

# CROFTING REFORM ETC. ACT 2007

---

## EXPLANATORY NOTES

### BACKGROUND

#### *The Act*

#### **Part 2: Crofts**

#### *Section 12: Assignment*

46. **Section 12** makes significant changes to the provisions of section 8 of the 1993 Act affecting both family and non-family assignment. The replacement of much of the existing wording of subsection 8(1) removes the requirement that a family assignment must have the landlord's consent. New section 58A of the 1993 Act (inserted by section 3 of the Act) applies to the process of considering an application. The effect of this is that the landlord along with the other persons specified at section 58A(4) have a right to object to an assignment proposal. The anomaly requiring a landlord's permission for a family assignment, but not a non-family assignment, to succeed without Commission approval is replaced by the right (shared with others) to object in both cases, and requires the Commission to consider and make a decision.
47. In the case of an application to assign to a member of the crofter's family (see the definition of what constitutes family membership in section 36 of the Act) the Commission's power to intervene where there is no objection by a person entitled to object is as provided in new section 58A(6) (inserted by section 3 of the Act). However, section 8(2) to 8(4) is replaced by a new subsection (2) inserted by section 12(b) of the Act. The effect is that in the case of an assignment to a person who is not a member of the crofter's family the new section 8(2) inserted by section 12(b) provides a list of additional special conditions which trigger a requirement for the Commission to consider an application.
48. **Section 12(c)** is a technical amendment to section 8(5) of the 1993 Act consequential on the amendment to section 8(1).
49. **Section 12(d)** amends section 8(6) of the 1993 Act so as to allow a transfer of a croft tenancy to take place on dates other than Martinmas or Whitsunday.