
SCOTTISH STATUTORY INSTRUMENTS

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14 days expire after a request made by one party to the other party for confirmation of whether the other party has withdrawn, if the other party does not respond in that period, or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after a request to another party for confirmation of whether the other party had withdrawn; or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).”.