



Prescription and Limitation (Scotland) Act 1973

1973 CHAPTER 52

[^{F2}PART IIA

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

[^{F1} *Limitation of actions*

Textual Amendments

F1 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](#)

[^{F2}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.
- (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;

Status: Point in time view as at 20/05/2011.

Changes to legislation: Prescription and Limitation (Scotland) Act 1973, Cross Heading: Limitation of actions is up to date with all changes known to be in force on or before 30 June 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)

- (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.]

Textual Amendments

F2 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](#)

[^{F3}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 ^{M1}1976.
- (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

F3 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](#)

Marginal Citations

M1 [1976 c. 13 \(122:3\)](#).

Interruption of limitation period for 1987 Act actions: arbitration

F4 **22CA**

- (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

F4 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)

Extension of limitation periods for 1987 Act actions: mediation

F5 **22CB**

- (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.

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- (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;
 - (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

- F5** 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**

Status:

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Changes to legislation:

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