



# Prescription (Scotland) Act 2018

## 2018 asp 15

PROSPECTIVE

### *20-year negative prescription*

#### **6 Obligations: 20-year prescriptive period and extension**

- (1) The 1973 Act is amended as follows.
- (2) In section 7 (extinction of obligations by prescriptive periods of twenty years)—
  - (a) for subsection (1) substitute—

“(1) An obligation to which this section applies is extinguished on the expiry of the continuous period of 20 years after the date on which the obligation became enforceable.”,
  - (b) after subsection (2) insert—

“(3) Subsection (4) applies if—

    - (a) a relevant claim is made in relation to an obligation to which this section applies,
    - (b) the claim is made before the time at which the prescriptive period mentioned in subsection (1) would, but for subsection (4), expire, and
    - (c) at that time—
      - (i) the claim has not been finally disposed of, and
      - (ii) the proceedings in which the claim is made have not otherwise come to an end.
- (4) The prescriptive period is extended so that it expires—
  - (a) when the claim is finally disposed of, or
  - (b) when the proceedings in which the claim is made come to an end (where the proceedings come to an end without the claim having been finally disposed of).

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Prescription (Scotland) Act 2018, Cross Heading: 20-year negative prescription. (See end of Document for details)*

(5) In subsections (3) and (4), the references to proceedings in which a relevant claim is made include references to any other process in or by which a relevant claim is made.”.

- (3) In section 10 (relevant acknowledgement for purposes of sections 6 and 7)—
- (a) in each of subsections (1), (2)(a) and (3), for “sections 6 7 and 8A” substitute “ sections 6 and 8A ”,
  - (b) in the section title, for “7” substitute “ 8A ”.

## **7 Property rights: 20-year prescriptive period and extension**

(1) Section 8 (extinction of other rights relating to property by prescriptive periods of twenty years) of the 1973 Act is amended as follows.

(2) In subsection (1), the words “, and without any relevant claim in relation to it having been made,” are repealed.

(3) After subsection (1) insert—

“(1A) Subsection (1B) applies if—

- (a) a relevant claim is made in relation to a right to which this section applies,
- (b) the claim is made before the time at which the prescriptive period mentioned in subsection (1) would, but for subsection (1B), expire, and
- (c) at that time—
  - (i) the claim has not been finally disposed of, and
  - (ii) the proceedings in which the claim is made have not otherwise come to an end.

(1B) The prescriptive period is extended so that it expires—

- (a) when the claim is finally disposed of, or
- (b) when the proceedings in which the claim is made come to an end (where the proceedings come to an end without the claim having been finally disposed of).

(1C) If the relevant claim (as finally disposed of) is successful, the right is to be treated for the purposes of subsection (1) as having been exercised or enforced by the creditor at the time when the claim was made.”.

## **8 Start point of prescriptive period for obligations to pay damages**

In section 11 (obligations to make reparation) of the 1973 Act, for subsection (4) substitute—

“(4) For the purposes of section 7 of this Act, any obligation referred to in subsection (1) of this section is to be regarded as having become enforceable on—

- (a) the date on which the act or omission occurred (or the last such date, where there was more than one act or omission), or
- (b) where the act or omission was a continuing one, the date on which it ceased.”.

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Prescription (Scotland) Act 2018, Cross Heading: 20-year negative prescription.