



Crofting Reform etc. Act 2007

2007 asp 7

PART 2

CROFTS

14 Prior rights, on intestacy, in relation to tenancy of croft

(1) Section 8 of the Succession (Scotland) Act 1964 (c. 41) (prior rights, on intestacy, in dwelling house and furniture) is amended as follows.

(2) In subsection (1)—

- (a) for the words “dwelling house to which this section applies,” there is substituted “dwelling house mentioned in subsection (4)(a) of this section,”;
- (b) after the words “shall be entitled” there is inserted “, subject to subsection (2B) of this section,”; and
- (c) the proviso is repealed.

(3) After subsection (2), there is inserted—

“(2A) Where the tenant of a croft dies intestate leaving a spouse or civil partner or, where he dies leaving no spouse or civil partner, leaving a cohabitant, and the intestate estate includes a relevant interest in a dwelling house mentioned in subsection (4)(b) of this section, the surviving spouse, civil partner or, as the case may be, cohabitant shall be entitled, subject to subsection (2B) of this section, to receive out of the intestate estate—

- (a) where the value of the relevant interest does not exceed the amount for the time being fixed by order under subsection (1)(a) of this section, the tenancy of the croft;
- (b) in any other case, the sum for the time being fixed by order under subsection (1)(b) of this section.

(2B) If the intestate estate comprises—

- (a) a relevant interest in two or more dwelling houses mentioned in subsection (4)(a) of this section, subsection (1) of this section shall have effect only in relation to such one of them as the surviving spouse or civil partner may elect for the purposes of subsection (1) within 6 months after the date of death of the intestate;

Status: This is the original version (as it was originally enacted).

- (b) a relevant interest in two or more dwelling houses mentioned in subsection (4)(b) of this section, subsection (2A) of this section shall have effect only in relation to such one of them as the surviving spouse, civil partner or cohabitant may elect for the purposes of subsection (2A) within 6 months after that date;
- (c) a relevant interest in both—
 - (i) one or more dwelling houses mentioned in subsection (4)(a) of this section; and
 - (ii) one or more dwelling houses mentioned in subsection (4)(b) of this section,

the surviving spouse or civil partner shall not be entitled to receive both the entitlement under subsection (1) of this section and that under subsection (2A) of this section and must elect within 6 months after that date whether to take the entitlement under the said subsection (1) or under the said subsection (2A).”.

(4) For subsection (4), there is substituted—

“(4) The dwelling house is—

- (a) in a case mentioned in subsection (1) of this section, any dwelling house in which the surviving spouse or civil partner of the intestate was ordinarily resident at the date of death of the intestate and which did not, at that date, form part of a croft of which the intestate was tenant;
- (b) in a case mentioned in subsection (2A) of this section, any dwelling house in which the surviving spouse, civil partner or cohabitant was ordinarily resident at the date of death of the intestate and which, at that date, formed part of a croft of which the intestate was tenant.”.

(5) In subsection (6), before paragraph (a) there is inserted—

“(za) “cohabitant” means a person—

- (i) who was living with the intestate as if married to him; or
- (ii) who was living with the intestate as if in civil partnership with him,

and had been so living for at least 2 years.”.