



Law Reform (Miscellaneous Provisions) (Scotland) Act 1980

1980 CHAPTER 55

An Act to make new provision for Scotland as respects the law relating to the qualification of jurors; to amend the law relating to jury service in Scotland; to make further provision for Scotland in respect of prior rights in the estates of deceased persons; to dispense with caution as regards certain executors-dative; to provide a procedure whereby an heir of provision may establish entitlement to act as trustee; to amend provisions of the Judicial Factors Act 1849 and the Trusts (Scotland) Act 1961 relating to the actings of judicial factors; to remove an obligation to preserve inventories of the estates of deceased persons in Scotland; to make further provision in respect of performance of the duties of sheriff principal; to amend the law relating to the jurisdiction and powers of the sheriff court; to empower Senators of the College of Justice to act as arbiters and oversmen in commercial disputes; to make further provision in respect of awards of compensation by the Lands Tribunal for Scotland; to remove the right of a vexatious litigant to appeal against a Lord Ordinary's refusal to allow the institution of legal proceedings; to amend the law relating to the jurisdiction of the Court of Session in actions for reduction; to amend the provisions of the Licensing (Scotland) Act 1976 relating to liability for offences committed by clubs; to amend provisions of the Marriage (Scotland) Act 1977 relating to the validity of marriages; to amend the provisions of the Prescription and Limitation (Scotland) Act 1973 relating to limitation of actions; to amend the law relating to the constitution and powers of the Scottish Solicitors' Discipline Tribunal; to make further provision as regards Scottish solicitors' clients' accounts; to enable amendments to be made to provisions of the Legal Aid (Scotland) Act 1967 relating to contributions from assisted persons; to make minor amendments to the Betting, Gaming and Lotteries Act 1963, the Lotteries and Amusements Act 1976 and the Licensing (Scotland) Act 1976; and for connected purposes.

[29th October 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Juries

1 Qualification of jurors

- (1) Subject to subsections (2) and (3) below, every person who—
 - (a) is for the time being registered as a parliamentary or local government elector;
 - (b) is not less than 18 nor more than 65 years of age;
 - (c) has been ordinarily resident in the United Kingdom the Channel Islands or the Isle of Man for any period of at least 5 years since attaining the age of 13 years; and
 - (d) is not among the persons listed in Part I of Schedule 1 to this Act, being persons hereby declared ineligible for, nor among those listed in Part II of that Schedule, being persons hereby declared disqualified from, jury service,shall be qualified and liable to serve as a juror in any Scottish court, civil or criminal.
- (2) A person who is qualified under subsection (1) above but is among the persons listed in Part III of Schedule 1 to this Act, being persons hereby declared excusable as of right from jury service, shall be excused therefrom on any occasion where, having been cited to attend for jury service he—
 - (a) attends in compliance with the citation and intimates to the court his right and desire to be so excused ; or
 - (b) before the date on which he is cited first to attend, gives written notice of his right and desire to be so excused to the clerk of court issuing the citation.
- (3) Without prejudice to subsection (2) above, a person who is qualified under subsection (1) above but is among the persons listed in Group C of Part III of Schedule 1 to this Act shall be excused from jury service on any occasion where he has been cited to attend for such service but his commanding officer certifies to the clerk of court issuing the citation that it would be prejudicial to the efficiency of the force of which the person is a member were the person required to be absent from duty.
- (4) The fact that any person serving on the jury chosen for a particular trial (whether before or after the coming into force of this Act) is, under subsection (1) above, ineligible or not qualified for or disqualified from jury service, or was under section 1 of the Jurors (Scotland) Act 1825 not qualified for such service, (as the case may be), shall not in itself affect the validity of any verdict returned by that jury in the trial.
- (5) A person cited to attend for jury service and not excused under subsection (2) or (3) above may, if he shows to the satisfaction of the clerk of court issuing the citation that there is good reason why he should be excused from attending in compliance with the citation, be excused by that clerk of court from so attending.
- (6) Without prejudice to—
 - (a) the preceding provisions of this section ;
 - (b) section 19 of the Jurors (Scotland) Act 1825 ; or
 - (c) section 100(1) or 133 of the Criminal Procedure (Scotland) Act 1975,the court before which a person is cited to attend for jury service may excuse that person from that jury service.

2 Fining of jurors for non-attendance

- (1) Persons cited to attend for jury service in any civil proceedings may, unless they have been excused in respect thereof under section 1 of this Act, be fined up to £200 if they fail to attend in compliance with the citation.
- (2) A fine imposed under subsection (1) above may, on application, be remitted—
 - (a) by a Lord Ordinary where imposed in the Court of Session;
 - (b) by the sheriff where imposed in the sheriff court;and no court fees or expenses shall be exigible in respect of any such application.
- (3) In section 99 of the Criminal Procedure (Scotland) Act 1975—
 - (a) in subsection (1)—
 - (i) after the word " may " there shall be inserted the words " , unless they have been excused in respect thereof under section 1 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, ";
 - (ii) after the word "fined" there shall be inserted the words " up to £200 " ; and
 - (iii) after the words " fail to attend " there shall be inserted the words " in compliance with the citation " ; and
 - (b) for subsection (2) there shall be substituted the following subsection—

“(2) A fine imposed under subsection (1) above may, on application, be remitted—

 - (a) by a Lord Commissioner of Justiciary where imposed in the High Court;
 - (b) by the sheriff where imposed in the sheriff court;

and no court fees or expenses shall be exigible in respect of any such application.”.

3 Offences in connection with jury service

- (1) Subject to subsection (2) below, a person who—
 - (a) having been cited to attend for jury service, falsely claims to be a person excusable as of right from such service shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £200;
 - (b) knowing that he is a person ineligible, or not qualified, for jury service, serves on a jury shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £200 ; or
 - (c) knowing that he is a person disqualified from jury service, serves on a jury shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £1,000.
- (2) Subsection (1) above shall not apply to a person ineligible for jury service by reason of being among the persons listed in Group C of Part I of Schedule 1 to this Act.

Trusts, factors and succession

4 Prior rights in estate of deceased person

In the Succession (Scotland) Act 1964—

- (a) in section 9(1) (prior right of surviving spouse to financial provision on intestacy), after the words " at the rate of 4 per cent, per annum " there shall be inserted the words " , or at such rate as may from time to time be fixed by order of the Secretary of State, "; and
- (b) after section 9 there shall be inserted the following section—

“9A Provisions supplementary to ss. 8 and 9.

—Any order of the Secretary of State, under section 8 or 9 of this Act, fixing an amount or rate—

- (a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament ; and
- (b) shall have effect in relation to the estate of any person dying after the coming into force of the order.”.

5 Finding of caution by intestate's spouse

In section 2 of the Confirmation of Executors (Scotland) Act 1823 (court to regulate caution to be found), for the words " executors-nominate; and in" there shall be substituted the words—

- “(a) an executor-nominate ; or
- (b) an intestate's spouse who shall be executor-dative and has right, by virtue of sections 8 and 9(2) of the Succession (Scotland) Act 1964, to the whole estate.

In”.

6 Procedure whereby heir of provision may establish entitlement to act as trustee

Without prejudice to section 37(1)(d) of the Succession (Scotland) Act 1964, sections 27 to 50 of the Titles to Land Consolidation (Scotland) Act 1868 (with such amendments as had been made to them prior to the coming into force of the said Act of 1964) are hereby revived—

- (a) in so far as they provide ; and
- (b) for the purpose only of providing,

a procedure whereby the heir of a last surviving trustee in a trust, called as heir of provision in the trust destination, may establish his entitlement to act as trustee by having himself served as heir in general to the last surviving trustee.

7 Amendment of Judicial Factors Act 1849

In the Judicial Factors Act 1849—

- (a) section 5 (factor to lodge monies in one of the banks of Scotland) shall be amended as follows—
 - (i) for the words "fifty pounds" in both places where they occur there shall be substituted the words " five hundred pounds "; and
 - (ii) that section as amended by sub-paragraph (i) above shall be subsection (1) of that section, and after that subsection there shall be added the following subsections—

- “(2) The Secretary of State may by order made by regulations amend subsection (1) above by substituting for any sum for the time being specified in that subsection such other sum as appears to him to be justified by a change in the value of money.
- (3) The power to make regulations under subsection (2) above shall be exercisable by statutory instrument; and no such regulations shall be made unless a draft of them has been approved by resolution of each House of Parliament.”; and
- (b) in section 19 (accountant to make requisitions and orders on the factor) for the words " forty-eight hours " there shall be substituted the words " seven days ".

8 Amendment of section 2 of Trusts (Scotland) Act 1961

In section 2 of the Trusts (Scotland) Act 1961 (validity of certain transactions by trustees), for subsection (2) there are substituted the following subsections—

- “(2) Nothing in subsection (1) of this section shall affect any question of liability between any of the trustees on the one hand and any co-trustee or any of the beneficiaries on the other hand.
- (3) Without prejudice to the operation of subsection (1) of this section, where in relation to the trust estate or any part thereof a judicial factor thinks it expedient to do any of the acts mentioned in that subsection but the act in question might be at variance with the terms or purposes of the trust, he may, subject to the following provisions of this section, apply to the Accountant of Court for his consent to the doing of the act.
- (4) Where an application is made under subsection (3) of this section to the Accountant of Court for his consent to the doing of an act to which that subsection applies, he may grant the application subject to such conditions (including conditions as to price) as he thinks fit if—
 - (a) he considers that the doing of the act is in the best interests of the owner of the trust estate to which the judicial factor's appointment relates or of any person to whom the owner owes a duty of support ; and
 - (b) he is satisfied—
 - (i) that the judicial factor is not expressly prohibited by the terms of his appointment from doing the act; and
 - (ii) that there has been compliance with the provisions of subsection (5) of this section and of any rules made thereunder; and
 - (c) no objection is made to the doing of the act under subsection (5) of this section.
- (5) A judicial factor proposing to make an application under subsection (3) of this section to the Accountant of Court shall notify such persons or such class or classes of persons as may be specified in rules of court in such manner as may be so specified of the proposed application, the act to which it relates, and of their right to object to him doing that act within such time and in such manner as the rules may specify; and the rules may make different provision in respect of different classes of judicial factors, and may make provision exempting a

judicial factor or a class of judicial factors from giving notification under this subsection in such circumstances as the rules may specify.

- (6) Where a judicial factor does any act in accordance with the consent of the Accountant of Court granted under subsection (4) of this section and in compliance with the provisions of this section and of any rules made thereunder, it shall be treated as being not at variance with the terms or purposes of the trust.”.

9 Removal of obligation to preserve inventories

In section 12 of the Customs, Inland Revenue, and Savings Banks Act 1877 (transmission and custody of inventories in Scotland)—

- (a) for the words " Controller of Legacy and Succession Duties, at his office in" there shall be substituted the words " Registrar, Capital Taxes Office at ";
- (b) the words from " instead " to " same at his office in Edinburgh " shall cease to have effect; and
- (c) for the words " Controller of Legacy and Succession Duties in " there shall be substituted the words " Registrar, Capital Taxes Office at ".

Sheriff court

10 Performance of duties of sheriff principal

In the Sheriff Courts (Scotland) Act 1971—

- (a) for subsection (1) of section 10 (Secretary of State may authorise sheriff principal to act in another sheriffdom) there shall be substituted the following subsections—

“(1) Where a vacancy occurs in the office of sheriff principal of any sheriffdom the Secretary of State may, if it appears to him expedient so to do in order to avoid delay in the administration of justice in that sheriffdom, authorise the sheriff principal of any other sheriffdom to perform the duties of sheriff principal in the first-mentioned sheriffdom (in addition to his own duties) until the Secretary of State otherwise decides.

(1A) Where the sheriff principal of any sheriffdom is unable to perform, or rules that he is precluded from performing, all of, or some part of, his duties as sheriff principal the Secretary of State may authorise the sheriff principal of any other sheriffdom to perform the duties of sheriff principal, or as the case may be that part of those duties, in the first-mentioned sheriffdom (in addition to his own duties) until the Secretary of State otherwise decides.”; and

- (b) for subsection (1) of section 11 (Secretary of State may appoint temporary sheriff principal) there shall be substituted the following subsections—

“(1) Where a vacancy occurs in the office of sheriff principal of any sheriffdom the Secretary of State may, if it appears to him expedient so to do in order to avoid delay in the administration of justice in that sheriffdom, appoint a person to act as sheriff principal of the sheriffdom.

(1A) Where the sheriff principal of any sheriffdom is unable to perform, or rules that he is precluded from performing, all of, or some part of, his duties as sheriff principal the Secretary of State may appoint a person to act as sheriff principal of the sheriffdom, or as the case may be to perform that part of the duties of the sheriff principal.

(1B) A person appointed under subsection (1) or (1A) above shall be known as a temporary sheriff principal.”.

11 No jury trial in civil actions in sheriff court

(1) It shall not be competent to appoint a civil action to be tried before a jury in the sheriff court; and accordingly—

- (a) in the Sheriff Courts (Scotland) Act 1907—
 - (i) section 31 (jury trial in sheriff court) shall cease to have effect; and
 - (ii) in Schedule 1 (rules for regulating procedure in the ordinary courts), rules 133 to 150 shall cease to have effect; and
- (b) section 6 of the Sheriff Courts (Scotland) Act 1913 (procedure at jury trials) shall cease to have effect.

(2) Subsection (1) above, and Schedule 3 to this Act in so far as that Schedule relates to—

- (a) sections 3, 27(D) and 31 and rules 133 to 150 of the Sheriff Courts (Scotland) Act 1907 ;
- (b) section 2 of the Jury Trials Amendment (Scotland) Act 1910;
- (c) section 6 of the Sheriff Courts (Scotland) Act 1913 ;
- (d) section 2 of the Interest on Damages (Scotland) Act 1958;
- (e) section 1 of the Interest on Damages (Scotland) Act 1971; or
- (f) section 40, and the reference thereto in section 41, of the Sheriff Courts (Scotland) Act 1971,

have no effect as regards any action which the sheriff has, before the coming into force of this section, appointed to be tried before a jury.

12 Jurisdiction of sheriff court in sequestration proceedings

In the Bankruptcy (Scotland) Act 1913—

- (a) in section 11 (competence of sequestration), for the words " within a " there shall be substituted the words " at any time during the ";
- (b) in section 16 (courts for awarding sequestration), for the words after " of any " and before " Provided " there shall be substituted the words—

“sheriffdom within which the debtor—

- (a) resided or had a dwelling house or place of business at the date of the presentation of the petition for sequestration; or
- (b) resided or carried on business for any period of forty or more days during the year before the said date:”;
- (c) in section 175 (petition for summary sequestration)—
 - (i) in subsection (1), for the words from " of any sheriffdom " to " the petition " there shall be substituted the word " court ";

(ii) for subsection (2) there shall be substituted the following subsection—

“(2) Where

- (a) the petitioner does not possess sufficient information to enable him to determine to which sheriff court presentation of the petition would, by virtue of section 16 of this Act, be appropriate; or
 - (b) the debtor is furth of Scotland,
- the petition for summary sequestration may be presented to the sheriff court at Edinburgh.”.

13 Jurisdiction of sheriff court in proceedings relating to trusts

In the Trusts (Scotland) Act 1921—

- (a) in section 22 (appointment of new trustees by the court)—
 - (i) for the word " court" where it first occurs there shall be substituted the words " Court of Session or an appropriate sheriff court "; and
 - (ii) after the word " court" where it occurs for the second time there shall be inserted the words " to which application is made ";
- (b) in section 23 (removal of trustees in certain cases), for the words from "in the case of a mortis causa trust" to the end there shall be substituted the words " may be made either to the Court of Session or to an appropriate sheriff court. ";
- (c) in section 24 (completion of title by the beneficiary of a lapsed trust)—
 - (i) for the word " court" where it first occurs there shall be substituted the words " Court of Session or an appropriate sheriff court "; and
 - (ii) after the word " court" where it occurs for the second time there shall be inserted the words " to which application is made "; and
- (d) the following section shall be inserted after section 24—

“24A Interpretation of sections 22-24.

—In sections 22 to 24 of this Act the expression " appropriate sheriff court " means—

- (a) in the case of a trust other than a marriage contract—
 - (i) where the truster, or any of the trusters, was at the date of the coming into operation of the trust domiciled in a sheriffdom, a sheriff court of that sheriffdom; or
 - (ii) where sub-paragraph (i) of this paragraph does not apply, or where the applicant does not possess sufficient information to enable him to determine which sheriff court, if any, would by virtue of that sub-paragraph be an appropriate sheriff court, the sheriff court at Edinburgh;
- (b) in the case of a marriage contract—
 - (i) where either spouse is, or was when he died, domiciled in a sheriffdom, a sheriff court of that sheriffdom; or

- (ii) where sub-paragraph (i) of this paragraph does not apply, or where the applicant does not possess sufficient information to enable him to determine which sheriff court, if any, would by virtue of that sub-paragraph be an appropriate sheriff court, the sheriff court at Edinburgh.”.

14 Power of sheriff to appoint judicial factor

(1) In the Judicial Factors (Scotland) Act 1880—

- (a) in section 3 (interpretation), for the words " mean factor loco tutoris and curator bonis " there shall be substituted the words " include a *curator bonis*, a factor *loco tutoris*, a factor *loco absentis*, a factor on trust or other estates, and a guardian where caution is required, but does not include a judicial factor appointed under section 14 or 163 of the Bankruptcy (Scotland) Act 1913 ";
- (b) in section 4 (sheriff's appointment of judicial factor)—
 - (i) for the words from " It shall " to " respectively " where it first occurs there shall be substituted the words " The sheriff shall have the same powers to appoint judicial factors as have the Court of Session and he ";

(ii) for paragraph 1 there shall be substituted the following paragraphs—

“1 Proceedings for appointment of judicial factors in the sheriff court shall commence by petition to be presented in an appropriate sheriff court as nearly as may be in the form in use in ordinary actions in that court:

1A In paragraph 1 above, the expression " appropriate sheriff court"—

- (a) in the case of a petition for the appointment of a judicial factor on a trust estate, shall have the same meaning as in sections 22 to 24 of the Trusts (Scotland) Act 1921 ; and
- (b) in any other case shall mean—
 - (i) where the petition is for the appointment of a judicial factor (other than a factor loco absentis) to an individual, a sheriff court of the sheriffdom in which the individual is resident;
 - (ii) where the petition is for the appointment of a factor loco absentis to an individual, a sheriff court of the sheriffdom in which the individual was last known to the petitioner to be resident ; or
 - (iii) where the petition is not as mentioned in either of the foregoing provisions of this subparagraph, the sheriff court at Edinburgh.”; and

(iii) paragraphs 2 and 3 shall cease to have effect.

- (2) In section 163 of the Bankruptcy (Scotland) Act 1913 (application for judicial factor on estate of person deceased), the words "where the assets of the deceased are estimated not to exceed five hundred pounds " shall cease to have effect.

15 Jurisdiction of sheriff court in suspension of charges

In the Sheriff Courts (Scotland) Act 1907—

- (a) in section 5(5) (jurisdiction in suspension of charges), the words " where the debt exclusive of interest and expenses does not exceed fifty pounds " shall cease to have effect; and
- (b) in rule 123 of the first Schedule (summary application for suspension of charges), the words " not exceeding fifty pounds, exclusive of interest and expenses " shall cease to have effect.

16 Remit from sheriff court to Court of Session

Subject to subsection (2) below, in section 37 of the Sheriff Courts (Scotland) Act 1971 (remits)—

- (a) in subsection (1)—
 - (i) after the word " sheriff ", where it occurs for the second time, there shall be inserted " —(a) "; and
 - (ii) at the end there shall be added the words—

“;

- (b) may, subject to section 7 of the Sheriff Courts (Scotland) Act 1907, on the motion of any of the parties to the cause, if he is of the opinion that the importance or difficulty of the cause make it appropriate to do so, remit the cause to the Court of Session.”;

- (b) after subsection (2) there shall be inserted the following subsection—

“(2A) In the case of any action in the sheriff court in relation to the custody or adoption of a child the sheriff may, of his own accord, at any stage remit the action to the Court of Session.”;

- (c) for subsection (3) there shall be substituted the following subsection—

“(3) A decision—

- (a) to remit, or not to remit, under subsection (2A) above; or
- (b) to make, or not to make, a direction by virtue of paragraph (b) of, or the proviso to, subsection (2) above,

shall not be subject to review ; but from a decision to remit, or not to remit, under subsection (11(b) above an appeal shall lie to the Court of Session.”.

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”; and
 - (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) ".

General

27 Expenses

There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under any other enactment.

28 Amendments and repeals

- (1) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments respectively specified in that Schedule, being minor amendments or amendments consequential on the provisions of this Act.
- (2) The enactments mentioned in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

29 Short title, extent and commencement

- (1) This Act may be cited as the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 and extends to Scotland only.
- (2) This Act, except this section, shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint; and different dates may be appointed for, or for different purposes of, different provisions.

SCHEDULES

SCHEDULE 1

Section 1.

INELIGIBILITY FOR AND DISQUALIFICATION AND EXCUSAL FROM JURY SERVICE

PART I

PERSONS INELIGIBLE

GROUP A

The Judiciary

- (a) Lords of Appeal;
- (b) Senators of the College of Justice ;
- (c) sheriffs ;
- (d) Justices of the Peace ;
- (e) stipendiary magistrates ;
- (f) the chairman or president, the vice-chairman or vice-president and the registrar or assistant registrar of any tribunal; and
- (g) persons who, at any time within the 10 years immediately preceding the date at which their eligibility, in terms of section 1 of this Act, for jury service is being considered, have come within any description listed above in this Group.

GROUP B

Others concerned with the administration of justice

- (a) Advocates and solicitors, whether or not in actual practice as such;
- (b) advocates' clerks;
- (c) apprentices of, and legal trainees employed by, solicitors ;
- (d) officers and staff of any court if their work is wholly or mainly concerned with the day-to-day administration of the court;
- (e) persons employed as shorthand writers in any court;
- (f) Clerks of the Peace and their deputies ;
- (g) Inspectors of Constabulary appointed by Her Majesty ;
- (h) assistant inspectors of constabulary appointed by the Secretary of State;
- (i) constables of any police force (including constables engaged on central service within the meaning of section 38 of the Police (Scotland) Act 1967);
- (j) constables of any constabulary maintained under statute;
- (k) persons employed in any capacity by virtue of which they have the powers and privileges of police constables ;
- (l) special constables;
- (m) police cadets ;

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

- (n) persons employed under section 9 of the said Act of 1967 for the assistance of the constables of a police force ;
- (o) officers of, and members of visiting committees for, prisons, remand centres, detention centres, borstal institutions and young offenders institutions ;
- (p) procurators fiscal within the meaning of section 462(1) of the Criminal Procedure (Scotland) Act 1975, and persons employed as clerks and assistants to such procurators fiscal;
- (q) messengers at arms and sheriff officers ;
- (r) members of children's panels ;
- (s) reporters appointed under section 36 of the Social Work (Scotland) Act 1968 and their staffs ;
- (t) directors of social work appointed under section 3 of the said Act of 1968 and persons employed to assist such directors in the performance of such of their functions as relate to probation schemes within the meaning of section 27 of that Act;
- (u) members of the Parole Board for Scotland ;
- (v) members of local review committees established by virtue of section 59(6) of the Criminal Justice Act 1967 ; and
- (w) persons who, at any time within the 5 years immediately preceding the date at which their eligibility, in terms of section 1 of this Act, for jury service is being considered, have come within any description listed above in this Group.

GROUP C

The mentally disordered

(Expressions used in this Group are to be construed in accordance with the Mental Health (Scotland) Act 1960.)

- (a) Persons who are receiving medical treatment for mental disorder and either—
 - (i) are, for the purposes of that treatment, resident in a hospital; or
 - (ii) attend on more than one day of each week to receive that treatment;
- (b) persons incapable by reason of mental disorder of adequately managing and administering their property and affairs and for whom a curator bonis has accordingly been appointed ; and
- (c) persons for the time being in guardianship under section 25 of the said Act of 1960.

PART II

PERSONS DISQUALIFIED

- (a) Persons who have at any time been sentenced in the United Kingdom, the Channel Islands or the Isle of Man—
 - (i) to imprisonment for life or for a term of 5 years or more; or
 - (ii) to be detained during Her Majesty's pleasure, during the pleasure of the Secretary of State or during the pleasure of the Governor of Northern Ireland;
- (b) persons who have at any time in the United Kingdom, the Channel Islands or the Isle of Man—
 - (i) served any part of a sentence of imprisonment or detention, being a sentence for a term of 3 months or more; or
 - (ii) been detained in a borstal institution,

and who are not rehabilitated persons for the purposes of the Rehabilitation of Offenders Act 1974.

PART III

PERSONS EXCUSABLE AS OF RIGHT

GROUP A

Parliament

- (a) Peers and peeresses entitled to receive writs of summons to attend the House of Lords ;
- (b) members of the House of Commons ;
- (c) officers of the House of Lords ; and
- (d) officers of the House of Commons.

GROUP B

European Assembly

Representatives to the Assembly of the European Communities.

GROUP C

The Forces

Full-time serving members of—

- (a) any of Her Majesty's naval, military or air forces ;
- (b) the Women's Royal Naval Service ;
- (c) Queen Alexandra's Royal Naval Nursing Service ; or
- (d) any Voluntary Aid Detachment serving with the Royal Navy.

GROUP D

Medical and similar professions

The following, if actually practising their profession and registered (whether fully or otherwise), enrolled or certified under the enactments relating to that profession—

- (a) medical practitioners;
- (b) dentists;
- (c) nurses;
- (d) midwives;
- (e) pharmaceutical chemists ; and
- (f) veterinary surgeons and veterinary practitioners.

GROUP E

Ministers of religion etc.

- (a) persons in holy orders ;
- (b) regular ministers of any religious denomination ; and

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

- (c) vowed members of any religious order living in a monastery, convent or other religious community.

GROUP F

Others

- (a) Persons whose obedience to the citation for jury service would result in their serving, or duly attending for service, more than once in any period of five years ; and
- (b) persons excused by the direction of any court from jury service during a period which has not terminated.

SCHEDULE 2

Section 28(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Juries (Scotland) Act 1826 (c.8)

- 1 In section 4 (names of jurors may be passed over, in making returns of jurors for the purposes of civil trials, where they have died or are no longer qualified), for the words " become disqualified as a juror, whether from loss of property, absence, or other legal cause " there shall be substituted the words " cease to be qualified to serve as a juror ".

The Executors (Scotland) Act 1900 (c. 55)

- 2 In section 3 (persons who may be confirmed executors nominate), after the words " Supreme Court" there shall be inserted the words " or the sheriff court ".

The Juries Act 1949 (c.27)

- 3 For section 24(1) (payments in respect of jury service) there shall be substituted the following subsection—

“(1) Subject to the provisions of this Part of this Act, a person who serves as a juror shall be entitled, in respect of his attendance at court for the purpose of performing jury service, to receive payments, at rates determined by the Secretary of State with the consent of the Minister for the Civil Service and subject to any prescribed conditions, by way of allowance—

- (a) for travelling and subsistence ; and
- (b) for financial loss, where in consequence of his attendance for that purpose he has incurred any expenditure (other than on travelling and subsistence) to which he would not otherwise be subject or he has suffered any loss of earnings, or of benefit under the enactments relating to social security, which he would otherwise have made or received.”.

- 4 In section 25(2) (sums for payments to jurors), for the words " to (c) " there shall be substituted the words " and (b) ".

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

The Betting, Gaming and Lotteries Act 1963 (c.2)

- 5 In paragraph 2 (interpretation), of Schedule 1, in the definition of " appropriate authority ", for the word " court", in both places where it occurs, there shall be substituted the word " board ".

The Criminal Procedure (Scotland) Act 1975 (c.21)

- 6 In section 91 (names of jurors may be passed over, in making returns of jurors for the purposes of criminal trials, where they have died or are no longer qualified), for the words " becomes disqualified as a juror, whether from loss of property, absence, or other legal cause " there shall be substituted the words " ceases to be qualified to serve as a juror ".
- 7 In section 130(5) (objection to juror on grounds of lack of qualification), for the words " 1 of the Jurors (Scotland) Act 1825" there shall be substituted the words " 1(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 ".

The Lotteries and Amusements Act 1976 (c.32)

- 8 In paragraph 1 (interpretation), of Schedule 3—
- (a) for sub-paragraph (1)(c) there shall be substituted the following sub-paragraph—
- “(c) in relation to any premises in Scotland in respect of which a hotel licence or a public house licence is for the time being in force, the licensing board for the licensing area in which the premises are situated ;”;
- and
- (b) in sub-paragraph (2), for the words from "" hotel" to " 1959 " there shall be substituted the words—
- “" hotel licence ", " licensing area ", " licensing board " and " public house licence " have the same meanings as in the Licensing (Scotland) Act 1976 ;”.

The Licensing (Scotland) Act 1976 (c.66)

- 9 In section 94(2) (forfeiture of licence in certain cases), for the words " 89 or 90 " there shall be substituted the words " 90 or 91 ".
- 10 In section 107(1)(a) (election of governing body of club), for the word " governing" where it occurs for the second time, there shall be substituted the word " general ".
- 11 In section 140(2) (transitional provisions), after the words " 57 " there shall be inserted the words " , 59 ".

SCHEDULE 3

Section 28(2).

REPEALS

Chapter	Short Title	Extent of Repeal
55 Geo. 3. c. 42.	The Jury Trials (Scotland) Act 1815.	Section 22.

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

Chapter	Short Title	Extent of Repeal
6 Geo. 4. c. 22.	The Jurors (Scotland) Act 1825.	Sections 1 and 2.
31 & 32 Vict, c. 100.	The Court of Session Act 1868.	Section 43.
32 & 33 Vict, c. 36.	The Juries (Lighthouse Keepers Exemption) Act 1869.	The whole Act.
40 & 41 Vict, c. 13.	The Customs, Inland Revenue and Savings Banks Act 1877.	In section 12, the words from ", instead " to " same at his office in Edinburgh ".
43 & 44 Vict, c. 4.	The Judicial Factors (Scotland) Act 1880.	In section 4, paragraphs 2 and 3.
53 & 54 Vict, c. 21.	The Inland Revenue Regulation Act 1890.	In section 8, the words " or on any jury or inquest whatsoever ".
7 Edw. 7. c.51.	The Sheriff Courts (Scotland) Act 1907.	In section 3, paragraph (q). In section 5, in subsection (5) the words " where the debt exclusive of interest and expenses does not exceed fifty pounds "; and the words from " Provided also that it" to the end. In section 7, the words " Subject to the provisions of this Act". In section 27(D) the words " not being an interlocutor fixing a diet for jury trial ". Sections 30 and 31. In Schedule 1, in rule 123, the words " not exceeding fifty pounds, exclusive of interest and expenses "; and rules 133 to 150.
10 Edw. 7 & 1 Geo. 5. c. 31.	The Jury Trials Amendment (Scotland) Act 1910.	In section 2, the words from " or (b) " to " 1907 ".
2 & 3 Geo. 5. c. 28.	The Sheriff Courts (Scotland) Act 1913.	Section 6.
3 & 4 Geo. 5. c. 20.	The Bankruptcy (Scotland) Act 1913.	In section 163, the words " where the assets of the deceased are estimated not to exceed five hundred pounds ".

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

Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 5. c. 71.	The Sex Disqualification (Removal) Act 1919.	In section 1, the words " and a person shall not be exempted by sex or marriage from the liability to serve as a juror ". In section 4(2), the words " and any enactment relating to juries shall have effect so as to accord with the provisions of this Act".
9 & 10 Geo. 5. c. 92.	The Aliens Restriction (Amendment) Act 1919.	Section 8.
10 & 11 Geo. 5. c. 53.	The Jurors (Enrolment of Women) (Scotland) Act 1920.	In section 1(1), the words from "The enactments" to "always that"; and the word " that" where it occurs for the second time. In section 2, the words from " Without prejudice" to " 1919 ".
23 & 24 Geo. 5. c. 41.	The Administration of Justice (Scotland) Act 1933.	Section 22.
12 & 13 Geo. 6. c. 27.	The Juries Act 1949.	Section 25(1)(c).
14 & 15 Geo. 6. c. 54.	The Midwives (Scotland) Act 1951.	Section 27.
1 & 2 Eliz. 2. c. 50.	The Auxiliary Forces Act 1953.	In section 39(3), the words " and shall be exempt from serving on any jury ".
3 & 4 Eliz. 2. c. 18.	The Army Act 1955.	Section 183.
3 & 4 Eliz. 2. c. 19.	The Air Force Act 1955.	Section 183.
5 & 6 Eliz. 2. c.28.	The Dentists Act 1957.	In section 32, in subsection (1) the words " serving on all juries and inquests whatsoever and from"; and subsection (2).
6 & 7 Eliz. 2. c. 61.	The Interest on Damages (Scotland) Act 1958.	Section 2.
1966 c. 36.	The Veterinary Surgeons Act 1966.	Section 24(1).
1970 c. 9.	The Taxes Management Act 1970.	Section 5(2).
1971 c. 31.	The Interest on Damages (Scotland) Act 1971.	Section 1(2).

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

Chapter	Short Title	Extent of Repeal
1971 c. 58.	The Sheriff Courts (Scotland) Act 1971.	Sections 39 and 40. In section 41(2), the words "section 39, section 40".
1972 c. 41.	The Finance Act 1972.	In Schedule 6, paragraph 9 in so far as relating to juries in Scotland.
1973 c. 25.	The Succession (Scotland) Act 1973.	Section 1(2) and (3).
1973 c. 45.	The Domicile and Matrimonial Proceedings Act 1973.	Section 9.
1973 c. 52.	The Prescription and Limitation (Scotland) Act 1973.	In section 22(6), the words ", whether in the Court of Session or the sheriff court,".
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	Schedule 2.
1975 c. 78.	The Airports Authority Act 1975.	Section 10(7).
1976 c. 36.	The Lotteries and Amusements Act 1976.	In Schedule 3, in paragraphs 4(1)(a) and 17(1)(a), the words " or certificate ".
1976 c. 66.	The Licensing (Scotland) Act 1976.	Section 140(1).
1977 c. 15.	The Marriage (Scotland) Act 1977.	Section 13(2) and (3).
1978 c. 10.	The European Assembly Elections Act 1978.	Section 5(2).
1979 c. 2.	The Customs and Excise Management Act 1979.	Section 175(2).
1979 c. 36.	The Nurses, Midwives and Health Visitors Act 1979.	Section 18.