Unfair Contract Terms Act 1977

1977 CHAPTER 50

PART II

AMENDMENT OF LAW FOR SCOTLAND

16 Liability for breach of duty.

(1) [F1Subject to subsection (1A) below.] Where a term of a contract [F1, or a provision of a notice given to persons generally or to particular persons,] purports to exclude or restrict liability for breach of duty arising in the course of any business or from the occupation of any premises used for business purposes of the occupier, that term [F1or provision]—

(a) shall be void in any case where such exclusion or restriction is in respect of death or personal injury;

(b) shall, in any other case, have no effect if it was not fair and reasonable to incorporate the term in the contract [F1or, as the case may be, if it is not fair and reasonable to allow reliance on the provision].

[F2(1A) Nothing in paragraph (b) of subsection (1) above shall be taken as implying that a provision of a notice has effect in circumstances where, apart from that paragraph, it would not have effect.]

(2) Subsection (1)(a) above does not affect the validity of any discharge and indemnity given by a person, on or in connection with an award to him of compensation for pneumoconiosis attributable to employment in the coal industry, in respect of any further claim arising from his contracting that disease.

(3) Where under subsection (1) above a term of a contract [F3or a provision of a notice] is void or has no effect, the fact that a person agreed to, or was aware of, the term [F3or provision] shall not of itself be sufficient evidence that he knowingly and voluntarily assumed any risk.

[F4(4) This section does not apply to—

(a) a term in a consumer contract, or

(b) a notice to the extent that it is a consumer notice,
(but see the provision made about such contracts and notices in sections 62 and 65 of the Consumer Rights Act 2015).]

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**Textual Amendments**

**F1** Words in s. 16(1) inserted (1.4.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 68(3)(a)(6); S.I. 1991/330, **art. 4**, Schedule

**F2** S. 16(1A) inserted (1.4.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 68(3)(b)(6); S.I. 1991/330, **art. 4**, Schedule

**F3** Words in s. 16(3) inserted (1.4.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 68(3)(c)(6); S.I. 1991/330, **art. 4**, Schedule

**F4** S. 16(4) inserted (1.10.2015 for specified purposes, 1.10.2016 in so far as not already in force) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 4 para. 15**; S.I. 2015/1630, arts. 3(g), 4(c) (with **art. 6(1)(2)**)
Changes to legislation:
There are currently no known outstanding effects for the Unfair Contract Terms Act 1977, Section 16.