
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 234

The Cross-Border Mediation (Scotland) Regulations 2011

Amendments to prescription period in the Civic Government (Scotland) Act 1982

7.—(1) Section 71 of the Civic Government (Scotland) Act 1982(1) is amended in accordance with paragraphs (2) and (3).

(2) In subsection (2), after “shall” insert “subject to subsection (3) below”.

(3) After subsection (2), insert—

“(3) The one year period calculated in relation to a relevant cross-border dispute for the purposes of subsection (2) above is extended where it would, apart from this subsection, expire—

- (a) in the 8 weeks after the date that a mediation in relation to the dispute ends;
- (b) on the date that a mediation in relation to the dispute ends; or
- (c) after the date when all of the parties to the dispute agree to participate in a mediation in relation to the dispute but before the date that such mediation ends.

(4) Where subsection (3) applies, the period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(5) For the purpose of this section, mediation in relation to a relevant cross-border dispute ends when any of the following occurs—

- (a) all of the parties reach an agreement in resolution of the dispute;
- (b) all of the parties agree to end the mediation;
- (c) a party withdraws from the mediation, which is the date on which—
 - (i) a party informs all of the other parties of that party’s withdrawal,
 - (ii) in the case of a mediation involving 2 parties, 14 days expire after a request made by one party to the other party for confirmation of whether the other party has withdrawn, if the other party does not respond in that period, or
 - (iii) in the case of a mediation involving more than 2 parties, a party informs all of the remaining parties that the party received no response in the 14 days after a request to another party for confirmation of whether the other party had withdrawn; or
- (d) a period of 14 days expires after the date on which the mediator’s tenure ends (by reason of death, resignation or otherwise), if a replacement mediator has not been appointed.

(6) In this section—

“the Directive” means Directive [2008/52/EC](#) of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;

(1) [1982 c.45](#). Section 71 applies to the disposal of lost and abandoned property under Part VI of the 1982 Act, and by virtue of sections 83 and 86E, to the disposal of certain property in possession of persons taken into policy custody. Section 86E was inserted by section 6(4) of the Police (Property) Act [1997 \(c.30\)](#).

“mediation” and “mediator” have the meanings given by Article 3 of the Directive;
and

“relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive which is about the recovery of property to which this section applies.”.