

CROFTING REFORM ETC. ACT 2007

EXPLANATORY NOTES

BACKGROUND

The Act

Part 2: Crofts

Section 10: Division of croft

42. Section 10 of the Act provides a complete replacement for the existing section 9 of the 1993 Act. The principal change is that the landlord's consent to division of the croft is no longer required. In addition the new procedure for obtaining the Commission's consent in new section 58A of the 1993 Act (inserted by section 3 of the Act) applies so that the Commission is required to make a decision only where there is an objection to the application or the Commission's criteria for intervention apply. The landlord has a right to object to the division of the croft by virtue of the provisions of new section 58A(4). New section 9(3) specifies that the division of a croft has no legal effect until details of the division are recorded in the Register of Crofts. The landlord's financial interests are secured by new section 9(4) which provides that the rent for a new croft created by division of an existing croft is to be agreed between the crofter and the landlord. In the event that they cannot reach agreement section 9(5) provides that either party can apply to the Land Court to have the rents determined by the Land Court with the fees payable in connection with the application being paid by the crofter. It should be noted that the term "subdivision" is replaced by the term "division", because the latter term more accurately describes the situation.