



# Industrial and Provident Societies Act 1965

## 1965 CHAPTER 12

### *Disputes, offences and legal proceedings*

#### **60 Decision of disputes**

- (1) Subject to subsections (2), (4) and (5) of this section, every dispute between a registered society or an officer thereof and—
  - (a) a member of the society; or
  - (b) any person aggrieved who has ceased to be a member of the society not more than six months previously; or
  - (c) any person claiming through a member of the society or any such person aggrieved; or
  - (d) any person claiming under the rules of the society,shall, if the society's rules give directions as to the manner in which such disputes are to be decided, be decided in that manner.
- (2) Unless the rules of the society expressly forbid it, the parties to a dispute in a registered society may by consent refer the dispute to the chief registrar or to the assistant registrar for Scotland who shall either by himself or by some other registrar hear and determine the dispute.
- (3) A decision made under subsection (1) or (2) of this section on any dispute shall be binding and conclusive on all parties without appeal; and—
  - (a) the decision shall not be removable into any court of law or restrainable by injunction; and
  - (b) application for the enforcement of the decision may be made to the county court.
- (4) Subject to subsection (5) of this section, any dispute directed by the rules of a registered society to be referred to justices shall be determined by a magistrates' court.

- (5) Where, whether by virtue of subsection (4) of this section or otherwise, a dispute is cognisable under the rules of a registered society by a magistrates' court, the parties to the dispute may by agreement refer the dispute to the county court, who may hear and determine it.
- (6) Where the rules of a registered society contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, any person such as is mentioned in subsection (1)(a) to (d) of this section who is a party to the dispute may apply either to the county court or to a magistrates' court, who may hear and determine the matter in dispute.
- (7) In the application of the foregoing provisions of this section to Scotland—
- (a) in subsection (3), paragraph (a) shall be omitted and in paragraph (b) for the words " county court " there shall be substituted the word " sheriff ";
  - (b) subsections (4) to (6) shall not apply, but in Scotland—
    - (i) any dispute directed by the rules of a registered society to be referred to justices, a justice of the peace court, or a court of summary jurisdiction, shall be determined by the sheriff;
    - (ii) where the rules of a registered society contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under its rules, any person such as is mentioned in subsection (1)(a) to (d) of this section who is a party to the dispute may apply to the sheriff, who may hear and determine the matter in dispute.
- (8) For the purposes of the hearing or determination of a dispute under this section—
- (a) without prejudice to any powers exercisable in England or Wales by virtue of the Arbitration Act 1950, a registrar may administer oaths and require the attendance of all parties concerned and of witnesses and the production of all books and documents relating to the matter in question, and shall have power to order the expenses of determining the dispute to be paid either out of the funds of the society or by such parties to the dispute as he shall think fit; and any person refusing to attend, or to produce any documents, or to give evidence, before the registrar shall be liable on summary conviction to a fine not exceeding five pounds;
  - (b) in England and Wales, a magistrates' court may grant to either party such discovery as to documents and otherwise, or such inspection of documents, being, in the case of discovery to be made on behalf of the society, discovery by such officer of the society as the court may determine, as might have been granted by virtue of section 12 of the said Act of 1950 by a registrar to whom the dispute had been referred;
  - (c) in Scotland, a registrar may grant such warrant for the recovery of documents and examination of havers as might be granted by the sheriff.
- (9) Section 21 of the Arbitration Act 1950 shall not apply to any dispute referred under subsections (2) to (7) of this section and, notwithstanding anything in any other Act, the court or registrar to whom any dispute is so referred shall not be compelled to state a case on any question of law arising in the dispute but may at the request of either party state such a case for the opinion of the High Court or, as the case may be, the Court of Session.

## **61 General offences by societies, etc.**

If any registered society, or any officer or member thereof, or any other person—

- (a) fails to give any notice, send any return or other document, do anything or allow anything to be done which that society, officer, member or other person is by this Act required to give, send, do or allow to be done, as the case may be ; or
- (b) wilfully neglects or refuses to do any act, or to furnish any information, required for the purposes of this Act by the chief registrar or any assistant registrar or by any other person authorised under this Act, or does anything forbidden by this Act; or
- (c) makes a return required by this Act, or wilfully furnishes information so required, which is in any respect false or insufficient,

that society, officer, member or other person, as the case may be, shall be liable on summary conviction to a fine not exceeding five pounds.

## **62 Offences by societies to be also offences by officers, etc.**

Every offence committed by a registered society under this Act shall be deemed to have been also committed by every officer of that society bound by the society's rules to fulfil the duty of which that offence is a breach or, if there is no such officer, by every member of the society's committee who is not proved to have been ignorant of, or to have attempted to prevent, the commission of that offence.

## **63 Continuing offences**

Every act or default under this Act constituting an offence shall constitute a new offence in every week during which it continues.

## **64 Punishment of fraud or misappropriation**

- (1) Subject to subsection (2) of this section, any person who obtains possession by false representation or imposition of any property of a registered society, or having any such property in his possession withholds or misapplies it or wilfully applies any part of it to purposes which are not authorised by the rules of the society or which are not in accordance with this Act, shall be liable on summary conviction to a fine not exceeding twenty pounds with costs or expenses and to be ordered to deliver up that property or to repay all moneys improperly applied and, in default of such delivery or repayment or of the payment of any such fine, to be imprisoned for a term not exceeding three months; but nothing in this subsection shall prevent any such person from being proceeded against by way of indictment for any offence if he has not previously been convicted in respect of the same matters under this subsection.
- (2) If on proceedings under the foregoing subsection it is not proved that the person charged acted with any fraudulent intent, he may be ordered to deliver up any property belonging to the society or to repay any money improperly applied, with costs or expenses, but shall not be liable to conviction under that subsection.

## **65 Penalty for falsification**

If any person, with intent to falsify it or to evade any of the provisions of this Act, wilfully makes, or orders or allows to be made, any entry or erasure in, or omission

from, any balance-sheet of a registered society, or any contribution or collecting book, or any return or document required to be sent, produced or delivered for the purposes of this Act, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

## **66 Institution of proceedings**

- (1) Proceedings for the recovery of a fine which under this Act is recoverable on the summary conviction of the offender may be instituted by, and in England and Wales only by, the following persons, that is to say—
  - (a) in the case of proceedings by virtue of section 64(1) of this Act—
    - (i) the registered society concerned; or
    - (ii) any member of that society authorised by the society or its committee or by the central office; or
    - (iii) the chief registrar or, with the authority of the chief registrar, an assistant registrar;
  - (b) in the case of proceedings by virtue of section 13(3) of this Act, the registered society concerned ;
  - (c) in any other case, the chief registrar, any assistant registrar or any person aggrieved.
- (2) Notwithstanding any limitation on the time for the taking of proceedings contained in any Act, any proceedings such as are mentioned in subsection (1) of this section which are instituted by a registrar or procurator-fiscal may be brought at any time within one year of the first discovery of the offence by the appropriate registrar, but not in any case more than three years after the commission of the offence.

## **67 Recovery of costs etc.**

- (1) Any costs or expenses ordered or directed by the chief registrar or any other registrar to be paid by any person under this Act shall be recoverable summarily as a civil debt.
- (2) In the application of the foregoing subsection to Scotland, the word " summarily " shall be omitted.

## **68 Service of process**

Where proceedings are taken against a registered society for the recovery of any fine under this Act, the summons or other process shall be sufficiently served by leaving a true copy thereof at the registered office of the society or, if that office is closed, by posting that copy on the outer door of that office.