



# Friendly Societies Act 1992

## 1992 CHAPTER 40

### PART VII

#### DISPUTES

##### *Disputes relating to friendly societies*

#### **80 Determination of certain disputes by arbitration**

- (1) Subject to the following provisions of this section, any dispute between—
- (a) a member or person claiming through a member or under the rules of a friendly society or registered branch and the society or branch;
  - (b) a person aggrieved who has ceased to be a member of a friendly society or registered branch, or a person claiming through such a person, and the society or branch or an officer of the society or branch;
  - (c) a registered branch and the society of which it is a registered branch;
  - (d) an officer of a registered branch and the society of which it is a registered branch; or
  - (e) two or more registered branches, or any of their officers,
- shall be determined by arbitration in the manner directed by the rules of the society or branch.
- (2) An application for the enforcement of an award on an arbitration under this section may be made to the county court.
- (3) An award made in such an arbitration shall, in Scotland—
- (a) subject to subsection (4) below, be final; and
  - (b) be enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (4) An arbiter who has made an award in an arbitration under this section shall, on the application of a party to such arbitration, state a case for the opinion of the Court of Session on any question of law.

- (5) If the parties to a dispute of a description specified in subsection (1) above agree that it shall be determined by the county court or, in Scotland, the sheriff, it may be so determined instead of being determined by arbitration under this section.
- (6) If—
- (a) a party to a dispute of a description specified in subsection (1) above applies to the society or branch in accordance with the rules for determination of the dispute by arbitration;
  - (b) no such determination has been made within the period of 40 days beginning with the day on which the application was made; and
  - (c) either party applies for determination of the dispute by the county court or, in Scotland, the sheriff,
- the dispute may be so determined.
- (7) If the society has registered branches—
- (a) the period of 40 days shall not begin to run until application has been made in succession to all the bodies entitled to determine the dispute by arbitration in accordance with the rules; but
  - (b) the rules may not require a greater delay than 3 months between each successive determination by such a body.
- (8) In this section “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 which arose while he was a member, or arises out of his membership; and
  - (c) does not include a dispute between 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 person aggrieved who has ceased to be a member and a person claiming through him or under the rules of a society or branch.

## **81 Complaints by members of friendly societies**

- (1) Nothing in section 80 above shall affect the power of a friendly society or registered branch—
- (a) to establish internal procedures for the resolution of complaints; or
  - (b) to make, to join with any other persons in making, or to accede to, schemes for the investigation and settlement by an adjudicator of complaints;
- but a society or branch may not prevent a member from referring any dispute to arbitration under that section by purporting to require instead the making of a complaint or the acceptance of any determination of a complaint.
- (2) The Commission shall have the function of promoting the establishment by friendly societies and registered branches of—
- (a) internal complaints procedures; and
  - (b) schemes for the investigation and settlement of complaints;
- and, in particular, the Commission may issue such guidance on those matters to friendly societies and registered branches as it thinks fit.

(3) In this section—

“accede”, in relation to a scheme, means assume the obligations and rights of membership of the scheme;

“complaint” includes any complaint made by a member about action of a friendly society or branch which constitutes (in relation to that member) unfair treatment, maladministration or breach of any contractual or other duty and causes him pecuniary loss or inconvenience;

“member” in relation to a friendly society or branch includes any person who is or was a member of the society or branch or is claiming through a member or under the rules; and

“action” includes omissions.

## **82 Disputes arising out of loans of surplus funds to societies of different description**

(1) Where—

(a) a registered friendly society or a registered branch (“the lender”) has made or agreed to make advances under section 50 of the 1974 Act to another society or branch (“the borrower”); and

(b) the lender is by reason of this empowered by the rules of the borrower to take part in the government or control of the borrower,

subject to subsection (3) below, section 80 above shall apply in relation to the determination of a dispute between the lender and the borrower relating to such an advance or agreement or to the rights of the lender or an officer of the lender under the rules of the borrower, as if the borrower were a branch of the lender.

(2) In the application of section 80 above to any such dispute, references in that section to the rules of the society are references to the rules of the borrower.

(3) Section 80 above shall not prevent the bringing of legal proceedings for the determination of any such dispute unless, before the commencement of the proceedings, application has been made for a reference under the rules of the borrower.

(4) Proceedings for the determination of any such dispute may be brought in a county court or, in Scotland, before the sheriff, whether or not the court would apart from this subsection have jurisdiction to entertain them.

(5) The reference in subsection (1) above to advances under section 50 of the 1974 Act includes, in the case of a society formerly registered in Northern Ireland, a reference to advances made under section 42 of the Friendly Societies Act (Northern Ireland) 1970.