



# Crofting Reform (Scotland) Act 2010

## 2010 asp 14

### PART 4

#### FURTHER AMENDMENTS OF THE 1993 ACT

##### *Succession to crofts*

#### **49 Bequest of crofts**

- (1) Section 10 of the 1993 Act (bequest of croft) is amended as follows.
- (2) In subsection (1), for the words from “bequeath” to the end substitute—
  - “(a) bequeath the tenancy of the whole of the crofter's croft to any one natural person; or
  - (b) bequeath the tenancy of that croft to two or more natural persons provided that—
    - (i) each person would come into the place of the crofter in relation to the tenancy of part of the croft; and
    - (ii) no part of the croft would, were all the bequests accepted, be untenanted.”.
- (3) For subsection (2) substitute—

“(2) A person to whom the tenancy of a croft (or of part of a croft) is bequeathed (in this section, the “legatee”) must, if the legatee accepts the bequest—

  - (a) give notice of the bequest to the landlord; and
  - (b) send a copy of the notice to the Commission,

before the end of the period of 12 months beginning with the death of the crofter.”.
- (4) For subsections (2B) to (4D) substitute—

“(3) The bequest is null and void if—

  - (a) in the case of a bequest such as is mentioned in subsection (1)(a), no notice is given (and no copy sent) in accordance with subsection (2) or (2A);

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- (b) in the case of a bequest such as is mentioned in subsection (1)(b), any legatee fails to give notice (and send a copy) in accordance with subsection (2) or (2A).
- (4) Where, in the case of a bequest as is mentioned in subsection (1)(a), notice is given (and a copy sent) in accordance with subsection (2) or (2A), the legatee comes into the place of the deceased crofter (as from the date of death of that crofter) on the relevant date of registration.
- (4A) Where—
  - (a) a crofter bequeaths the tenancy of a croft as mentioned in subsection (1)(b); and
  - (b) each legatee gives notice (and sends a copy) in accordance with subsection (2) or (2A),
 the deceased crofter's executor must apply to the Commission for consent under section 9 to divide the croft accordingly.
- (4B) Where the Commission give their consent to the division of the croft under section 9, each legatee comes into the place of the deceased crofter in relation to that legatee's new croft (as from the date of death of that crofter) on the relevant date.
- (4C) The bequest is null and void if—
  - (a) the Commission do not give their consent to the division of the croft under section 9; or
  - (b) such consent is given but an application for registration of the division is not made in accordance with subsection (3)(a) of that section.”.
- (5) In subsection (4E)—
  - (a) at the beginning insert “ Subject to subsection (4EA), ”; and
  - (b) for “(2B), (4A) or, as the case may be, (4D)” substitute “ (4) or, as the case may be, (4B) ”.
- (6) After that subsection insert—
 

“(4EA) Where, as a result of the Commission giving their consent to the division of the croft under section 9, two or more legatees come into the place of the deceased crofter, those legatees are jointly and severally liable for—

  - (a) the debts mentioned in subsection (4E)(a); and
  - (b) any expenses mentioned in subsection (4E)(b).”.
- (7) After subsection (6) insert—
 

“(7) In subsection (4), the “relevant date of registration” is—

  - (a) where the croft was unregistered, the date of registration in relation to the application for registration of the croft by virtue of section 4(4)(e) of the 2010 Act;
  - (b) where the croft was registered, the date of registration in relation to the application for registration of the notice by virtue of section 5(3)(e) of that Act.
- (8) In subsection (4B)—
 

“legatee's new croft” means the new croft, formed by division under section 9, which corresponds to the part of the original croft bequeathed

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to the legatee (“division”, “new croft” and “original croft” being construed in accordance with section 9(6));

“relevant date” means—

- (a) where the croft was unregistered, the date the Keeper receives notification of the Commission's consent to divide the croft by virtue of section 10(7) of the 2010 Act;
- (b) where the croft was registered, the date of registration in relation to the application for registration of the division by virtue of section 5(3)(d)(i) of that Act.”.

#### Commencement Information

- I1** S. 49(1)-(3)(5)(6) in force at 1.10.2011 by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with arts. 4, 5(3))
- I2** S. 49(4) in force at 1.10.2011 for specified purposes by S.S.I. 2011/334, art. 3(1)(a)(2), **Sch. Pt. 1** (with arts. 4, 5(3))
- I3** S. 49(4) in force at 30.11.2012 in so far as not already in force by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2**
- I4** S. 49(7) in force at 30.11.2012 by S.S.I. 2012/288, art. 3(1)(b)(2), **Sch. 1 Pt. 2** (with Sch. 2 para. 8)

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