



Crofting Reform etc. Act 2007

2007 asp 7

PART 2

CROFTS

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

After section 16 of the Succession (Scotland) Act 1964, there is inserted—

“16A Leases of crofts: special provision relating to the Crofters (Scotland) Act 1993

- (1) The requirement in section 16(2A)(a) of this Act to obtain the consent of the Crofters Commission shall be treated as if it were a requirement under the Crofters (Scotland) Act 1993 (c. 44) and accordingly section 58A of that Act shall apply for the purposes of the requirement as it applies for the purposes of a requirement under that Act.
- (2) In the case of an application for the consent of the Crofter’s Commission made by virtue of section 16(2A)(a) of this Act in respect of a transfer to a person other than a member of the crofter’s family, the following special conditions apply for the purposes of section 58A(6)(b)(ii) of the Crofters (Scotland) Act 1993—
 - (a) that the proposed transferee lives, or intends to live, more than 16 kilometres distant from the croft;
 - (b) that he already owns or is tenant of a croft;
 - (c) that he lacks the knowledge, abilities and experience to cultivate the croft or as the case may be to put it to such other purposeful use as he intends;
 - (d) that he is the grazings clerk or a member of the grazings committee;
 - (e) where the landlord is not a natural person, that the proposed transferee is a member or employee, or is a member of the family of a member or employee, of the body which constitutes the landlord;
 - (f) that there are reasonable grounds for concern over the use to which the proposed transferee intends to put the croft.

Status: This is the original version (as it was originally enacted).

- (3) Where the consent of the Crofter's Commission to a transfer is required by section 16(2A)(a) of this Act, and the executor transfers the interest without the consent of the Commission—
 - (a) the transfer and any deed purporting so to transfer the interest shall be null and void; and
 - (b) the Commission may declare the croft to be vacant.
- (4) A transfer to which the Crofter's Commission have given their consent under section 16(2A)(a) of this Act shall take effect on such date as the Commission shall specify in the consent (being a date not less than two months after that on which the consent was intimated to the executor) unless before that date the executor and the transferee jointly give to the Commission notice in writing that they do not intend to proceed with the transfer.
- (5) An appeal shall lie on any question of fact or law to the Land Court against a decision of the Crofters Commission on an application made to them under section 16(2A)(a) of this Act.
- (6) The appellant may be the applicant or any person with an interest in the application.
- (7) An appeal under subsection (5) of this section must be brought within 42 days after the Commission dispose of the application.
- (8) In an appeal under subsection (5) of this section, the Land Court may confirm the decision or direct the Commission to come to a different decision.”