



Law Reform (Miscellaneous Provisions) (Scotland) Act 1980

1980 CHAPTER 55

Miscellaneous

17 Power of judges to act as arbiters

- (1) A Senator of the College of Justice may, if in all the circumstances he thinks fit, accept appointment as arbiter, or as oversman, by or by virtue of an arbitration agreement where the dispute appears to him to be of a commercial character:

Provided that he shall not accept such appointment unless the Lord President of the Court of Session has informed him that, having regard to the state of business in that court, he can be made available to do so.

- (2) The fees payable for the services of a Senator of the College of Justice as arbiter or oversman shall be—
- (a) payable in the Court of Session ; and
 - (b) of such amount as the Secretary of State may, with the consent of the Treasury, by order made by statutory instrument prescribe.
- (3) Any jurisdiction which is exercisable, other than under the Arbitration (Scotland) Act 1894, by the Court of Session in relation to arbiters and oversmen shall in relation to a Senator of the College of Justice appointed as arbiter or oversman be exercisable by the Inner House of that court.
- (4) In section 6 of the said Act of 1894 (interpretation), at the end there shall be added the words—
- “: except that where—
- (a) any arbiter appointed is ; or
 - (b) in terms of the agreement to refer to arbitration an arbiter or oversman to be appointed must be,

a Senator of the College of Justice, " the court " shall mean the Inner House of the Court of Session.”.

- (5) An order under subsection (2)(b) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

18 Interest on awards of compensation by Lands Tribunal for Scotland

A sum awarded as compensation by the Lands Tribunal for Scotland may, if the Tribunal so determine, carry interest as from the date of the award at the same rate as would apply, (in the absence of any such statement as is provided for in Rule 66 of the Act of Sederunt (Rules of Court, consolidation and amendment) 1965), in the case of a decree or extract in an action commenced on that date in the Court of Session if interest were included in or exigible under that decree or extract:

Provided that this section shall not affect—

- (a) any existing enactment or rule of law whereby and in accordance with which a sum so awarded may carry interest;
- (b) any case in which the hearing has begun before the coming into force of this section.

19 Vexatious litigants

After section 1 of the Vexatious Actions (Scotland) Act 1898, there shall be inserted the following section—

A decision of the Lord Ordinary to refuse leave, under section 1 of this Act, to institute legal proceedings shall be final.”.

20 Jurisdiction in actions for reduction

The Court of Session shall have jurisdiction to entertain an action for reduction of any decree granted by a Scottish court whether or not the Court would have jurisdiction to do so apart from this section and whether the decree was granted before or after the coming into force of this section.

21 Liability for offences committed by clubs

- (1) In section 103 of the Licensing (Scotland) Act 1976 (application for certificate of registration in respect of any club)—

- (a) for subsection (5) there shall be substituted the following subsections—

“(5) Subject to subsection (5A) below, any change—

- (a) made in the rules of the club ; or
- (b) which renders the information contained in the list lodged under subsection (3)(6) above, or as the case may be, the new list last lodged under this or the following subsection, inaccurate or incomplete.

shall be intimated to the registrar forthwith; and where intimation is under paragraph (b) of this subsection there shall be lodged therewith a new list containing the name and address of each official and each

member of the committee of management or governing body of the club after the change.

- (5A) Where a change such as is mentioned in subsection (5)(b) above was made before the date on which section 21 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 came into force and the change was duly intimated to the registrar under the provisions of this Act applying before that date, no further intimation of the change shall be required but a new list containing the name and address of each official and each member of the committee of management or governing body of the club at that date shall forthwith be lodged with the registrar.”;
- (b) in subsection (6), for the words " accompanying documents specified in subsection (3)" there shall be substituted the words " documents specified in subsection (3), (5) or (5A) "; and
- (c) in subsection (7), for the words from " entered " to " that subsection" there shall be substituted the words " whose name is, at the time of the contravention, contained in the list lodged under subsection (3)(b) above, or as the case may be in the new list last lodged under subsection (5) or (5A) above, in respect of that club shall be guilty of an offence under subsection (6) above ".
- (2) In each of sections 33(5), 64(6)(b), 95(2), 112(2) and 113(2) (provisions relating to offences committed by clubs) of the said Act of 1976, for the words from " entered " to " contravention " there shall be substituted the words " whose name is, at the time of the contravention, contained in the list lodged under subsection (3) (b) of section 103 of this Act, or as the case may be in the new list last lodged under subsection (5) or (5A) of that section, in respect of that club ";
- and in the said section 95(2) for the words " that subsection " there shall be substituted the words " subsection (1) above ".
- (3) In section 111(1) (offence in relation to the management of a club) of the said Act of 1976, for the words from " entered " to " existed " there shall be substituted the words " whose name is, at the time when the situation which gave rise to the ground of objection mentioned in any of the said paragraphs existed, contained in the list lodged under subsection (3)(b) of section 103 of this Act, or as the case may be in the new list last lodged under subsection (5) or (5A) of the said section 103, in respect of that club ".

22 Amendment of Marriage (Scotland) Act 1977

- (1) In the Marriage (Scotland) Act 1977—
- (a) in section 6(5) (restriction as to date and place of religious marriage), for the words " 13(3)" there shall be substituted the words " 23A ";
- (b) in section 8(1) (persons who may solemnise marriages), at the beginning there shall be inserted the words " Subject to section 23A of this Act, ";
- (c) in section 13 (preliminaries to solemnisation of religious marriages), subsections (2) and (3), which in so far as they are not inconsistent with the provisions inserted in the said Act of 1977 by paragraph (d) below are superseded by those provisions, shall cease to have effect;
- (d) after section 23 there shall be inserted the following section—

“23A Validity of registered marriage.

- (1) Subject to sections 1 and 2 of, and without prejudice to section 24(1) of, this Act, where the particulars of any marriage at the ceremony in respect of which both parties were present are entered in a register of marriages by or at the behest of an appropriate registrar, the validity of that marriage shall not be questioned, in any legal proceedings whatsoever, on the ground of failure to comply with a requirement or restriction imposed by, under or by virtue of this Act.
- (2) In subsection (1) above, " appropriate registrar " means—
 - (a) in the case of a civil marriage, an authorised registrar; and
 - (b) in any other case, a district registrar.”
- (2) The said Act of 1977 shall be deemed for all purposes to have had effect as if it had originally been enacted as amended by subsection (1) above.

23 Amendment of Prescription and Limitation (Scotland) Act 1973

In the Prescription and Limitation (Scotland) Act 1973—

- (a) after section 19 there shall be inserted the following section—

“19A Power of court to override time-limits etc.

- (1) Where a person would be entitled, but for any of the provisions of section 17 (as read with sections 18 and 19) of this Act, to bring an action, the court may, if it seems to it equitable to do so, allow him to bring the action notwithstanding that provision.
- (2) The provisions of subsection (1) above shall have effect not only as regards rights of action accruing after the commencement of this section but also as regards those, in respect of which a final judgment has not been pronounced, accruing before such commencement.
- (3) In subsection (2) above, the expression " final judgment " means an interlocutor of a court of first instance which, by itself, or taken along with previous interlocutors, disposes of the subject matter of a cause notwithstanding that judgment may not have been pronounced on every question raised or that the expenses found due may not have been modified, taxed or decerned for; but the expression does not include an interlocutor dismissing a cause by reason only of a provision mentioned in subsection (1) above.”;
 - (b) in section 21(1) (transitional provisions), for the words " section 25(3) " there shall be substituted the words " sections 19A(2) and 25(3) ";
 - (c) in section 22(6) (certain actions not to be tried by jury), for the words " or 19(1) " there shall be substituted the words " , 19(1) or 19A " ; and
 - (d) in section 25(3) (effect as regards proceedings already brought), at the beginning there shall be inserted the words " Subject to section 19A(2) of this Act " .

24 Solicitors' Discipline Tribunal

In the Solicitors (Scotland) Act 1980—

- (a) in section 53 (powers of Scottish Solicitors' Discipline Tribunal)—
 - (i) in subsection (2)(c) for the words " £250 " there shall be substituted the words " £2,500 "; and
 - (ii) at the end there shall be added the following subsection—
 - “(8) The Secretary of State may, by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, amend paragraph (c) of subsection (2) by substituting for the amount for the time being specified in that paragraph such other amount as appears to him to be justified by a change in the value of money.”;
- (b) in Schedule 4, Part I (constitution of the tribunal)—
 - (i) in paragraph 1(a), for " 5 " and " 7 " there shall be substituted, respectively, " 10 " and " 14 " ;
 - (ii) in paragraph 1(b), for the word "two" there shall be substituted " 4 "; and
 - (iii) in paragraph 2 for the words " on the recommendation of the Council shall be eligible for reappointment " there shall be substituted the words "in the case—
 - (a) of a lay member, may be re-appointed by the Lord President; and
 - (b) of a solicitor member, may be so re-appointed on the recommendation of the Council”.

25 Solicitors' clients' accounts

In the Solicitors (Scotland) Act 1980—

- (a) in section 36(1) (interest on client's money)—
 - (i) the word " either " shall cease to have effect;
 - (ii) after paragraph (a) there shall be inserted the following paragraph—
 - “(aa) to keep in—
 - (i) a deposit or share account with a designated building society ; or
 - (ii) an account showing sums on loan to a local authority,being in either case an account kept by the solicitor in his own name for a specified client, money so received ; or”;
 - (iii) in paragraph (b) after the words " paragraph (a) ", there shall be inserted the words " or (aa) " ;
- (b) in section 42(3) (exceptions to provisions regarding distribution of sums in client's bank account), at the end there shall be added the words “; nor shall any regard be had for such purposes to any—
 - (a) deposit or share account with a designated building society; or
 - (b) account showing sums on loan to a local authority,

being in either case an account kept by the solicitor in his own name for a specified client.”; and

- (c) in section 65(1) (interpretation), after the definition of " the Court " there shall be inserted the following definition " ' designated building society' means a building society designated for the purposes of section 1 of the House Purchase and Housing Act 1959 (designation of building societies for investment by trustees etc.) by the Chief Registrar of Friendly Societies ; " .

26 Contributions from persons receiving legal aid

In the Legal Aid (Scotland) Act 1967—

- (a) in section 3 (contributions from assisted persons), after subsection (1) there shall be inserted the following subsection—
 - “(1A) Regulations may provide that there shall be substituted—
 - (a) for the yearly sum specified in subsection (1) above, such other yearly sum as may be prescribed by the regulations;
 - (b) for the capital sum so specified, such other capital sum as may be so prescribed.”; and
- (b) in section 15 (regulations), in each of subsections (7) and (8), after the words "3(1) " there shall be inserted the words " or (1A) " .