



Prescription and Limitation (Scotland) Act 1973

1973 CHAPTER 52

[^{F1}PART IIA

PREScription OF OBLIGATIONS AND LIMITATION OF ACTIONS
UNDER PART I OF THE CONSUMER PROTECTION ACT 1987

Textual Amendments

F1 Part 2A (ss. 22A–22D) inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), ss. 6, 41(2), 47(1)(2), [Sch. 1 para. 10](#)

[^{F2} Prescription of Obligations

Textual Amendments

F2 Part IIA (ss. 22A–22D) inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), ss. 6, 41(2), 47(1)(2), [Sch. 1 para. 10](#)

22A Ten years' prescription of obligations.

- (1) An obligation arising from liability under section 2 of the 1987 Act (to make reparation for damage caused wholly or partly by a defect in a product) shall be extinguished if a period of 10 years has expired from the relevant time, unless a relevant claim was made within that period and has not been finally disposed of, and no such obligation shall come into existence after the expiration of the said period.
- (2) If, at the expiration of the period of 10 years mentioned in subsection (1) above, a relevant claim has been made but has not been finally disposed of, the obligation to which the claim relates shall be extinguished when the claim is finally disposed of.

Status: Point in time view as at 30/11/2016.

Changes to legislation: Prescription and Limitation (Scotland) Act 1973, Part IIA is up to date with all changes known to be in force on or before 24 March 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)

- (3) In this section—
 a claim is finally disposed of when—
- (a) a decision disposing of the claim has been made against which no appeal is competent;
 - (b) an appeal against such a decision is competent with leave, and the time limit for leave has expired and no application has been made or leave has been refused;
 - (c) leave to appeal against such a decision is granted or is not required, and no appeal is made within the time limit for appeal; or
 - (d) the claim is abandoned;

“ relevant claim ” in relation to an obligation means a claim made by or on behalf of the creditor for implement or part implement of the obligation, being a claim made—

 - (a) in appropriate proceedings within the meaning of section 4(2) of this Act; or
 - (b) by the presentation of, or the concurring in, a petition for sequestration or by the submission of a claim under section [F346 or 122 of the Bankruptcy (Scotland) Act 2016]; or
 - (c) by the presentation of, or the concurring in, a petition for the winding up of a company or by the submission of a claim in a liquidation in accordance with the rules made under section 411 of the Insolvency Act ^{MI} 1986;

“ relevant time ” has the meaning given in section 4(2) of the 1987 Act.
- (4) Where a relevant claim is made in an arbitration, [F4the date when the arbitration begins (within the meaning of section 4(4) of this Act)] shall be taken for those purposes to be the date of the making of the claim.]
- [The prescriptive period calculated in relation to a relevant cross-border dispute for the
- ^{F5}(5) purposes of this section is extended where the last day of the period would, apart from this subsection, fall—
- (a) in the eight 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.
- (6) Where subsection (5) applies, the prescriptive period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.
- (7) For the purposes of subsections (5) and (6), 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 seeking 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

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- in the 14 days after that party's request to another party seeking 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 (whether by reason of death, resignation or otherwise), if a replacement mediator has not been appointed.

(8) In this section—

“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;

“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 an obligation to which a prescriptive period applies by virtue of this section, and
- (b) to which the Directive applies.]

Textual Amendments

- F3** Words in s. 22A(3) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 6\(3\)](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F4** Words in s. 22A(4) substituted (7.6.2010 for specified purposes) by [Arbitration \(Scotland\) Act 2010 \(asp 1\)](#), [ss. 23\(5\), 35\(2\)](#) (with ss. 30, 34, 36); S.S.I. 2010/195, art. 2 (with art. 3)
- F5** Ss. 22A(5)-(8) inserted (with application in accordance with regs. 3, 4 of the amending S.I.) by [Cross-Border Mediation \(EU Directive\) Regulations 2011 \(S.I. 2011/1133\)](#), regs. 2, 17

Marginal Citations

- M1** [1986 c. 45 \(66\)](#).

¶^{F6} Limitation of actions

Textual Amendments

- F6** Part IIA (ss. 22A–22D) inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), ss. 6, 41(2), 47(1)(2), [Sch. 1 para. 10](#)

22B 3 year limitation of actions.

- (1) This section shall apply to an action to enforce an obligation arising from liability under section 2 of the 1987 Act (to make reparation for damage caused wholly or partly by a defect in a product), except where section 22C of this Act applies.
- (2) Subject to subsection (4) below, an action to which this section applies shall not be competent unless it is commenced within the period of 3 years after the earliest date on which the person seeking to bring (or a person who could at an earlier date have brought) the action was aware, or on which, in the opinion of the court, it was reasonably practicable for him in all the circumstances to become aware, of all the facts mentioned in subsection (3) below.

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- (3) The facts referred to in subsection (2) above are—
 - (a) that there was a defect in a product;
 - (b) that the damage was caused or partly caused by the defect;
 - (c) that the damage was sufficiently serious to justify the pursuer (or other person referred to in subsection (2) above) in bringing an action to which this section applies on the assumption that the defender did not dispute liability and was able to satisfy a decree;
 - (d) that the defender was a person liable for the damage under the said section 2.
- (4) In the computation of the period of 3 years mentioned in subsection (2) above, there shall be disregarded any period during which the person seeking to bring the action was under legal disability by reason of nonage or unsoundness of mind.
- (5) The facts mentioned in subsection (3) above do not include knowledge of whether particular facts and circumstances would or would not, as a matter of law, result in liability for damage under the said section 2.
- (6) Where a person would be entitled, but for this section, to bring an action for reparation other than one in which the damages claimed are confined to damages for loss of or damage to property, the court may, if it seems to it equitable to do so, allow him to bring the action notwithstanding this section.]

I_{F7}22C Actions under the 1987 Act where death has resulted from personal injuries.

- (1) This section shall apply to an action to enforce an obligation arising from liability under section 2 of the 1987 Act (to make reparation for damage caused wholly or partly by a defect in a product) where a person has died from personal injuries and the damages claimed include damages for those personal injuries or that death.
- (2) Subject to subsection (4) below, an action to which this section applies shall not be competent unless it is commenced within the period of 3 years after the later of—
 - (a) the date of death of the injured person;
 - (b) the earliest date on which the person seeking to make (or a person who could at an earlier date have made) the claim was aware, or on which, in the opinion of the court, it was reasonably practicable for him in all the circumstances to become aware—
 - (i) that there was a defect in the product;
 - (ii) that the injuries of the deceased were caused (or partly caused) by the defect; and
 - (iii) that the defender was a person liable for the damage under the said section 2.
- (3) Where the person seeking to make the claim is a relative of the deceased, there shall be disregarded in the computation of the period mentioned in subsection (2) above any period during which that relative was under legal disability by reason of nonage or unsoundness of mind.
- (4) Where an action to which section 22B of this Act applies has not been brought within the period mentioned in subsection (2) of that section and the person subsequently dies in consequence of his injuries, an action to which this section applies shall not be competent in respect of those injuries or that death.

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- (5) Where a person would be entitled, but for this section, to bring an action for reparation other than one in which the damages claimed are confined to damages for loss of or damage to property, the court may, if it seems to it equitable to do so, allow him to bring the action notwithstanding this section.
- (6) In this section “ relative ” has the same meaning as in the [Damages (Scotland) Act 2011].
- (7) For the purposes of subsection (2)(b) above there shall be disregarded knowledge of whether particular facts and circumstances would or would not, as a matter of law, result in liability for damage under the said section 2.]

Textual Amendments

F7 Part IIA (ss. 22A–22D) inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), ss. 6, 41(2), 47(1)(2), [Sch. 1 para. 10](#)

[^{F8}22CA] **Interruption of limitation period for 1987 Act actions: arbitration**

- (1) Any period during which an arbitration is ongoing in relation to a matter is to be disregarded in any computation of the period specified in section 22B(2) or 22C(2) of this Act in relation to that matter.
- (2) In this section, “ arbitration ” means—
 - (a) any arbitration in Scotland,
 - (b) any arbitration in a country other than Scotland, being an arbitration an award in which would be enforceable in Scotland.]

Textual Amendments

F8 S. 22CA inserted (7.6.2010 for specified purposes) by [Arbitration \(Scotland\) Act 2010 \(asp 1\)](#), ss. [23\(6\)](#), [35\(2\)](#) (with ss. [30](#), [34](#), [36](#)); S.S.I. 2010/195, art. 2 (with art. 3)

[^{F9}22CB] **Extension of limitation periods for 1987 Act actions: mediation**

- (1) The limitation period calculated in relation to a relevant cross-border dispute for the purposes of section 22B(2) or 22C(2) 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.
- (2) Where subsection (1) applies, the limitation period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.
- (3) For the purposes of this section, 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;

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- (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 seeking 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 that party’s request to another party seeking 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 (whether by reason of death, resignation or otherwise), if a replacement mediator has not been appointed.

(4) In this section—

“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;

“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 matter to which a limitation period applies by virtue of section 22B or 22C, and
- (b) to which the Directive applies.]

Textual Amendments

F9 S. 22CB inserted (with application in accordance with regs. 3, 4 of the amending S.I.) by [Cross-Border Mediation \(EU Directive\) Regulations 2011 \(S.I. 2011/1133\)](#), [regs. 2, 18](#)

F¹⁰ Supplementary

Textual Amendments

F10 Part IIA (ss. 22A–22D) inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), [ss. 6, 41\(2\)](#), [47\(1\)\(2\)](#), [Sch. 1 para. 10](#)

22D Interpretation of this Part.

- (1) Expressions used in this Part and in Part I of the 1987 Act shall have the same meanings in this Part as in the said Part I.
- (2) For the purposes of section 1(1) of the 1987 Act, this Part shall have effect and be construed as if it were contained in Part I of that Act.
- (3) In this Part, “ the 1987 Act ” means the ^{M2} Consumer Protection Act 1987.]]

Status: Point in time view as at 30/11/2016.

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Marginal Citations

M2 1987 c. 43 (109:1).

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..... **F11**

Textual Amendments

F11 S. 23 repealed (with saving) by Consumer Protection Act 1987 (c. 43, SIF 109:1), ss. 6, 41(2), 47(1) (2), 48(3), Sch. 1 para. 11, **Sch. 5**

Status:

Point in time view as at 30/11/2016.

Changes to legislation:

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