

2022 No. 78 (C. 6)

PRESCRIPTION

The Prescription (Scotland) Act 2018 (Commencement, Saving and Transitional Provisions) Regulations 2022

Made - - - - *24th February 2022*

Laid before the Scottish Parliament *28th February 2022*

Coming into force - - *1st June 2022*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 17(2) of the Prescription (Scotland) Act 2018(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Prescription (Scotland) Act 2018 (Commencement, Saving and Transitional Provisions) Regulations 2022 and come into force on 1 June 2022.

(2) In these Regulations—

“prescriptive period” has the meaning given in section 15(1) (interpretation of Part 1) of the 1973 Act,

“the 1973 Act” means the Prescription and Limitation (Scotland) Act 1973(b),

“the 2018 Act” means the Prescription (Scotland) Act 2018.

Appointed days

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the 2018 Act insofar as not already in force is 28 February 2025.

(a) 2018 asp 15. Section 17(3) contains further provision about Regulations made under section 17(2).
(b) 1973 c. 52. That Act is relevantly amended by the Interpretation Act 1978 (c. 30), section 25(2); the Local Government, Planning and Land Act 1980 (c. 65), section 113(11); the Merchant Shipping (Liner Conferences) Act 1982 (c. 37), section 8(3); the Prescription and Limitation (Scotland) Act 1984 (c. 45), sections 5(3) and 6(1) and (2), schedule 1, paragraphs 2 to 7 and schedule 2; the Bankruptcy (Scotland) Act 1985 (c. 66), section 75(1) and schedule 7, paragraph 11; the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), section 12(5); the Prescription (Scotland) Act 1987 (c. 36), section 1(1), (2) and (3); the Consumer Protection Act 1987 (c. 43), sections 6, 41(2), 47(1) and (2), 48(3), schedule 1, paragraphs 8 to 11 and schedule 5; the Requirements of Writing (Scotland) Act 1995 (c. 7), schedule 5, paragraph 1; the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), section 12(a), schedule 12, paragraph 33 and schedule 13, paragraph 1; the Leasehold Casualties (Scotland) Act 2001 (asp 5), section 4(a); the Title Conditions (Scotland) Act 2003 (asp 9), section 88(a) and (b), schedule 14, paragraph 5 and schedule 5, paragraph 18; the Tenements (Scotland) Act 2004 (asp 11), section 15(a); the Management of Offenders etc. (Scotland) Act 2005 (asp 14), section 20(4); the Arbitration (Scotland) Act 2010 (asp 1), section 23(2)(a), (2)(b) and (c), (3)(b), (5) and (6); the Damages (Scotland) Act 2011 (asp 7), schedule 1 paragraph 2; the Land Registration etc. (Scotland) Act 2012 (asp 5), schedule 5, paragraph 18; the Long Leases (Scotland) Act 2012 (asp 9), section 60; the Bankruptcy (Scotland) Act 2016 (asp 21), schedule 8, paragraph 6; the Social Security (Scotland) Act 2018 (asp 9), section 66(2); S.I. 2011/1133; S.S.I. 2011/234; S.S.I. 2014/190; S.I. 2014/870; S.I. 2015/1392 and S.I. 2015/1972.

(2) The day appointed for the coming into force of section 5 (start point of prescriptive period for obligations to pay damages) and section 13 (restrictions on contracting out) of the 2018 Act is 1 June 2022.

Saving provisions

3.—(1) Amendments to the 1973 Act made by the 2018 Act, except for those made by sections 5 and 13, have no effect in relation to any right or obligation which was extinguished before the day appointed in regulation 2(1).

(2) Section 5 of the 2018 Act has no effect in relation to any right or obligation which was extinguished before the day appointed in regulation 2(2).

Transitional provisions

4.—(1) Where amendments to the 1973 Act made by the 2018 Act would, apart from this regulation, have the effect that a prescriptive period expired before the day appointed in regulation 2(1), the amendments instead have the effect that the prescriptive period is extended so that it expires on the day before the day appointed in regulation 2(1).

(2) Paragraph (1) does not apply to the amendments made by sections 5 and 13 of the 2018 Act.

ASH REGAN

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
24th February 2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force the provisions of the Prescription (Scotland) Act 2018 “the 2018 Act”, insofar as not already in force. The Bill for the 2018 Act received Royal Assent on 18 December 2018. Sections 15, 17 and 18 of the 2018 Act came into force on the following day. The 2018 Act makes amendments to the Prescription and Limitation (Scotland) Act 1973 (“the 1973 Act”).

Regulation 2(1) provides that the amendments made to the 1973 Act by the 2018 Act, except for those made by sections 5 and 13, come into force on 28 February 2025. Regulation 2(2) provides that sections 5 and 13 of the 2018 Act come into force on 1 June 2022.

Regulation 3(1) makes provision that, generally, amendments made to the 1973 Act by the 2018 Act have no effect for rights or obligations which have prescribed according to the 1973 Act (as it stood prior to amendment by the 2018 Act) before the day appointed in regulation 2(1). Regulation 3(2) makes provision that the commencement of section 5 of the 2018 Act will have no effect for rights or obligations which have prescribed according to the 1973 Act (as it stood prior to amendment by the 2018 Act) before the day appointed in regulation 2(2). Regulation 3(2) does not make provision in relation to section 13 of the 2018 Act. The commencement of section 13 enables an agreement to be made, on a day from or after the day appointed in regulation 2(2), and in terms of section 13(2)(a) of the 1973 Act (as substituted by section 13 of the 2018 Act) the agreement can only be made during the prescriptive period for the obligation, to extend it. Section 13(2)(a) of the 1973 Act does not allow an agreement to revive rights or obligations which are already extinguished before the day appointed in regulation 2(2).

Where amendments made to the 1973 Act by the 2018 Act would have the effect that a prescriptive period expired before the day appointed in regulation 2(1), regulation 4 makes provision extending the prescriptive period to the day before the day appointed in regulation 2(1). By virtue of regulation 3(1), the provision in regulation 4 has no effect in relation to rights or obligations which have prescribed before the day appointed in regulation 2(1) in accordance with the 1973 Act (as it stood prior to amendment by the 2018 Act). Sections 5 and 13 of the 2018 Act are excepted from the effects of regulation 4. Those sections come into force earlier on the day appointed by regulation 2(2).

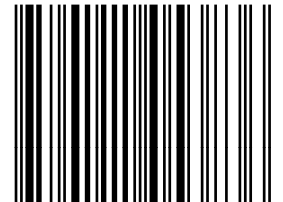
© Crown copyright 2022

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen’s Printer for Scotland.

£4.90

<http://www.legislation.gov.uk/id/ssi/2022/78>

ISBN 978-0-11-105383-6



9 780111 053836