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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 234**

**The Cross-Border Mediation (Scotland) Regulations 2011**

**Amendments to limitation periods in the Family Law (Scotland) Act 2006**

**9.**—(1) The Family Law (Scotland) Act 2006(1) is amended in accordance with paragraphs (2) to (4).

- (2) In section 28(8), at the beginning, insert “Subject to section 29A,”.
- (3) In section 29(6), at the beginning, insert “Subject to section 29A,”.
- (4) After section 29 insert—

**“29A. Extension of time limits for applications under sections 28 and 29: cross-border mediation**

- (1) This section applies to the calculation of—
  - (a) the one year period for the purposes of section 28(8) in relation to a relevant cross-border dispute; and
  - (b) the 6 month period for the purposes of section 29(6) in relation to a relevant cross-border dispute.
- (2) A period referred to in subsection (1) 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.
- (3) Where subsection (2) applies, the period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.
- (4) For the purposes 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14 days expire after a request made by one party to the other party for confirmation of whether the other party has withdrawn, if the other party does not respond in that period, or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after a request to another party for confirmation of whether the other party had withdrawn; or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.

(5) 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;

“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—

- (a) a sum which a court may order to be paid under section 28(2);
- (b) a sum which a court may order to be paid under section 29(2); or
- (c) property which a court may order to be transferred under section 29(2).”.