



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

## CHAPTER 40

### LAW REFORM (MISCELLANEOUS PROVISIONS) (SCOTLAND) ACT 1990

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19 Executry services by recognised financial institutions  
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36 Solicitors' and counsel's fees

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### SCHEDULES

#### SCHEDULE 1 — Scottish Conveyancing and Executry Services Board Part I — CONSTITUTION, DUTIES, POWERS AND STATUS

##### *Constitution*

- 1 The Scottish Conveyancing and Executry Services Board shall be a...
- 2 The Board shall not be regarded as the servant or...
- 3 The Board shall consist of— (a) a chairman; and
- 4 In making appointments under paragraph 3 above the Secretary of...
- 5 (1) Subject to paragraph 6 below, a member of the...
- 6 (1) The chairman or any other member of the Board...

##### *Remuneration*

- 7 (1) The Board may— (a) pay such remuneration to their...

##### *Staff*

- 8 The Board may employ such officers and servants as they...
- 9 (1) The Board shall make, in respect of such of...

##### *Proceedings*

- 10 (1) The Board may regulate their own proceedings.

##### *Performance of functions*

- 11 (1) Subject to the provisions of this Schedule, the Board...
- 12 Neither the Board nor any of their members, officers or...

##### *Accounts*

- 13 (1) The Board shall, in respect of each financial year,...

##### *Annual report*

- 14 The Board shall, as soon as possible after 31st March...

##### *Appeals*

- 15 (1) The Board shall establish a procedure under which they...

##### *Compensation*

- 16 (1) The Board shall establish and maintain a fund for...

*Parliamentary disqualification*

- 17 In Part II of Schedule 1 to the House of...  
     Part II — POWERS OF INVESTIGATION  
 18 The Board may exercise the power conferred by paragraph 19...  
 19 The Board may give notice in writing to a practitioner...  
 20 If a practitioner fails to comply with a notice under...

## SCHEDULE 2 — Publication of applications made under section 25

- 1 Any professional or other body making an application under section...  
 2 Any person may make written representations concerning any draft scheme...  
 3 At the same time as an application under section 25...  
 4 An advertisement such as referred to in paragraph 3 above...

## SCHEDULE 3 — Scottish Legal Services Ombudsman

- 1 The Scottish legal services ombudsman (the “ombudsman”) shall hold and...  
 2 The Secretary of State may give general directions to the...  
 3 (1) The Secretary of State may with the consent of...  
 4 The Secretary of State may appoint staff for the ombudsman...  
 5 Neither the ombudsman nor his staff are, in such capacity,...  
 6 The Secretary of State shall pay the expenses of the...  
 7 Without prejudice to section 33(3) of this Act, a professional...  
 8 Every such professional organisation shall, severally, consider any report which...  
 9 The ombudsman shall make an annual report of the discharge...  
 10 The Secretary of State shall lay any report made to...  
 11 In Part III of Schedule 1 to the House of...

## SCHEDULE 4 — Judicial Appointments

*Appointments of sheriffs principal, sheriffs and solicitors as judges of the Court of Session*

- 1 The following categories of person shall, in accordance with this...  
 2 Paragraph 1(a) above shall not confer any eligibility for appointment...  
 3 Paragraphs 1 and 2 above are without prejudice to any...

*Further provision as to Inner House and exchequer causes*

- 4 (1) The Court of Session Act 1988 shall be amended...

*Temporary judges*

- 5 Any person who is eligible under— (a) paragraph 1 above;...  
 6 Subject to paragraph 7 below, a person appointed as a...  
 7 Subject to paragraph 8 below, a person shall not, by...  
 8 A person appointed to be a temporary judge of the...  
 9 Notwithstanding the expiry of any period for which a person...  
 10 The Secretary of State may pay to a person appointed...  
 11 The appointment of a person to act as a temporary...

*Amendments to the Small Landholders (Scotland) Act 1911 (c. 49)*

- 12 (1) The Small Landholders (Scotland) Act 1911 shall be amended...

SCHEDULE 5 — Applications for Children’s Certificates

- 1 Applications may be made to a licensing board in accordance...
- 2 The holder of a public house licence or hotel licence...
- 3 (1) On any application for the grant of a children’s...
- 4 A copy of every application made under this Schedule shall...
- 5 A licensing board shall not, within two years of its...
- 6 An application for a new public house licence or hotel...
- 7 The grant of an application for a children’s certificate shall...
- 8 The grant of an application for a children’s certificate made...
- 9 If an application for a children’s certificate is made at...
- 10 The grant of an application for a children’s certificate shall...

SCHEDULE 6 — Supervised Attendance Orders: Further Provisions

- 1 (1) A court shall not make a supervised attendance order...
- 2 (1) A supervised attendance order shall— (a) specify the locality...
- 3 (1) An offender in respect of whom a supervised attendance...
- 4 (1) If at any time while a supervised attendance order...
- 5 (1) Where a supervised attendance order is in force in...
- 6 (1) The Secretary of State may make rules for regulating...
- 7 The Secretary of State shall lay before Parliament each year,...
- 8 In section 27 of the Social Work (Scotland) Act 1968...
- 9 (1) In this Schedule— “the appropriate court”, in relation to...

SCHEDULE 7 — UNCITRAL

— MODEL LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

**CHAPTER 1**

GENERAL PROVISIONS

Article 1

*Scope of application*

- (1) This Law applies to international commercial arbitration, subject to any...
- (2) The provisions of this Law, except articles 8, 9, 35...
- (3) An arbitration is international if: (a) the parties to an...
- (4) For the purposes of paragraph (3) of this article:
- (5) This Law shall not affect any other enactment or rule...

Article 2

*Definitions and rules of interpretation*

Article 3

*Receipt of written communications*

- (1) Unless otherwise agreed by the parties: (a) any written communication...
- (2) The provisions of this article do not apply to communications...

## Article 4

*Waiver of right to object*

## Article 5

*Extent of court intervention*

## Article 6

*Court for certain functions of arbitration assistance, supervision and enforcement***CHAPTER II**

## ARBITRATION AGREEMENT

## Article 7

*Definition and form of arbitration agreement*

- (1) “Arbitration agreement” is an agreement by the parties to submit...
- (2) The arbitration agreement shall be in writing. An agreement is...

## Article 8

*Arbitration agreement and substantive claim before court*

- (1) A court before which an action is brought in a...
- (2) Where an action referred to in paragraph (1) of this...

## Article 9

*Arbitration agreement and interim measures by court*

- (1) It is not incompatible with an arbitration agreement for a...
- (2) In paragraph (1) of this article “interim measure of protection”...
- (3) Where: (a) a party applies to a court for an...

**CHAPTER III**

## COMPOSITION OF ARBITRATION TRIBUNAL

## Article 10

*Number of arbitrators*

- (1) The parties are free to determine the number of arbitrators....
- (2) Failing such determination, there shall be a single arbitrator.

## Article 11

*Appointment of arbitrators*

- (1) No person shall be precluded by reason of his nationality...
- (2) The parties are free to agree on a procedure of...



- (3) Failing such agreement, (a) in an arbitration with three arbitrators,...
- (4) Where, under an appointment procedure agreed upon by the parties:...
- (5) A decision on a matter entrusted by paragraph (3) or...

#### Article 12

##### *Grounds for challenge*

- (1) When a person is approached in connection with his possible...
- (2) An arbitrator may be challenged only if circumstances exist that...

#### Article 13

##### *Challenge procedure*

- (1) The parties are free to agree on a procedure for...
- (2) Failing such agreement, a party who intends to challenge an...
- (3) If a challenge under any procedure agreed upon by the...

#### Article 14

##### *Failure or impossibility to act*

- (1) If an arbitrator becomes de jure or de facto unable...
- (2) If, under this article or article 13(2), an arbitrator withdraws...

#### Article 15

##### *Appointment of substitute arbitrator*

### CHAPTER IV

#### JURISDICTION OF ARBITRAL TRIBUNAL

#### Article 16

##### *Competence of arbitral tribunal to rule on its jurisdiction*

- (1) The arbitral tribunal may rule on its own jurisdiction, including...
- (2) A plea that the arbitral tribunal does not have jurisdiction...
- (3) The arbitral tribunal may rule on a plea referred to...

#### Article 17

##### *Power of arbitral tribunal to order interim measures*

- (1) Unless otherwise agreed by the parties, the arbitral tribunal may,...
- (2) An order under paragraph (1) of this article shall take...

### CHAPTER V

#### CONDUCT OF ARBITRAL PROCEEDINGS

## Article 18

*Equal treatment of parties*

## Article 19

*Determination of rules of procedure*

- (1) Subject to the provisions of this Law, the parties are...
- (2) Failing such agreement, the arbitral tribunal may, subject to the...

## Article 20

*Place of arbitration*

- (1) The parties are free to agree on the place of...
- (2) Notwithstanding the provisions of paragraph (1) of this article, the...

## Article 21

*Commencement of arbitral proceedings*

## Article 22

*Language*

- (1) The parties are free to agree on the language or...
- (2) The arbitral tribunal may order that any documentary evidence shall...

## Article 23

*Statements of claim and defence*

- (1) Within the period of time agreed by the parties or...
- (2) Unless otherwise agreed by the parties, either party may amend...

## Article 24

*Hearings and written proceedings*

- (1) Subject to any contrary agreement by the parties, the arbitral...
- (2) The parties shall be given sufficient advance notice of any...
- (3) All statements, documents or other information supplied to the arbitral...

## Article 25

*Default of a party*

## Article 26

*Expert appointed by arbitral tribunal*

- (1) Unless otherwise agreed by the parties, the arbitral tribunal:
- (2) Unless otherwise agreed by the parties, if a party so...

## Article 27

### *Court assistance in taking evidence*

## CHAPTER VI

### MAKING OF AWARD AND TERMINATION OF PROCEEDINGS

## Article 28

### *Rules applicable to substance of dispute*

- (1) The arbitral tribunal shall decide the dispute in accordance with...
- (2) Failing any designation by the parties, the arbitral tribunal shall...
- (3) The arbitral tribunal shall decide ex aequo et bono or...
- (4) In all cases, the arbitral tribunal shall decide in accordance...

## Article 29

### *Decision making by panel of arbitrators*

## Article 30

### *Settlement*

- (1) If, during arbitral proceedings, the parties settle the dispute, the...
- (2) An award on agreed terms shall be made in accordance...

## Article 31

### *Form and contents of award*

- (1) The award shall be made in writing and shall be...
- (2) The award shall state the reasons upon which it is...
- (3) The award shall state its date and the place of...
- (4) After the award is made, a copy signed by the...

## Article 32

### *Termination of proceedings*

- (1) The arbitral proceedings are terminated by the final award or...
- (2) The arbitral tribunal shall issue an order for the termination...
- (3) The mandate of the arbitral tribunal terminates with the termination...

## Article 33

### *Correction and interpretation of award and making of additional award*

- (1) Within thirty days of receipt of the award, unless another...
- (2) The arbitral tribunal may correct any error of the type...
- (3) Unless otherwise agreed by the parties, a party, with notice...
- (4) The arbitral tribunal may extend, if necessary, the period of...
- (5) The provisions of article 31 shall apply to a correction...

**CHAPTER VII**

## RECOURSE AGAINST AWARD

## Article 34

*Application for setting aside as exclusive recourse against arbitral award*

- (1) Recourse to a court against an arbitral award may be...
- (2) An arbitral award may be set aside by the court...
- (3) An application for setting aside may not be made after...
- (4) The court, when asked to set aside an award, may,...

**CHAPTER VIII**

## RECOGNITION AND ENFORCEMENT OF AWARDS

## Article 35

*Recognition and enforcement*

- (1) An arbitral award, irrespective of the country in which it...
- (2) The party relying on an award or applying for its...

## Article 36

*Grounds for refusing recognition or enforcement*

- (1) Recognition or enforcement of an arbitral award, irrespective of the...
- (2) If an application for setting aside or suspension of an...

## SCHEDULE 8 — Amendment of Enactments

## Part I — AMENDMENTS TO THE LICENSING (SCOTLAND) ACT 1976

- 1 The Licensing (Scotland) Act 1976 shall be amended as follows...
- 2 In subsection (2) of section 5 (restriction on power of...
- 3 In subsection (6) of that section after the words “(a)...
- 4 In subsection (3) of section 6 (voting by chairman) the...
- 5 In section 16 (persons who may object to licence applications)—...
- 6 In section 17 (grounds for refusal of an application), for...
- 7 In section 18 (giving of reasons for decisions of a...
- 8 In section 21 (issue of licences)— (a) in subsection (1),...
- 9 In section 33 (occasional licence for premises other than licensed...
- 10 In subsection (1) of section 34 of that Act (occasional...
- 11 (1) Section 39 (appeals against the decisions of licensing boards)...
- 12 In section 64— (a) in subsection (1), after the words...
- 13 In each of subsections (1) and (2) of section 69...
- 14 In section 70 (children in premises in respect of which...
- 15 In section 97 (restrictions on supply of alcoholic liquor on...
- 16 In paragraph (j) of section 108 (grounds of objection to...
- 17 In subsection (1) of section 109 (cancellation of certificate of...
- 18 In section 139 (interpretation) after subsection (4) there shall be...

## Part II — MISCELLANEOUS

*The Probate and Legacy Duties Act 1808 (c. 149)*

19 In section 38 of the Probate and Legacy Duties Act...

*The Confirmation of Executors (Scotland) Act 1823 (c. 98)*

20 (1) In section 3 of the Confirmation of Executors (Scotland)...

*The Judicial Factors Act 1849 (c. 51)*

21 (1) In section 5 (factor to lodge monies in one...

*The Confirmation of Executors (Scotland) Act 1858 (c. 56)*

22 (1) In section 2 of the Confirmation of Executors (Scotland)...

*The Promissory Oaths Act 1868 (c. 72)*

23 In the second part of the Schedule to the Promissory...

*The Intestates Widows and Children (Scotland) Act 1875 (c. 41)*

24 (1) In section 3 of the Intestates Widows and Children...

*The Small Testate Estates (Scotland) Act 1876 (c. 24)*

25 (1) In section 3 of the Small Testate Estates (Scotland)...

*The Sheriff Courts (Scotland) Act 1971 (c. 58)*

26 (1) For subsection (1) of section 33 (Sheriff Court Rules...

*The Criminal Procedure (Scotland) Act 1975 (c. 21)*

27 (1) The Criminal Procedure (Scotland) Act 1975 shall be amended...

*The Community Service by Offenders (Scotland) Act 1978 (c. 49)*

28 In section 4 of the Community Service by Offenders (Scotland)...

*The Solicitors (Scotland) Act 1980 (c. 46)*

29 (1) The Solicitors (Scotland) Act 1980 shall be amended as...

*The Criminal Justice (Scotland) Act 1980 (c. 62)*

30 (1) For section 76 of the Criminal Justice (Scotland) Act...

*The Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c. 59)*

31 (1) In section 6(3)(e) of the Matrimonial Homes (Family Protection)...

*The Representation of the People Act 1983 (c. 2)*

32 Section 42(3)(b) of the Representation of the People Act 1983...

*The Companies Act 1985 (c. 6)*

33 (1) The Companies Act 1985 shall be amended as follows....

*The Family Law (Scotland) Act 1985 (c. 37)*

34 In section 8(1) of the Family Law (Scotland) Act 1985...

*The Insolvency Act 1986 (c. 45)*

35 Section 53(3) of the Insolvency Act 1986 (execution of instrument...

*The Legal Aid (Scotland) Act 1986 (c. 47)*

36 (1) In subsection (3) of section 4 (Scottish Legal Aid...

*The Criminal Justice (Scotland) Act 1987 (c. 41)*

37 In section 6(1) of the Criminal Justice (Scotland) Act 1987...

*The Court of Session Act 1988 (c. 36)*

38 For section 48 (limited right of audience of solicitor before...

*The Antarctic Minerals Act 1989 (c. 21)*

39 In subsection (2) of section 7 of the Antarctic Minerals...

SCHEDULE 9 — Repeals