



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

## 1985 CHAPTER 73

### *Miscellaneous and general*

#### **47 Transfer of sheriff clerks and procurators fiscal**

In section 1 of the Sheriff Clerks and Legal Officers (Scotland) Act 1927 (appointment of sheriff clerk and procurator fiscal)—

- (a) in subsection (3), after the words " foregoing subsections " there shall be inserted the words " but subject to subsections (4) and (5) below "; and
- (b) after subsection (3) there shall be added the following subsections—

“(4) The right vested—

- (a) in the Secretary of State under subsection 1 above shall include the right to transfer the sheriff clerk of one sheriff court district to an office, whether of sheriff clerk or (however styled) of sheriff clerk depute, in another sheriff court district;
- (b) in the Lord Advocate under subsection (2) above shall include the right to transfer the procurator fiscal of one district to an office, whether of procurator fiscal or (however styled) of procurator fiscal depute, in another district,

where in the opinion of the Secretary of State or, as the case may be, of the Lord Advocate the transfer is for the purpose of securing efficient organisation and administration.

- (5) It is hereby declared that, for the purposes of subsection (3) above, a transfer under subsection (4) above is not a removal from office.”.

#### **48 Power of Lord Advocate and Secretary of State in relation to research into law**

The Lord Advocate or the Secretary of State may assist (whether financially or otherwise) other persons in conducting research into any matter connected with the

law (other than research into any matter referred to in section 75(1) of the Criminal Justice (Scotland) Act 1949).

#### **49 Arrestment of National Savings Bank deposits**

In section 46 of the Crown Proceedings Act 1947 (which makes provision as to arrestment in the hands of the Crown)—

- (a) after paragraph (a) of the proviso there shall be inserted the word " or ";
- (b) paragraph (c) of the proviso (which precludes arrestment of money payable on account of a deposit in the National Savings Bank) and the word " or " which precedes that paragraph shall cease to have effect.

#### **50 Registration of divorces and declarators of nullity of marriage**

- (1) After section 28 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 there shall be inserted the following section—

### **“PART IIIA**

#### **28A Registration of divorces and declarators of nullity of marriage.**

- (1) The Registrar General shall maintain at the General Register Office a register of decrees of divorce and of declarator of nullity of marriage (which register shall be known as the " Register of Divorces ").
- (2) The Registrar General shall cause to be made and kept at the General Register Office an alphabetical index of the entries in the Register of Divorces (in this section referred to as " the index ").
- (3) The Register of Divorces shall be in such form as may be prescribed.
- (4) On payment to him of such fee or fees as may be prescribed, the Registrar General shall, at any time when the General Register Office is open for that purpose —
  - (a) cause a search of the index to be made on behalf of any person or permit that person to search the index himself ;
  - (b) issue to any person an extract of any entry in the Register of Divorces which that person may require.
- (5) An extract of an entry in the Register of Divorces shall be sufficient evidence of the decree of divorce or, as the case may be, of declarator of nullity of marriage to which it relates.
- (6) The Registrar General may delete or amend any entry in the Register of Divorces or substitute another for it.
- (7) In this section, references to decrees of divorce are references to decrees thereof of the Court of Session or the sheriff and references to decrees of declarator of nullity of marriage are references to decrees thereof of the Court of Session.”.

- (2) In section 48 of the said Act of 1965 (decrees altering status to be notified to Registrar General) after the words " be made ", where secondly occurring, there shall be inserted—
- “(a) where the decree is of divorce or of declarator of nullity of marriage, in the Register of Divorces; and
  - (b) in any other case.”.
- (3) Any entry made in the Register of Corrections Etc. between 1st May 1984 and the date of the coming into force of this section which could have been made after the latter date in the Register of Divorces shall be treated as an entry in the Register of Divorces.

#### **51 Amendments to Mental Health (Scotland) Act 1984 as respects hospital orders**

- (1) The Mental Health (Scotland) Act 1984 shall be amended in accordance with the following provisions of this section.
- (2) In each of sections 21 (approval of applications by the sheriff: hospital) and 40 (approval of applications by the sheriff: guardianship)—
- (a) the words " for his approval" shall be omitted from subsection (1);
  - (b) in subsection (2), after the word "considering" there shall be inserted the words " whether to approve ".

#### **52 Application of certain liquor licensing appeal provisions to certain appeals under the Lotteries and Amusements Act 1976**

In section 133(4) of the Licensing (Scotland) Act 1976 (application of certain provisions relating to appeals in respect of liquor Licensing to certain appeals in respect of certain betting and gaming permits and licences)—

- (a) after the word " 1968 ", where first occurring, there shall be inserted the words " and paragraph 12 of Schedule 3 to the Lotteries and Amusements Act 1976 "; and
- (b) for the words " and 1968 ", there shall be substituted the words " 1968 and 1976 ".

#### **53 Amendment of definition of " alcoholic liquor "**

In section 139(1) of the Licensing (Scotland) Act 1976, in the definition of " alcoholic liquor "—

- (a) after the word " include " there shall be inserted " (a) "; and
- (b) at the end there shall be inserted—
  - “(b) perfumes;
  - (c) flavouring essences recognised by the Commissioners as not being intended for consumption as or with dutiable alcoholic liquor ;
  - (d) spirits, wine or made-wine so medicated as to be, in the opinion of the Commissioners, intended for use as a medicine and not as a beverage.”.

**54 Clarification of investment powers of Scottish Hospital Trust and Scottish Hospital Endowments Research Trust**

- (1) In sub-paragraph (b) of paragraph 4 of Schedule 6 to the National Health Service (Scotland) Act 1978 and in paragraph 4 of Schedule 7 to that Act (which provisions respectively enable the Scottish Hospital Trust and the Scottish Hospital Endowments Research Trust to invest as therein provided) after "1921 " there shall be inserted the words " and the Trustee Investments Acts 1961 ".
- (2) In the said paragraph 4 of the said Schedule 6 there shall be inserted at the end—
- “It is hereby declared, for the avoidance of doubt, that the Trust has at all times had the power referred to in subparagraph (b) above to invest in any security in which trustees are authorised to invest under or in pursuance of the Trustee Investments Act 1961.”.
- (3) In the said paragraph 4 of the said Schedule 7 there shall be inserted at the end—
- “It is hereby declared, for the avoidance of doubt, that the Research Trust has at all times had the power referred to in this paragraph to invest in any security in which trustees are authorised to invest under or in pursuance of the Trustee Investments Act 1961.”.

**55 Power of Commissioner for Local Administration to investigate Scottish Special Housing Association and new town development corporations**

- (1) in section 23 of the Local Government (Scotland) Act 1975 (authorities subject to investigation)—
- (a) in subsection (1) there shall be added at the end the words—
- “(g) the Scottish Special Housing Association ;
- (h) subject to subsection (2A) below, any development corporation established under an order made, or having effect as if made under the New Towns (Scotland) Act 1968 (in this section and section 24 of this Act referred to as a " new town development corporation " ) ;”;
- (b) after subsection (2) there shall be added the following subsection—
- “(2A) The application of this Part of this Act to any new town development corporation by virtue of subsection (1)(h) above extends only to the Corporation's functions in relation to housing.”.
- (2) In section 24 of that Act (matters subject to investigation)—
- (a) after subsection (3) there shall be inserted the following subsection—
- “(3A) Subsections (2) and (3) above do not apply in relation to the Scottish Special Housing Association or a new town development corporation.”; and
- (b) in subsection (4) after the word " concerned " there shall be inserted the words " or, in the case of the Scottish Special Housing Association or a new town development corporation, to the Commissioner ".

**56 Amendment of enactments relating to solicitors**

The enactments specified in Schedule 1 to this Act (Part I of which Schedule contains amendments relating to the incorporation of solicitors' practices and Part II amendments relating to other matters relating to solicitors) shall have effect subject to the amendments to these enactments there set out.

**57 Power to pay extra- parliamentary Commissioners for service on inquiries under the Private Legislation Procedure (Scotland) Act 1936**

In section 5 of the Private Legislation Procedure (Scotland) Act 1936 (which provides, amongst other things, as to the appointment of Commissioners for inquiries under the Act) there shall be added at the end the following subsection—

“(9) The Secretary of State may pay Commissioners taken from the extra-parliamentary panel such fees or other amounts in respect of the performance of their duties under this Act as he may, with the approval of the Treasury, determine.”.

**58 Finance**

There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by the Secretary of State under section 22(5) of this Act or section 5(9) of the Private Legislation Procedure (Scotland) Act 1936 or by the Secretary of State or the Lord Advocate under section 48 of this Act; and
- (b) any increase attributable to this Act in the sums which, under any other Act, are payable out of money so provided.

**59 Amendment and repeal of enactments**

- (1) The enactments specified in Schedule 2 to this Act shall have effect subject to the amendments to these enactments there set out.
- (2) The enactments specified in Schedule 4 to this Act are hereby repealed to the extent there set out.

**60 Citation, transitional provisions, commencement and extent**

- (1) This Act may be cited as the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.
- (2) Schedule 3 to this Act shall have effect for the purpose of making transitional provision.
- (3) This Act shall come into force as follows—
  - (a) sections 26 to 29, 54, this section, paragraphs 28 to 30 and 32 of Schedule 2 and so much of section 60(1) as relates to these paragraphs, when it is passed ;
  - (b) sections 14, 15, 18, 19 and 36 and paragraphs 8, 12, 13 and 24 of Schedule 2 and so much of section 60(1) as relates to these paragraphs, on such day as the Lord Advocate may by order appoint;
  - (c) sections 35 and 50, on such day as the Secretary of State may by order appoint; and

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

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- (d) the remaining provisions, at the end of the period of two months beginning with the day on which it is passed.
- (4) Different days may be appointed under subsection (3)(b) and (c) above for the different provisions specified therein.
- (5) An order under this section shall be made by statutory instrument.
- (6) This Act applies to Scotland only.