Friendly Societies Act 1974

1974 CHAPTER 46

Disputes

76 Decision of disputes generally.

(1) Subject to **[**[F1]**[**[F2]subsections (3A) to (3C)**]** 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 [F3]. . . and the society [F3]. . . of which it is a registered branch, or

(d) an officer of any such registered branch and the society [F3]. . . of which it is a registered branch, or

(e) any two or more registered branches of any society [F3]. . ., 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 **[**[F4]section 12 of the Tribunals and Inquiries Act 1992**]** (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.

[[F5](3A) This section does not apply to a dispute if—

(a) the registered society concerned is a registered friendly society; or

(b) the registered branch concerned is a branch of a registered friendly society.

[F5](3B) The county court or, in Scotland, the sheriff may hear and determine a dispute falling within subsection (1) above if the parties agree that it shall be so determined instead of being determined under the rules.**]**

[[F6](3C) If the rules contain directions by virtue of which a dispute would fall to be determined by the **[**[F7]FCA or the PRA**]**, the dispute shall instead be referred to the county court or, in Scotland, to the sheriff for determination.**]**

(4) In this section, the expression "dispute"—

(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 **[**[F8]; and

(c) does not include a dispute between the parties mentioned in subsection (1) (a) or (b) above which has arisen as a result of and incidentally to a dispute between a member, or a person aggrieved who has ceased to be a member, of a registered society or branch and a person claiming through him or under the rules of the registered 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 "[F9]. . ..

Textual Amendments

F1 Words in s. 76(1) substituted (13.1.1993) by Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 25(2)(a)** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2** (with arts. 3-5).

F2 Words in s. 76(1) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. I para. 25(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F3 Words in s. 76(1)(c)(d)(e) repealed (13.1.1993) by Friendly Societies Act 1992 (c. 40), ss. 95, 120(2), Sch. 16 para. 25(2)(b), **Sch. 22 Pt. I** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2** appendix (with arts. 3-5).

F4 Words in s. 76(1) substituted (1.10.1992) by Tribunals and Enquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 10**.

F5 S. 76(3A)(3B) substituted (13.1.1993) for s. 76(3) by Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 25(3)** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2** (with arts. 3, 4).

F6 S. 76(3C) inserted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. I para. 25(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F7 Words in s. 76(3C) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 5 para. 11** (with Sch. 12)

F8 S. 76(4)(c) and preceding word added (13.1.1993) by Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 25(4)** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2** (with arts. 3, 4).

F9 Words in s. 76(5) repealed (13.1.1993) by Friendly Societies Act 1992 (c. 40), s. 120(2), **Sch. 22 Pt. I** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2** appendix (with arts. 3, 4).

[F10]**77** . . . . . .

Textual Amendments

F10 S. 77 repealed (13.1.1993) by Friendly Societies Act 1992 (c. 40), ss. 95, 120(2), Sch. 16 para. 26, **Sch. 22 Pt.I** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2** appendix (with art. 5).

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

[[F11](1) Any arbitrator, arbiter or umpire to whom a dispute falling within section 76 above is referred under the rules of a registered society or branch may at the request of either party state a case on any question of law arising in the dispute for the opinion of the High Court or, as the case may be, the Court of Session.**]**

[F12](2) . . . . . .

[F12](3) . . . . . .

Textual Amendments

F11 S. 78(1) substituted (31.1.1997) by 1996 c. 23 s. 107(1) Sch. 3 para. 29(2): S.I. 1996/3146 art. 3

F12 S. 78(2)(3) repealed (13.1.1993) by Friendly Societies Act 1992 (c. 40), s. 120(2), **Sch. 22 Pt. I** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2** appendix.

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 [F13]. . . 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.

Textual Amendments

F13 Words in s. 79(1) repealed (13.1.1993) by Friendly Societies Act 1992 (c. 40), s. 120(2), **Sch. 22 Pt.I** (with ss. 7(5) and 93(4)); 1993/16, art. 2, Sch. 2appendix.

Status: *Point in time view as at 01/04/2013.*
Changes to legislation: *There are currently no known outstanding effects for the Friendly Societies Act 1974, Cross Heading: Disputes. (See end of Document for details)*

[F14]80 Disputes arising out of loans of surplus funds to societies of different description.

(1) **[**[F15]Subject to subsection (1A) below,**]**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.

[[F16](1A) Subsection (1) above does not apply in any case where the lender is a registered friendly society or a branch of such a society.**]**

(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.

Textual Amendments

F14 S. 80: by Friendly Societies Act 1992 (c. 40), s. 126(2), **Sch. 22 Pt. I** (with ss. 7(5) and 93(4)) it is provided that in s. 80(1) paragraph (c) and the word "and" immediately preceding it are repealed (13.1.1993); S.I. 1993/16, art. 2, **Sch. 2**, appendix.

F15 Words in s. 80(1) inserted (13.1.1993) by Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 28(a)** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2**.

F16 S. 80(1A) inserted (13.1.1993) by Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 28(b)** (with ss. 7(5) and 93(4)); S.I. 1993/16, art. 2, **Sch. 2**.

Status:
Point in time view as at 01/04/2013.

Changes to legislation:
There are currently no known outstanding effects for the Friendly Societies Act 1974, Cross Heading: Disputes.