



Prescription and Limitation (Scotland) Act 1973

1973 CHAPTER 52

PART I

PRESCRIPTION

General

14 Computation of prescriptive periods.

- (1) In the computation of a prescriptive period for the purposes of any provision of this Part of this Act—
- (a) time occurring before the commencement of this Part of this Act shall be reckonable towards the prescriptive period in like manner as time occurring thereafter, but subject to the restriction that any time reckoned under this paragraph shall be less than the prescriptive period;
 - (b) any time during which any person against whom the provision is pled was under legal disability shall (except so far as otherwise provided by [^{F1}subsection (4) of section 6 of this Act including that subsection as applied by section 8A of this Act] of this Act) be reckoned as if the person were free from that disability;
 - (c) if the commencement of the prescriptive period would, apart from this paragraph, fall at a time in any day other than the beginning of the day, the period shall be deemed to have commenced at the beginning of the next following day;
 - (d) if the last day of the prescriptive period would, apart from this paragraph, be a holiday, the period shall, notwithstanding anything in the said provision, be extended to include any immediately succeeding day which is a holiday, any further immediately succeeding days which are holidays, and the next succeeding day which is not a holiday;

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- (e) save as otherwise provided in this Part of this Act regard shall be had to the like principles as immediately before the commencement of this Part of this Act were applicable to the computation of periods of prescription for the purposes of the ^{M1}Prescription Act 1617.

[^{F2}(1A) The prescriptive period calculated in relation to a relevant cross-border dispute for the purposes of any provision of this Part of this Act is extended where the last day of the period would, apart from this subsection, fall—

- (a) in the 8 weeks after the date that a mediation in relation to the dispute ends;
- (b) on the date that a mediation in relation to the dispute ends; or
- (c) after the date when all of the parties to the dispute agree to participate in a mediation in relation to the dispute but before the date that such mediation ends.

(1B) Where subsection (1A) applies, the prescriptive period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.

(1C) For the purposes of subsections (1A) and (1B), a mediation ends on the date that any of the following occurs—

- (a) all of the parties reach an agreement in resolution of the dispute;
- (b) all of the parties agree to end the mediation;
- (c) a party withdraws from the mediation, which is the date on which—
 - (i) a party informs all of the other parties of that party’s withdrawal,
 - (ii) in the case of a mediation involving 2 parties, 14 days expire after a request made by one party to the other party for confirmation of whether the other party has withdrawn, if the other party does not respond in that period, or
 - (iii) in the case of a mediation involving more than 2 parties, a party informs all of the remaining parties that the party received no response in the 14 days after a request to another party for confirmation of whether the other party had withdrawn; or
- (d) a period of 14 days expires after the date on which the mediator’s tenure ends (by reason of death, resignation or otherwise), if a replacement mediator has not been appointed.]

(2) In this section [^{F3}—

“the Directive” means Directive [2008/52/EC](#) of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;]

“holiday” means a day of any of the following descriptions, namely, a Saturday, a Sunday and a day which, in Scotland, is a bank holiday under the ^{M2}Banking and Financial Dealings Act 1971;

[^{F4} “mediation” and “mediator” have the meanings given by Article 3 of the Directive; and

“relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive—

- (a) which is about a right or obligation to which a prescriptive period applies by virtue of this Part of this Act; and
- (b) to which the Directive applies.]

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Textual Amendments

- F1** Words substituted by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), s. 6(1), **Sch. 1 para. 6**
- F2** S. 14(1A)-(1C) inserted (6.4.2011) by [Cross-Border Mediation \(Scotland\) Regulations 2011 \(S.S.I. 2011/234\)](#), regs. 1(1), **5(2)** (with reg. 1(2)(3))
- F3** Words in s. 14(2) inserted (6.4.2011) by [Cross-Border Mediation \(Scotland\) Regulations 2011 \(S.S.I. 2011/234\)](#), regs. 1(1), **5(3)(a)** (with reg. 1(2)(3))
- F4** Words in s. 14(2) inserted (6.4.2011) by [Cross-Border Mediation \(Scotland\) Regulations 2011 \(S.S.I. 2011/234\)](#), regs. 1(1), **5(3)(b)** (with reg. 1(2)(3))

Modifications etc. (not altering text)

- C1** S. 14 applied (with modifications) (4.4.2003 for specified purposes, 28.11.2004 in so far as not already in force) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 18(4)**, 122(1), 129(2), 129(5)(d) (with **ss. 119**, 121) (see [S.S.I. 2003/456](#), art. 2)

Marginal Citations

- M1** 1617 c. 12.
M2 1971 c. 80(10).

15 Interpretation of Part I.

- (1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, namely—

“bill of exchange” has the same meaning as it has for the purposes of the ^{M3}Bills of Exchange Act 1882;

“date of execution”, in relation to a deed executed on several dates, means the last of those dates;

“enactment” includes an order, regulation, rule or other instrument having effect by virtue of an Act;

“holiday” has the meaning assigned to it by section 14 of this Act;

^{F5}
...

“land” includes heritable property of any description;

“lease” includes a sub-lease;

“legal disability” means legal disability by reason of nonage or unsoundness of mind;

“possession” includes civil possession, and “possessed” shall be construed accordingly;

“prescriptive period” means a period required for the operation of section 1, 2, 3, 6, 7 [^{F6}8 or 8A] of this Act;

“promissory note” has the same meaning as it has for the purposes of the Bills of Exchange Act 1882;

“trustee” includes any person holding property in a fiduciary capacity for another and, without prejudice to that generality, includes a trustee within the meaning of the ^{M4}Trusts (Scotland) Act 1921; and “trust” shall be construed accordingly;

and references to the recording of a deed are references to the recording thereof in the General Register of Sasines.

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- (2) In this Part of this Act, unless the context otherwise requires, any reference to an obligation or to a right includes a reference to the right or, as the case may be, to the obligation (if any), correlative thereto.
- (3) In this Part of this Act any reference to an enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended, and as including a reference thereto as applied, by or under any other enactment.

Textual Amendments

- F5** Words in s. 15(1) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 paras. 33(4), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F6** Words substituted by [Prescription and Limitation \(Scotland\) Act 1984](#) (c. 45, SIF 97), s. 6(1), **Sch. 1 para. 7**

Marginal Citations

- M3** [1882 c. 61\(13\)](#).
- M4** [1921 c. 58\(128\)](#).

16 Amendments and repeals related to Part I.

- (1) The enactment specified in Part I of Schedule 4 to this Act shall have effect subject to the amendment there specified, being an amendment related to this Part of this Act.
- (2) Subject to the next following subsection, the enactments specified in Part I of Schedule 5 to this Act (which includes certain enactments relating to the limitation of proof) are hereby repealed to the extent specified in column 3 of that Schedule.
- (3) Where by virtue of any Act repealed by this section the subsistence of an obligation in force at the date of the commencement of this Part of this Act was immediately before that date, by reason of the passage of time, provable only by the writ or oath of the debtor the subsistence of the obligation shall (notwithstanding anything in [F7sections 16(1) and 17(2)(a) of the M5Interpretation Act 1978], which relates to the effect of repeals) as from that date be provable as if the said repealed Act had not passed.

Textual Amendments

- F7** Words substituted by virtue of [Interpretation Act 1978](#) (c. 30, SIF 115:1), **s. 25(2)**

Modifications etc. (not altering text)

- C2** The text of s. 16(1) and Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M5** [1978 c. 30\(115:1\)](#).

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