

PRESCRIPTION (SCOTLAND) ACT 2018

EXPLANATORY NOTES

THE ACT – COMMENTARY ON SECTIONS

The structure of the Act

Section 10 - Definition of “relevant claim”

37. Section 9 of the 1973 Act defines “relevant claim” for the purposes of the Act. A relevant claim is a claim made by or on behalf of the creditor for implement or part-implement of the obligation, which claim must be made in one of certain specific ways. Although liquidation is mentioned in section 9(1)(d), it seems an anomaly that neither administration (process for a company in debt that cannot pay the money it owes) nor receivership (a receiver is appointed by a party holding a floating charge over some or all of the company's assets) is.
38. Accordingly, section 10(2) expands the definition of “relevant claim” to include the submission of a claim in an administration or receivership, and the acts that trigger administration or receivership.
39. Subsection (3) of section 10 inserts the expanded definition of “relevant claim” into section 22A(3) of the 1973 Act which sets out a separate definition in relation to the 10-year prescription which applies to obligations to make reparation for damage caused wholly or partly by a defect in a product.