



Prescription and Limitation (Scotland) Act 1973

1973 CHAPTER 52

PART II

LIMITATION OF ACTIONS

[^{F1}16A Part II not to extend to product liability.

—This Part of this Act does not apply to any action to which section 22B or 22C of this Act applies.]

Textual Amendments

F1 S. 16A inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), ss. 6, 41(2), 47(1)(2), [Sch. 1 para. 9](#)

[^{F2}17 Actions in respect of personal injuries not resulting in death.

- (1) This section applies to an action of damages where the damages claimed consist of or include damages in respect of personal injuries, being an action (other than an action to which section 18 of this Act applies) brought by the person who sustained the injuries or any other person.
- (2) Subject to subsection (3) below and section 19A of this Act, no action to which this section applies shall be brought unless it is commenced within a period of 3 years after—
 - (a) the date on which the injuries were sustained or, where the act or omission to which the injuries were attributable was a continuing one, that date or the date on which the act or omission ceased, whichever is the later; or
 - (b) the date (if later than any date mentioned in paragraph (a) above) on which the pursuer in the action became, or on which, in the opinion of the court, it

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would have been reasonably practicable for him in all the circumstances to become, aware of all the following facts—

- (i) that the injuries in question were sufficiently serious to justify his bringing an action of damages on the assumption that the person against whom the action was brought did not dispute liability and was able to satisfy a decree;
 - (ii) that the injuries were attributable in whole or in part to an act or omission; and
 - (iii) that the defender was a person to whose act or omission the injuries were attributable in whole or in part or the employer or principal of such a person.
- (3) In the computation of the period specified in subsection (2) above there shall be disregarded any time during which the person who sustained the injuries was under legal disability by reason of nonage or unsoundness of mind.]

Textual Amendments

- F2** Ss. 17, 18 substituted for ss. 17–19 by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), ss. 2, 5(1)

Modifications etc. (not altering text)

- C1** S. 17 modified (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), ss. 8, 11(2).
- C2** S. 17 modified (17.6.2009) by [Damages \(Asbestos-related Conditions\) \(Scotland\) Act 2009 \(asp 4\)](#), ss. 3(2), 4(1) (with s. 5(2)); S.S.I. 2009/172, art. 2

18 Actions where death has resulted from personal injuries.

- (1) This section applies to any action in which, following the death of any person from personal injuries, damages are claimed in respect of the injuries or the death.
- (2) Subject to subsections (3) and (4) below and section 19A of this Act, no action to which this section applies shall be brought unless it is commenced within a period of 3 years after—
- (a) the date of death of the deceased; or
 - (b) the date (if later than the date of death) on which the pursuer in the action became, or on which, in the opinion of the court, it would have been reasonably practicable for him in all the circumstances to become, aware of both of the following facts—
 - (i) that the injuries of the deceased were attributable in whole or in part to an act or omission; and
 - (ii) that the defender was a person to whose act or omission the injuries were attributable in whole or in part or the employer or principal of such a person.
- (3) Where the pursuer is a relative of the deceased, there shall be disregarded in the computation of the period specified in subsection (2) above any time during which the relative was under legal disability by reason of nonage or unsoundness of mind.
- (4) Subject to section 19A of this Act, where an action of damages has not been brought by or on behalf of a person who has sustained personal injuries within the period specified

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in section 17(2) of this Act and that person subsequently dies in consequence of those injuries, no action to which this section applies shall be brought in respect of those injuries or the death from those injuries.

(5) In this section “relative” has the same meaning as in ^[F3]the Damages (Scotland) Act 2011].

Textual Amendments

F3 Words in s. 18(5) substituted (7.7.2011) by Damages (Scotland) Act 2011 (asp 7), s. 19(3), **Sch. 1 para. 2(1)** (with ss. 17, 19(2)); S.S.I. 2011/268, art. 3 (with art. 4)

Modifications etc. (not altering text)

C3 S. 18 modified (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), **ss. 8, 11(2)**.

C4 S. 18 modified (17.6.2009) by Damages (Asbestos-related Conditions) (Scotland) Act 2009 (asp 4), **ss. 3(2), 4(1)** (with s. 5(2)); S.S.I. 2009/172, art. 2

^[F4] 18A Limitation of defamation and other actions.

- (1) Subject to subsections (2) and (3) below and section 19A of this Act, no action for defamation shall be brought unless it is commenced within a period of 3 years after the date when the right of action accrued.
- (2) In the computation of the period specified in subsection (1) above there shall be disregarded any time during which the person alleged to have been defamed was under legal disability by reason of nonage or unsoundness of mind.
- (3) Nothing in this section shall affect any right of action which accrued before the commencement of this section.
- (4) In this section—
 - (a) “defamation” includes *convicium* and malicious falsehood, and “defamed” shall be construed accordingly; and
 - (b) references to the date when a right of action accrued shall be construed as references to the date when the publication or communication in respect of which the action for defamation is to be brought first came to the notice of the pursuer.]

Textual Amendments

F4 S. 18A inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36: 1), **s. 12(2)**

Modifications etc. (not altering text)

C5 S. 18A modified (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), **ss. 8, 11(2)**.

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[^{F5}18B] Actions of harassment.

- (1) This section applies to actions of harassment (within the meaning of section 8 [^{F6}or section 8A] of the Protection from Harassment Act 1997) which include a claim for damages.
- (2) Subject to subsection (3) below and to section 19A of this Act, no action to which this section applies shall be brought unless it is commenced within a period of 3 years after—
 - (a) the date on which the alleged harassment ceased; or
 - (b) the date, (if later than the date mentioned in paragraph (a) above) on which the pursuer in the action became, or on which, in the opinion of the court, it would have been reasonably practicable for him in all the circumstances to have become, aware, that the defender was a person responsible for the alleged harassment or the employer or principal of such a person.
- (3) In the computation of the period specified in subsection (2) above there shall be disregarded any time during which the person who is alleged to have suffered the harassment was under legal disability by reason of nonage or unsoundness of mind.]

Textual Amendments

F5 S. 18B inserted (16.6.1997) by 1997 c. 40, **ss. 10(1)**; S.I. 1997/1418, **art. 2**

F6 Words in s. 18B(1) inserted (21.7.2011) by Domestic Abuse (Scotland) Act 2011 (asp 13), **ss. 1(4), 5(2)**

[^{F7}19A] Power of court to override time-limits etc.

- (1) Where a person would be entitled, but for any of the provisions of [^{F8}section 17, 18, 18A or 18B] of this Act, to bring an action, the court may, if it seems to it equitable to do so, allow him to bring the action notwithstanding that provision.
- (2) The provisions of subsection (1) above shall have effect not only as regards rights of action accruing after the commencement of this section but also as regards those, in respect of which a final judgment has not been pronounced, accruing before such commencement.
- (3) In subsection (2) above, the expression “ final judgment ” means an interlocutor of a court of first instance which, by itself, or taken along with previous interlocutors, disposes of the subject matter of a cause notwithstanding that judgment may not have been pronounced on every question raised or that the expenses found due may not have been modified, taxed or decerned for; but the expression does not include an interlocutor dismissing a cause by reason only of a provision mentioned in subsection (1) above.]

[^{F9}(4) An action which would not be entertained but for this section shall not be tried by jury.]

Textual Amendments

F7 S. 19A inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), **s. 23(a)**

F8 Words in s. 19A(1) substituted (16.7.1997) by virtue of 1997 c. 40, **ss. 10(2)**; S.I. 1997/1418, **art. 2**

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F9 S. 19A(4) added by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), s. 6(1), [Sch. 1 para. 8\(b\)](#)

[^{F10}19B Actions for recovery of property obtained through unlawful conduct etc.

- (1) None of the time limits given in the preceding provisions of this Act applies to any proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 (civil recovery of proceeds of unlawful conduct).
- (2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be commenced after the expiration of the period of [^{F11}20 years] from the date on which the Scottish Ministers' right of action accrued.
- (3) Proceedings under that Chapter are commenced when—
 - (a) the proceedings are served, or
 - ^{F12}(aa) [an application is made for a prohibitory property order, or
 - (b) an application is made for an interim administration order, whichever is the [^{F13}earliest].
- (4) The Scottish Ministers' right of action accrues in respect of any recoverable property—
 - (a) in the case of proceedings for a recovery order in respect of property obtained through unlawful conduct, when the property is so obtained,
 - (b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained through unlawful conduct which it represents is so obtained.

[Subsection (4) is subject to section 13(5) of the Criminal Finances Act 2017 (which ^{F14}(4A) provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).]

- (5) Expressions used in this section and Part 5 of that Act have the same meaning in this section as in that Part.]

Textual Amendments

- F10** S. 19B inserted (24.2.2003) by [2002 c. 29, ss.288\(2\)](#), 458(1); S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- F11** Words in s. 19B(2) substituted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 62](#), 116(1); S.I. 2009/3096, art. 3(h)
- F12** S. 19B(3)(aa) inserted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(7)(b), [Sch. 6 para. 1\(a\)](#); S.I. 2005/3136, art. 2(b)
- F13** Word in s. 19B(3) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(7)(b), [Sch. 6 para. 1\(b\)](#); S.I. 2005/3136, art. 2(b)
- F14** S. 19B(4A) inserted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 1](#)

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[^{F15}19BA] Actions to prohibit dealing with property subject to an external request

- (1) None of the time limits given in the preceding provisions of this Act applies to any proceedings under Part 4B of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 (giving effect to external requests by means of civil proceedings).
- (2) Proceedings under that Part for a prohibition order in respect of relevant property shall not be commenced after the expiration of the period of 20 years from the date on which the Scottish Ministers' right of action accrued.
- (3) Proceedings under that Part are commenced when an application is made for a prohibition order.
- (4) The Scottish Ministers' right of action accrues in respect of any relevant property when the property is obtained (or when it is believed to have been obtained) as a result of or in connection with criminal conduct.
- (5) In this section—
 - (a) “criminal conduct” is to be construed in accordance with section 447(8) of the Proceeds of Crime Act 2002,
 - (b) expressions used in this section and Part 4B of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 have the same meaning in this section as in that Part.]

Textual Amendments

- F15** S. 19BA inserted (11.11.2013) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) \(Amendment\) Order 2013 \(S.I. 2013/2604\)](#), arts. 1(1), **6(2)**

[^{F16}19C] Actions for recovery of property for the purposes of an external order

- (1) None of the time limits given in the preceding provisions of this Act applies to any proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 [^{F17}(“the 2005 Order”)] (civil proceedings for the realisation of property to give effect to an external order).
- (2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be commenced after the expiration of the period of [^{F18}20 years] from the date on which the Scottish Ministers' right of action accrued.
- (3) Proceedings under that Chapter are commenced when—
 - (a) the proceedings are served,
 - (b) an application is made for a prohibitory property order, or
 - (c) an application is made for an interim administration order,
 whichever is the earliest.

[If, before an event mentioned in subsection (3) occurs, an application is made for a
^{F19}(3A) prohibition order under Part 4B of the 2005 Order, proceedings under that Chapter are to be treated as having been commenced when that application is made.]

- (4) The Scottish Ministers' right of action accrues in respect of any recoverable property—
 - (a) in the case of proceedings for a recovery order in respect of property obtained, or believed to have been obtained, as a result of or in connection with criminal conduct, when the property is so obtained,

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- (b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained, or believed to have been obtained, as a result of or in connection with criminal conduct which it represents is so obtained.
- (5) In this section—
- (a) “criminal conduct” is to be construed in accordance with section 447(8) of the Proceeds of Crime Act 2002, and
- (b) expressions used in this section which are also used in Part 5 of ^{F20}the 2005 Order] have the same meaning in this section as in that Part.]

Textual Amendments

- F16** S. 19C inserted (1.1.2006) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) Order 2005 \(S.I. 2005/3181\)](#), arts. 1, **201(2)**
- F17** Words in s. 19C(1) inserted (11.11.2013) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) \(Amendment\) Order 2013 \(S.I. 2013/2604\)](#), arts. 1(1), **6(3)(a)**
- F18** Words in s. 19C(2) substituted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. **62**, 116(1); S.I. 2009/3096, art. 3(h)
- F19** S. 19C(3A) inserted (11.11.2013) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) \(Amendment\) Order 2013 \(S.I. 2013/2604\)](#), arts. 1(1), **6(3)(b)**
- F20** Words in s. 19C(5)(b) substituted (11.11.2013) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) \(Amendment\) Order 2013 \(S.I. 2013/2604\)](#), arts. 1(1), **6(3)(c)**

^{F21}19CA Interruption of limitation period: 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 17(2), 18(2), 18A(1) or 18B(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

- F21** S. 19CA inserted (7.6.2010 for specified purposes) by [Arbitration \(Scotland\) Act 2010 \(asp 1\)](#), ss. **23(4)**, 35(2) (with ss. 30, 34, 36); S.S.I. 2010/195, art. 2 (with art. 3)

^{F22}19D Actions for exploitation proceeds orders

- (1) None of the time limits given in the preceding provisions of this Act applies to proceedings under Part 7 of the Coroners and Justice Act 2009 (criminal memoirs etc) for an exploitation proceeds order.
- (2) Proceedings under that Part for such an order are not to be brought after the expiration of 5 years from the date on which the enforcement authority's right of action accrued.
- (3) Proceedings under that Part for such an order are brought when an application is made for the order.

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- (4) Where exploitation proceeds have been obtained by a person from a relevant offence, an enforcement authority's right of action under that Part in respect of those proceeds accrues when the enforcement authority has actual knowledge that the proceeds have been obtained.
- (5) Expressions used in this section and that Part have the same meaning in this section as in that Part.]

Textual Amendments

F22 S. 19D inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 171(3), 182(5) (with s. 180); S.I. 2010/816, art. 2, Sch. para. 11

[^{F23}19F Extension of limitation periods: cross-border mediation

- (1) The limitation period calculated in relation to a relevant cross-border dispute for the purposes of sections 17, 18, 18A or 18B 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.
- (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 purpose of this section, mediation in relation to a relevant cross-border dispute ends when 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.
- (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;

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“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 sections 17 to 18B; and
- (b) to which the Directive applies.]

Textual Amendments

F23 S. 19F inserted (6.4.2011) by [Cross-Border Mediation \(Scotland\) Regulations 2011 \(S.S.I. 2011/234\)](#), regs. 1(1), 6 (with reg. 1(2)(3))

20, 21. ^{F24}

Textual Amendments

F24 Ss. 20 and 21 repealed by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), s. 6(2), [Sch. 2](#)

[^{F25}22 Interpretation of Part II and supplementary provisions.

- (1) In this Part of this Act—
 - “ the court ” means the Court of Session or the sheriff court; and
 - “ personal injuries ” includes any disease and any impairment of a person’s physical or mental condition.
- (2) Where the pursuer in an action to which section 17 [^{F26}, 18 or 18A] of this Act applies is pursuing the action by virtue of the assignation of a right of action, the reference in subsection (2)(b) of the said section 17 or [^{F26} of the said section 18 or, as the case may be, subsection (4)(b) of the said section 18A] to the pursuer in the action shall be construed as a reference to the assignor of the right of action.
- (3) For the purposes of the said subsection (2)(b) knowledge that any act or omission was or was not, as a matter of law, actionable, is irrelevant.
- (4) An action which would not be entertained but for the said subsection (2)(b) shall not be tried by jury.]

Textual Amendments

F25 S. 22 substituted by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), s. 3

F26 Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\)](#), s. 12(4)

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