

CROFTING REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 4 – Further Amendments of the 1993 Act

Succession to crofts

Section 49: Bequest of crofts

126. **Section 49** amends provisions relating to the bequest of the tenancy of a croft in section 10 of the 1993 Act to address various issues relating to bequests of crofts and inadvertent intestacy. Subsection (2) provides for two types of bequests: the tenancy of the whole croft to one natural person and the tenancy of the croft to two or more individuals, providing that no part of the land subject to the bequest is left untenanted.
127. Subsection (3) requires the individual accepting the tenancy of the croft, or part thereof which is subject to the bequest, to give notice of the bequest to the landlord and copy that notice to the Commission, within 12 months of the death of the crofter.
128. Subsection (4) provides new subsections (3) to (4C) to replace subsections (2B) to (4D) of section 10 of the 1993 Act. New subsection (3) provides for the bequest to be null and void if: (a) no notice is given of the acceptance of the bequest of the croft and no copy of the notice is sent to the Commission where the croft is bequeathed to one person, or (b) where the croft is bequeathed to more than one individual, any of the legatees fails to give notice or send a copy to the Commission. New subsection (4) provides for the legatee to take the place of the deceased crofter (as from the death of the crofter) when the details are entered on the Crofting Register, in a case where the croft is bequeathed to one person. Subsection (4A) requires the deceased crofter's executor to apply to the Commission for consent to divide the croft where two or more legatees accept the bequests for their parts of the croft where the croft is bequeathed to more than one person, and, following Commission consent, subsection (4B) provides for each legatee to take the place of the deceased crofter (as from the death of the crofter) when the details are entered on the Crofting Register. Subsection (4C) states that the bequest is null and void if the Commission does not consent to division of the croft or an application for division is not made as required under section 9(3)(a) of the 1993 Act.
129. Subsections (5) and (6) amend section 10 of the 1993 Act so that, where there is more than one legatee, all legatees are jointly and severally liable for the debts and expenses relating to the tenancy and its administration.
130. Subsection (7) defines the “relevant date of registration” in section 10(4) of the 1993 Act and “legatee's new croft” and related expressions and “relevant date” for the purposes of section 10(4B).