

# **CROFTING REFORM ETC. ACT 2007**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

#### *The Act*

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

#### ***Section 16: Transfer of tenancy of croft by executor: special provision relating to the 1993 Act***

66. This section inserts a new section 16A into the Succession (Scotland) Act 1964. The overall effect is to empower executors to transfer croft tenancies as they think fit subject to the same requirements as apply where a crofter assigns the tenancy.
67. New section 16A(1) provides that the provisions of section 58A of the 1993 Act (inserted by section 3 of the Act) apply to a transfer covered by new section 16(2A). New section 16A(2) sets down the criteria for intervention by the Commission which will apply where there is an application to assign the tenancy of the deceased crofter to a person who is not a member of the deceased crofter's family. New section 16A(3) provides that if the executor does not seek the consent of the Commission before transferring the tenancy the transfer will be null and void and the Commission can declare the croft vacant. New section 16A(4) provides the process required to give effect to a transfer if the Commission consent to it.
68. New section 16A(5) provides for an appeal against a Commission decision to consent to or refuse consent to the transfer. It indicates the grounds on which an appeal can be made. New section 16A(6) states who may appeal against the decision of the Commission. New section 16A(7) sets a 42 day time limit for lodging an appeal. New section 16A(8) provides that the Land Court may uphold the Commission's decision or direct that it should come to a different decision.