



Prescription and Limitation (Scotland) Act 1973

1973 CHAPTER 52

PART III

SUPPLEMENTAL

[^{F1}23A Private international law application.

- (1) Where the substantive law of a country other than Scotland falls to be applied by a Scottish court as the law governing an obligation, the court shall apply any relevant rules of law of that country relating to the extinction of the obligation or the limitation of time within which proceedings may be brought to enforce the obligation^[F2], subject to section 23B,] to the exclusion of any corresponding rule of Scots law.
- (2) This section shall not apply where it appears to the court that the application of the relevant foreign rule of law would be incompatible with the principles of public policy applied by the court.
- (3) This section shall not apply in any case where the application of the corresponding rule of Scots law has extinguished the obligation, or barred the bringing of proceedings prior to the coming into force of the ^{M1} Prescription and Limitation (Scotland) Act 1984.]
- ^[F3](4) This section ^[F4]and section 23B] shall not apply in any case where the law of a country other than Scotland falls to be applied by virtue of any choice of law rule contained in ^[F5]the Rome I Regulation or] the Rome II Regulation.
- ^[F6](5) In subsection (4)—
 - (a) “the Rome I Regulation” means Regulation (EC) No. 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations (Rome I) as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 4 of the Law Applicable to Contractual Obligations (Scotland) Regulations 2009), unless the proceedings are ones in respect of which Regulation (EC) No. 593/2008

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- has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article; and
- (b) “the Rome II Regulation” means Regulation (EC) No. 864/2007 of the European Parliament and of the Council on the law applicable to non-contractual obligations (Rome II) as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 4 of the Law Applicable to Non-Contractual Obligations (Scotland) Regulations 2008), unless the proceedings are ones in respect of which Regulation (EC) No. 864/2007 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.]]

Textual Amendments

- F1** S. 23A inserted by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), **ss. 4, 5(2)**
- F2** Words in s. 23A(1) inserted (30.6.2021) by [Overseas Operations \(Service Personnel and Veterans\) Act 2021 \(c. 23\)](#), s. 14(2), **Sch. 3 para. 2(2)(a)**; S.I. 2021/678, reg. 2
- F3** S. 23A(4)(5) inserted (11.1.2009) by [Law Applicable to Non-Contractual Obligations \(Scotland\) Regulations 2008 \(S.S.I. 2008/404\)](#), regs. 1(1), **3**
- F4** Words in s. 23A(4) inserted (30.6.2021) by [Overseas Operations \(Service Personnel and Veterans\) Act 2021 \(c. 23\)](#), s. 14(2), **Sch. 3 para. 2(2)(b)**; S.I. 2021/678, reg. 2
- F5** Words in s. 23A(4) inserted (17.12.2009) by [Law Applicable to Contractual Obligations \(Scotland\) Regulations 2009 \(S.S.I. 2009/410\)](#), regs. 1(1), **3(a)**
- F6** S. 23A(5) substituted (31.12.2020) by S.I. 2019/834, **reg. 2** (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), regs. 1, **6(2)**)

Marginal Citations

- M1** [1984 c. 45\(97\)](#).

[^{F7}23B Overseas armed forces actions: restriction of foreign prescription and limitation law

- (1) Subsection (3) applies where—
- (a) the law of a country other than Scotland relating to the extinction of an obligation or the limitation of time within which an action may be brought to enforce an obligation is to be applied by virtue of section 23A(1) in an overseas armed forces personal injuries action, and
 - (b) the commencement condition applies in relation to that action,
- and in this section the law mentioned in paragraph (a) that is to be applied in that action is referred to as “the relevant foreign limitation law”.
- (2) The commencement condition applies in relation to an overseas armed forces personal injuries action if the action commenced on a date which is after the end of the period of 6 years beginning with—
- (a) the date on which any limitation period specified in the relevant foreign limitation law began to run, or
 - (b) where the relevant foreign limitation law has the effect that the action may be commenced within an indefinite period, the first date on which the action could have been commenced,

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and in this section “limitation period” includes a prescriptive period (however expressed in the relevant foreign limitation law).

- (3) The relevant foreign limitation law is to be treated as providing the defender with a complete defence to the action so far as relating to the obligation (where that would not otherwise be the case).
- (4) An “overseas armed forces personal injuries action” means an action—
 - (a) which is an overseas armed forces action as defined in section 19AA(11), and
 - (b) which (under the substantive law of the other country that falls to be applied) corresponds to an action to which section 17 or 18 applies (actions in respect of personal injuries or death).
- (5) In the application of subsection (2) to an action in respect of which—
 - (a) in accordance with the relevant foreign limitation law, a limitation period specified in that law has been suspended or interrupted for a period by reason of a person's lacking legal capacity or being under a disability, or
 - (b) in accordance with the relevant foreign limitation law, a period during which a person lacks legal capacity or is under a disability has been disregarded in computing a limitation period specified in that law,

the reference to the period of 6 years is to be treated as a reference to the period of 6 years plus the period of suspension or interruption or (as the case may be) the period that was so disregarded.]

Textual Amendments

F7 S. 23B inserted (30.6.2021) by [Overseas Operations \(Service Personnel and Veterans\) Act 2021](#) (c. 23), s. 14(2), [Sch. 3 para. 2\(3\)](#); S.I. 2021/678, reg. 2

24 The Crown.

This Act binds the Crown.

25 Short title, commencement and extent.

- (1) This Act may be cited as the Prescription and Limitation (Scotland) Act 1973.
- (2)^{F8} this Act shall come into operation, as follows:—
 - (a) Parts II and III of this Act, Part II of Schedule 4 to this Act and Part II of Schedule 5 to this Act shall come into operation on the date on which this Act is passed;
 - (b) except as aforesaid this Act shall come into operation on the expiration of three years from the said date.
- (3)^{F9}
- (4) This Act extends to Scotland only.

Textual Amendments

F8 Words repealed by [Prescription and Limitation \(Scotland\) Act 1984](#) (c. 45, SIF 97), s. 6(2), [Sch. 2](#)

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F9 S. 25(3) repealed by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), s. 6(2), [Sch. 2](#)

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