
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive [2008/52/EC](#) of the European Parliament and of the Council on certain aspects of mediation in civil and commercial matters. The Regulations apply to “cross-border disputes” about such matters. A cross-border dispute is defined in Article 2 of the Directive as a dispute in which at least one party is domiciled or habitually resident in a Member State other than that of another party. These Regulations accordingly do not cover disputes between parties resident in different jurisdictions in the UK.

Regulation 3 provides that mediators and those involved in the administration of mediation are not compelled to give evidence in civil and commercial judicial proceedings or arbitration.

Regulations 4 to 9 provide for the extension of prescription and limitation periods so that these do not expire during the mediation process. Regulations 4 to 6 amend general prescription and limitation provisions in the Prescription and Limitation (Scotland) Act 1973.

Regulation 7 amends section 71 of the Civic Government (Scotland) Act 1982, which sets a one year time limit for recovery by the original owner of property transferred to someone else by the police.

Regulation 8 amends section 37 of the Rent (Scotland) Act 1984, which sets a two year time limit for recovery by a tenant from a landlord, certain sums paid on account of rent.

Regulation 9 amends sections 28 and 29 of the Family Law (Scotland) Act 2006. Section 28 sets a one year time limit for a cohabitant to apply for payment of an amount by the other cohabitant after they have split up. Section 29 sets a six month time limit for a cohabitant to apply for payment or transfer of property out of an intestate estate after the other cohabitant has died.

In each case, the amendments provide that in cross-border cases, where a period would otherwise have expired while mediation is ongoing or within 8 weeks of it ending, the period will be extended so that it will expire 8 weeks after the end of mediation.