



# Crofting Reform etc. Act 2007

2007 asp 7

## PART 2

### CROFTS

#### 17 Amendment of section 11 of the 1993 Act

- (1) Section 11 of the 1993 Act (intestacy) is amended as follows.
- (2) In subsection (2), for the word “3” there is substituted “12”.
- (3) In subsection (3)—
  - (a) paragraph (a) is repealed;
  - (b) in paragraph (b)—
    - (i) the word “otherwise” is repealed; and
    - (ii) after the word “tenancy,” there is inserted “the date (no later than 2 months after the date of death of the deceased crofter) on which the Commission receive notification of the death or, where no such notification is received,”; and
  - (c) in paragraph (d), for the words “on which the Commission notified the landlord and the legatee” there is substituted “of notification by the Commission”.
- (4) For subsections (4) to (9), there is substituted—
  - “(4) If at the expiry of the period of 12 months referred to in subsection (2) above, it appears to the Commission (whether from notification under that subsection or otherwise) that the executor has not furnished to the landlord particulars of any transferee in accordance with subsection (1) above, they shall give notice in such manner as they think proper, whether by advertisement or otherwise—
    - (a) to the landlord;
    - (b) if an executor is confirmed in respect of the intestate estate of the deceased crofter, to the executor; and
    - (c) if no executor is so confirmed, to each person of whom the Commission are aware and who the Commission consider may claim to be entitled to claim prior or legal rights out of, or to succeed to, the intestate estate,

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*Status: This is the original version (as it was originally enacted).*

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that they propose to terminate the tenancy and declare the croft vacant and inviting the recipients of the notice to make representations as respects the proposal to the Commission before the expiry of the period of one month after the date of the notice.

(5) If, having considered representations (if any) made to them in accordance with subsection (4) above, the Commission are satisfied that—

- (a) the landlord or the executor has terminated the tenancy in accordance with section 16(3)(b) of the Succession (Scotland) Act 1964;
- (b) the executor is proposing to transfer the tenancy; or
- (c) a person is entitled to a transfer of the tenancy in or towards the satisfaction of his claim to prior rights or his entitlement to succeed to the deceased's intestate estate,

they are not to implement their proposal; but if not so satisfied they may implement their proposal if they consider it appropriate to do so.

(6) If, by virtue of subsection (5) above, the Commission are not entitled to implement their proposal, but it appears to them subsequently (by means of representations made to them or otherwise) that the tenancy is not being transferred or is unable to be transferred, the Commission may give notice again as mentioned in subsection (4) above.

(7) If, having considered representations (if any) made to them in accordance with subsection (4) above as respects a proposal contained in a notice given by virtue of subsection (6) above, the Commission are satisfied that it is appropriate to implement their proposal they may do so.

(8) Where the Commission, in pursuance of this section, declare the croft vacant—

- (a) they shall give notice to that effect—
  - (i) to the landlord;
  - (ii) if an executor is confirmed in respect of the intestate estate of the deceased crofter, to the executor; and
  - (iii) if no executor is so confirmed, to each person of whom the Commission is aware and who the Commission consider may claim to be entitled to claim prior or legal rights out of, or to succeed to, the intestate estate,

and any such notice to the landlord shall require him to submit to them such proposals as are mentioned in section 23(5) of this Act;

- (b) any right of any person in, or in relation to, the tenancy shall be extinguished; and
- (c) the landlord shall be liable to pay to the executor of the deceased crofter the value of the permanent improvements on the croft in so far as—
  - (i) the improvement is suitable to the croft;
  - (ii) the improvement was executed or paid for by the deceased crofter or by any of the predecessors of the deceased crofter in the tenancy; and
  - (iii) either the improvement was executed otherwise than in pursuance of a specific agreement in writing under which the deceased crofter was bound to execute the improvement

or, if the improvement was executed in pursuance of such an agreement, the deceased crofter did not receive and his executor has not received, by way of reduction of rent or otherwise, fair consideration for the improvement.”.

- (5) In subsection (10), for the words from the beginning to “In this subsection the expression “the value of the”, there is substituted “In subsection (8)(c) above, the expression “the value of the permanent”.
- (6) In subsection (11)(a), for the words “subsection (8) above” there is substituted “this section”.