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STATUTORY INSTRUMENTS

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**2015 No. 1392**

**The Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015**

**PART 3**

**Amendments to Primary Legislation**

**Amendments to the Prescription and Limitation (Scotland) Act 1973**

**3.—**(1) The Prescription and Limitation (Scotland) Act 1973<sup>(1)</sup> is amended as follows.

(2) In section 14 (computation of prescriptive periods)<sup>(2)</sup>—

(a) after subsection (1C) insert—

“(1D) The prescriptive period calculated in relation to a relevant consumer dispute for the purposes of any provision of this Part of this Act is extended where the last day of the period would, apart from this subsection fall—

- (a) after the date when the non-binding ADR procedure starts but before the date that such a procedure ends;
- (b) on the date that a non-binding ADR procedure in relation to the dispute ends; or
- (c) in the 8 weeks after the date that a non-binding ADR procedure in relation to the dispute ends.

(1E) Where subsection (1D) applies, the prescriptive period is extended so that it expires on the date falling 8 weeks after the date on which the non-binding ADR procedure ends.

(1F) For the purposes of subsections (1D)(a) and (1E), a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity’s rules regarding the submission of complaints.

(1G) For the purposes of subsections (1D) and (1E), a non-binding ADR procedure ends on the date that any of the following occurs—

- (a) all of the parties reach an agreement in resolution of the relevant consumer dispute;
- (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
- (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;

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<sup>(1)</sup> 1973 c. 52.

<sup>(2)</sup> Section 14 was amended by paragraph 6 of Schedule 1 to the Prescription and Limitation Act 1984 (c.45) and regulation 5(2), (3)(a) and (b) of S.I. 2011/234.

- (d) the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that, in accordance with its policy, the ADR entity refuses to deal with the relevant consumer dispute;
  - (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
  - (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.”;
- (b) in subsection (2), at the relevant places insert the following definitions—
- ““ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;”;
  - ““ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;”;
  - ““ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;”;
  - ““ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive;”;
  - ““non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;”;
  - ““qualifying request” is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure;”;
  - ““relevant consumer dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader);”.

#### **Amendments to the Limitation Act 1980**

- 4.—(1) The Limitation Act 1980(3) is amended as follows.
- (2) In section 12(3) (special time limit for actions under Fatal Accidents legislation)(4), after “33A”, insert “, 33B”.
- (3) After section 33A (extension of time limits because of mediation in certain cross-border disputes)(5), insert—

*“Alternative Dispute Resolution in certain cross border or domestic contractual disputes*

#### **33B Extension of time limits because of alternative dispute resolution in certain cross border or domestic contractual disputes**

- (1) In this section—
- (a) “ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;
  - (b) “ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;

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(3) 1980 c. 58.

(4) Section 12 was amended by section 6(6) and paragraph 2 of Schedule 1 to the Consumer Protection Act 1987 (c.43) and regulation 24 of S.I. 2011/1133.

(5) Section 33A was inserted by regulation 26 of S.I. 2011/1133.

- (c) “ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;
  - (d) “ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive;
  - (e) “non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;
  - (f) “relevant dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader).
- (2) Subsection (3) applies where—
- (a) a time limit under this Act relates to the subject of the whole or part of a relevant dispute;
  - (b) a non-binding ADR procedure in relation to the relevant dispute starts before the time limit expires; and
  - (c) if not extended by this section, the time limit would expire before the non-binding ADR procedure ends or less than eight weeks after it ends.
- (3) For the purposes of initiating judicial proceedings, the time limit expires instead at the end of eight weeks after the non-binding ADR procedure ends (subject to subsection (4)).
- (4) If a time limit has been extended by this section, subsections (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in subsection (2)(a).
- (5) Where more than one time limit applies in relation to a relevant dispute, the extension by subsection (3) of one of those time limits does not affect the others.
- (6) For the purposes of this section, a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity’s rules regarding the submission of complaints.
- (7) For the purposes of this section, the non-binding ADR procedure ends on the date of the first of these to occur—
- (a) the parties reach an agreement in resolution of the relevant dispute;
  - (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
  - (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
  - (d) the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that, in accordance with its policy, the ADR entity refuses to deal with the relevant dispute;
  - (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
  - (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.
- (8) For the purpose of subsection (7), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure.
- (9) In the case of any relevant dispute, references in this section to a non-binding ADR procedure are references to the non-binding ADR procedure so far as it relates to that dispute, and references to a party are to be read accordingly.”

## Amendments to the Foreign Limitation Periods Act 1984

5.—(1) The Foreign Limitation Periods Act 1984<sup>(6)</sup> is amended as follows.

(2) In section 1(1)(a) (application of foreign limitation law)<sup>(7)</sup>, for “section 1A” substitute “sections 1A and 1B”.

(3) After section 1A (extension of limitation periods because of mediation of certain cross-border disputes)<sup>(8)</sup>, insert—

### **“1B Extension of limitation periods because of alternative dispute resolution in certain cross-border or domestic contractual disputes**

(1) In this section—

- (a) “ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;
- (b) “ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;
- (c) “ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;
- (d) “ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive;
- (e) “non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;
- (f) “relevant dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader).

(2) Subsection (3) applies where—

- (a) a limitation period prescribed by any law applicable by virtue of section 1(1)(a) relates to the subject of the whole or part of a relevant dispute;
- (b) a non-binding ADR procedure in relation to the relevant dispute starts before the period expires; and
- (c) if not extended by this section, the period would expire before the non-binding ADR procedure ends or less than eight weeks after it ends.

(3) For the purposes of initiating judicial proceedings, the limitation period expires instead at the end of eight weeks after the non-binding ADR procedure ends (subject to subsection (4)).

(4) If a limitation period has been extended by this section, subsections (2) and (3) apply to the extended limitation period as they apply to a limitation period mentioned in subsection (2) (a).

(5) For the purposes of this section, a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity’s rules regarding the submission of complaints.

(6) For the purposes of this section, the non-binding ADR procedure ends on the date of the first of these to occur—

- (a) the parties reach an agreement in resolution of the relevant dispute;

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<sup>(6)</sup> 1984 c.16.

<sup>(7)</sup> Section 1 was amended by regulation 28 of S.I. 2011/1133.

<sup>(8)</sup> Section 1A was inserted by regulation 29 of S.I. 2011/1133.

- (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
  - (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
  - (d) the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that in accordance with its policy, the ADR entity refuses to deal with the relevant dispute;
  - (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
  - (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.
- (7) For the purpose of subsection (6), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure.
- (8) In the case of any relevant dispute, references in this section to a non-binding ADR procedure are references to the non-binding ADR procedure so far as it relates to that dispute, and references to a party are to be read accordingly.
- (9) This section is without prejudice to any enactment which has effect for the purposes of provisions—
- (a) relating to limitation or prescription periods, and
  - (b) contained in an international agreement to which the United Kingdom is a party.”.

### **Amendments to Schedule 13 to the Enterprise Act 2002**

6. In Part 2 of Schedule 13 to the Enterprise Act 2002 (provisions of Directives)(9)—
- (a) in the heading, after “Directives” insert “and Regulations”;
  - (b) after paragraph 13 insert—

“14. Article 14 of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) 2006/2004 and Directive 2009/22/EC.”.

### **Amendments to the Equality Act 2010**

- 7.—(1) The Equality Act 2010(10) is amended as follows.
- (2) In section 118(1) (time limits)(11) for “section 140A” substitute “sections 140A and 140AA”.
  - (3) After 140A (extension of time limits because of mediation in certain cross-border disputes) (12) insert—

#### **“140AA Extension of time limits because of alternative dispute resolution in certain cross border or domestic contractual disputes**

- (1) In this section—

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(9) 2002 c.40. Part 2 of Schedule 13 was amended by paragraph 19 of Schedule 1 to S.I. 2005/2759, paragraph 70(c) of Part 2 of Schedule 2 to S.I. 2008/1277, regulation 16(b) of S.I. 2011/1208 and regulation 20(1) of S.I. 2015/542.

(10) 2010 c.15.

(11) Section 118 was amended by section 64(13) of the Enterprise and Regulatory Reform Act 2013 (c.24) and regulation 55 of S.I. 2011/1133.

(12) Section 140A was inserted by regulation 58 of S.I. 2011/1133.

- (a) “ADR Directive” means Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;
  - (b) “ADR entity” has the meaning given by article 4(1)(h) of the ADR Directive;
  - (c) “ADR official” means an individual who (solely or with other persons) is involved in the provision of ADR procedures offered by an ADR entity, whether as a case handler or in a management capacity;
  - (d) “ADR procedure” has the meaning given by article 4(1)(g) of the ADR Directive;
  - (e) “non-binding ADR procedure” means an ADR procedure the outcome of which is not binding on the parties;
  - (f) “relevant dispute” means a dispute to which Article 12(1) of the ADR Directive applies (certain cross-border or domestic contractual disputes brought by a consumer against a trader).
- (2) Subsection (3) applies where—
- (a) a time limit is set by section 118(1)(a) and (2) in relation to the whole or part of a relevant dispute;
  - (b) a non-binding ADR procedure in relation to the relevant dispute starts before the time limit expires; and
  - (c) if not extended by this section, the time limit would expire before the non-binding ADR procedure ends or less than eight weeks after it ends.
- (3) For the purposes of initiating judicial proceedings, the time limit expires instead at the end of eight weeks after the non-binding ADR procedure ends (subject to subsection (4)).
- (4) If a time limit has been extended by this section, subsections (2) and (3) apply to the extended time limit as they apply to a time limit mentioned in subsection (2)(a).
- (5) Where more than one time limit applies in relation to a relevant dispute, the extension by subsection (3) of one of those time limits does not affect the others.
- (6) For the purposes of this section, a non-binding ADR procedure starts in relation to a relevant dispute on the date when the dispute is first sent or otherwise communicated to the ADR entity in accordance with the entity’s rules regarding the submission of complaints.
- (7) For the purposes of this section, the non-binding ADR procedure ends on the date of the first of these to occur—
- (a) the parties reach an agreement in resolution of the relevant dispute;
  - (b) a party completes the notification of the other parties that it has withdrawn from the non-binding ADR procedure;
  - (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
  - (d) that the ADR entity notifies the party that submitted the relevant dispute to the ADR entity that, in accordance with its policy, the ADR entity refuses to deal with the relevant dispute;
  - (e) after the parties are notified that the ADR entity can no longer act in relation to the relevant dispute (for whatever reason), the parties fail to agree within 14 days to submit the dispute to an alternative ADR entity;
  - (f) the non-binding ADR procedure otherwise comes to an end pursuant to the rules of the ADR entity.
- (8) For the purpose of subsection (6), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the non-binding ADR procedure.

(9) In the case of any relevant dispute, references in this section to a non-binding ADR procedure are references to the non-binding ADR procedure so far as it relates to that dispute, and references to a party are to be read accordingly.

(10) Where a court or tribunal has power under section 118(1)(b) to extend a period of limitation, the power is exercisable in relation to the period of limitation as extended by this section.”