to the landlord of the person so nominated by them and the landlord shall accept that person as successor to the tenancy:

Provided that the Commission shall not, before the date specified in the notice given by them under this subsection, nominate any person as successor to the tenancy unless they are satisfied that there is no nearer heir who desires to succeed to the tenancy.

- (5) If no person is duly nominated under the last foregoing subsection by the Commission as successor to the tenancy, the Commission shall declare the croft to be vacant and shall notify the landlord accordingly.
- (6) Where the Commission have under the foregoing provisions of this section nominated a person as successor to the tenancy or, as the case may be, have declared the croft to be vacant, the rights of all heirs (other than any heir so nominated) to succeed to the tenancy shall be extinguished.
- (7) Where a croft has been declared under subsection (5) of this section to be vacant, the landlord shall be liable—
 - (a) if the deceased crofter was at the date of his death under any liability to the Secretary of State in respect of any loan, to pay to the Secretary of State the whole or so much of the value of the improvements on the croft as will discharge the liability of the deceased crofter, and to pay to the executor of the deceased crofter, if a claim is made in that behalf not later than twelve months after the date on which the croft was declared to be vacant, any balance of the value aforesaid ;
 - (b) if at the date of his death the deceased crofter was not under any such liability to the Secretary of State and a claim is made in that behalf as aforesaid, to pay to the executor of the deceased crofter the value of the improvements on the croft.

In this subsection the expression " the value of the improvements on the croft" means such sum as may be agreed, or as, failing agreement, may be determined by the Land Court, to be the sum which would have been due by the landlord by way of compensation for permanent improvements if the deceased crofter had immediately before his death renounced his tenancy.

- (8) In this section any reference to the heir-at-law of a crofter includes a reference to any person entitled to succeed to the tenancy of the croft by virtue of the provisions of the Intestate Husband's Estate (Scotland) Acts, 1911 and 1919, or of section five of the Law Reform (Miscellaneous Provisions) (Scotland) Act, 1940.
- (9) In the event of the heirs-at-law of a crofter being heirs portioners, the eldest of such heirs portioners shall be entitled to succeed to the tenancy without division.