



Prescription and Limitation (Scotland) Act 1973

1973 CHAPTER 52

PART I

PRESCRIPTION

Negative Prescription

6 Extinction of obligations by prescriptive periods of five years.

- (1) If, after the appropriate date, an obligation to which this section applies has subsisted for a continuous period of five years—
- (a) without any relevant claim having been made in relation to the obligation, and
 - (b) without the subsistence of the obligation having been relevantly acknowledged,

then as from the expiration of that period the obligation shall be extinguished:
Provided that in its application to an obligation under a bill of exchange or a promissory note this subsection shall have effect as if paragraph (b) thereof were omitted.

- (2) Schedule 1 to this Act shall have effect for defining the obligations to which this section applies.
- (3) In subsection (1) above the reference to the appropriate date, in relation to an obligation of any kind specified in Schedule 2 to this Act is a reference to the date specified in that Schedule in relation to obligations of that kind, and in relation to an obligation of any other kind is a reference to the date when the obligation became enforceable.
- (4) In the computation of a prescriptive period in relation to any obligation for the purposes of this section—
- (a) any period during which by reason of—
 - (i) fraud on the part of the debtor or any person acting on his behalf, or

Changes to legislation: Prescription and Limitation (Scotland) Act 1973, Section 6 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(ii) error induced by words or conduct of the debtor or any person acting on his behalf,

the creditor was induced to refrain from making a relevant claim in relation to the obligation, and

(b) any period during which the original creditor (while he is the creditor) was under legal disability,

shall not be reckoned as, or as part of, the prescriptive period:

Provided that any period such as is mentioned in paragraph (a) of this subsection shall not include any time occurring after the creditor could with reasonable diligence have discovered the fraud or error, as the case may be, referred to in that paragraph.

(5) Any period such as is mentioned in paragraph (a) or (b) of subsection (4) of this section shall not be regarded as separating the time immediately before it from the time immediately after it.

Modifications etc. (not altering text)

- C1** S. 6 extended by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:2\)](#), **s. 113(11)**
- C2** S. 6 modified (25.9.1991) by [Age of Legal Capacity Act 1991 \(c. 50, SIF 49:8\)](#), **ss.8, 11(2)**.
S. 6 applied (with modifications) (*prosp.*) by 2000 asp 5, **ss. 57, 77(2)** (with **ss. 58, 62, 75**)
- C3** S. 6 applied (with modifications) by 1974 c. 38, s. 5 and 6 (as modified (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), **ss. 57, 71, 77(2)** (with **ss. 58, 62, 75**)); S.S.I. 2003/456, art. 2
- C4** S. 6 excluded by 1998 c. 41, Sch. 8A para. 17(3) (as inserted (9.3.2017) by [The Claims in respect of Loss or Damage arising from Competition Infringements \(Competition Act 1998 and Other Enactments \(Amendment\)\) Regulations 2017 \(S.I. 2017/385\)](#), reg. 1(2), **Sch. 1 para. 4** (with Sch. 1 para. 5))
- C5** S. 6 excluded (9.6.2018) by [The Trade Secrets \(Enforcement, etc.\) Regulations 2018 \(S.I. 2018/597\)](#), regs. 1(1), **4(5)** (with reg. 19)
- C6** S. 6(4) extended by [Merchant Shipping \(Liner Conferences\) Act 1982 \(c. 37, SIF 111\)](#), **s. 8(3)**
- C7** S. 6(4)(a)(ii) excluded (with effect in accordance with s. 321(2) of the commencing Act) by [Finance Act 2004 \(c. 12\)](#), **s. 321**

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 6(4) words substituted by [2018 asp 15 s. 4\(2\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(4A) inserted by [2018 asp 15 s. 4\(3\)](#)
- s. 7(3)-(5) inserted by [2018 asp 15 s. 6\(2\)\(b\)](#)
- s. 7A inserted by [2018 asp 15 s. 9\(2\)](#)
- s. 8(1A)-(1C) inserted by [2018 asp 15 s. 7\(3\)](#)
- s. 9(1)(e)-(h) inserted by [2018 asp 15 s. 10\(2\)\(b\)](#)
- s. 9(2A) inserted by [2018 asp 15 s. 11\(2\)](#)
- s. 9A inserted by [2018 asp 15 s. 12](#)
- s. 13A inserted by [2018 asp 15 s. 14\(2\)](#)
- s. 22A(3)(d)-(g) inserted by [2018 asp 15 s. 10\(3\)\(b\)](#)
- s. 22A(7A) inserted by [2018 asp 15 s. 14\(3\)](#)
- s. 32(2) applied (with modifications) by [2021 asp 9 s. 69\(8\)](#)
- Sch. 1 para. 1(fa)(fb) inserted by [2018 asp 15 s. 2\(2\)](#)
- Sch. 1 para. 1(h) inserted by [2018 asp 15 s. 3\(2\)\(b\)](#)
- Sch. 1 para. 2(fa)-(fd) inserted by [2018 asp 15 s. 3\(3\)\(b\)](#)
- Sch. 1 para. 1(d)(da) substituted for Sch. 1 para. 1(d) by [2018 asp 15 s. 1\(2\)](#)
- Sch. 1 para. 2(e)(ea) substituted for Sch. 1 para. 2(e) by [2018 asp 15 s. 3\(3\)\(a\)](#)