



# Friendly Societies Act 1974

## 1974 CHAPTER 46

### *Disputes*

#### **76 Decision of disputes generally**

- (1) Subject to section 77 below every dispute between—
- (a) a member or person claiming through a member or under the rules of a registered society or branch, and the society or branch or an officer thereof, or
  - (b) any person aggrieved who has ceased to be a member of a registered society or branch, or any person claiming through such an aggrieved person, and the society or branch or an officer thereof, or
  - (c) any registered branch of a society or branch and the society or branch of which it is a registered branch, or
  - (d) an officer of any such registered branch and the society or branch of which it is a registered branch, or
  - (e) any two or more registered branches of any society or branch, or any officers thereof,

shall be decided in the manner directed by the rules of the society or branch, and the decision so given shall be binding and conclusive on all parties without appeal and may not be removed into any court of law or restrained by injunction.

For the purposes of section 14 of the Tribunals and Inquiries Act 1971 (supervisory powers of superior courts) this subsection shall be deemed to have been contained in an Act passed before 1st August 1958.

- (2) An application for the enforcement of such a decision as is referred to in subsection (1) above may be made to the county court.
- (3) Where the rules of a registered society or branch direct that disputes shall be referred to justices, the dispute shall be determined by a magistrates' court or, if the parties thereto consent, by the county court.
- (4) In this section, the expression "dispute"—

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*Status: This is the original version (as it was originally enacted).*

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- (a) includes any dispute arising on the question whether a member or person aggrieved is entitled to be, or to continue to be, a member or to be reinstated as a member, but
  - (b) in the case of a person who has ceased to be a member does not (except as provided in paragraph (a) above) include any dispute other than one on a question between him and the society or branch, or an officer thereof, which arose whilst he was a member, or arises out of his previous relation as a member to that society or branch.
- (5) In the application of this section to Scotland, in subsection (1) the words " and may not" to the end of the subsection shall be omitted, in subsection (2) for the words " county court " there shall be substituted the word " sheriff " and in subsection (3) for the words from " a magistrates' court" to the end of the subsection there shall be substituted the words " the sheriff ".

#### **77 Reference, by consent, of disputes to Chief or assistant registrar**

- (1) The parties to a dispute in a registered society or branch may, by consent (unless the rules of the society or branch expressly forbid it), refer the dispute to the Chief Registrar or, in Scotland, to the assistant registrar.
- (2) The Chief or assistant registrar to whom a dispute is referred under this section shall, either by himself or by any assistant registrar, hear and determine the dispute and shall have power to order the expenses of determining the dispute to be paid either out of the funds of the society or branch, or by such parties to the dispute as he may think fit; and his determination and order shall have the same effect and be enforceable in the same manner as a decision made in the manner directed by the rules of the society or branch.
- (3) The Chief or assistant registrar to whom a dispute is referred may administer oaths and may require the attendance of all parties concerned, and of witnesses, and the production of all books and documents relating to the matter in question.
- (4) In this section " dispute " means a dispute falling within section 76 above.

#### **78 Statement of case and discovery, etc., of documents**

- (1) Section 21 of the Arbitration Act 1950 shall not apply to any dispute falling within section 76 above and, notwithstanding anything in any other enactment, the court or the Chief or assistant registrar, or any arbitrator, arbiter or umpire to whom such a dispute is referred under the rules of a registered society or branch, shall not be compelled to state a case on any question of law arising in the dispute but may, at the request of either party, state such a case for the opinion of the High Court or, in Scotland, the Court of Session.
- (2) Where a dispute falling within section 76 above is referred to a magistrates' court, the court may grant to either party such discovery of documents, being, in the case of discovery to be made on behalf of the society or branch, discovery by such officer of the society or branch as the court may determine, as might have been granted by virtue of section 12 of the Arbitration Act 1950 by the Chief or an assistant registrar to whom the dispute had been referred.
- (3) Where a dispute falling within section 76 above has been referred to the assistant registrar for Scotland, the registrar may grant such warrant for the recovery of documents and examination of havers as might be granted by the sheriff.

## **79 Reference of disputes to court otherwise than under rules**

- (1) Where no decision is made on a dispute within forty days after application to the registered society or branch in question for a reference under its rules then, subject to subsection (2) below, any person, society or branch such as is mentioned in paragraphs (a) to (e) of section 76(1) above who is a party to the dispute may apply to the county court or a magistrates' court or, in Scotland, to the sheriff, and the court to which application is so made may hear and determine the matter in dispute.
- (2) In the case of a society with branches, the period of forty days referred to in subsection (1) above shall not begin to run until application has been made in succession to all the bodies entitled to determine the dispute under the rules of the society or branch, but the rules of the society or branch shall not require a greater delay than three months between each successive determination of a dispute by the bodies entitled under the rules to determine the dispute.
- (3) The provisions of this section also apply where the rules of a registered society, or the rules of a registered branch, contain no direction as to disputes.
- (4) In this section "dispute" means a dispute falling within section 76 above.

## **80 Disputes arising out of loans of surplus funds to societies of different description**

- (1) Where a registered society or branch (in this section referred to as "the lender") has made or agreed to make advances under section 50 above to another society or branch (in this section referred to as "the borrower") and the lender is by reason thereof empowered by the rules of the borrower to take part in the government or control of the borrower, then, subject to subsection (2) below, sections 76 to 79 above shall apply in relation to the determination of any dispute between the lender and the borrower, being a dispute relating to any such advance or agreement or to the rights of the lender or an officer thereof under the rules of the borrower, as if the borrower were a branch of the lender.
- (2) Where sections 76 to 79 above apply by virtue of subsection (1) above,—
  - (a) references in those sections to the rules of the society or branch are references to the rules of the borrower; and
  - (b) section 76(1) above shall not prevent the bringing of legal proceedings for the determination of any such dispute as is referred to in subsection (1) above unless, before the commencement of the proceedings, application has been made for a reference under the rules of the borrower, and any such proceedings may be brought in a county court or, in Scotland, before the sheriff, whether or not the court would apart from this provision have jurisdiction to entertain them; and
  - (c) any application under section 79(1) above (other than an application made in Scotland) must be made to the county court and not to a magistrates' court.