



# Prescription and Limitation (Scotland) Act 1973

## 1973 CHAPTER 52

### PART I

#### PRESCRIPTION

##### *Positive prescription*

#### **1 Interests in land: general.**

(1) If in the case of an interest in particular land, being an interest to which this section applies,—

(a) the interest has been possessed by any person, or by any person and his successors, for a continuous period of ten years openly, peaceably and without any judicial interruption, and

(b) the possession was founded on, and followed

[<sup>F1</sup>(i)] the recording of, a deed which is sufficient in respect of its terms to constitute in favour of that person a title to that interest in the particular land, or in land of a description habile to include the particular land, [<sup>F2</sup>, or

(ii) registration of that interest in favour of that person in the Land Register of Scotland, subject to an exclusion of indemnity under section 12(2)

of the <sup>M1</sup>Land Registration (Scotland) Act 1979,

then, as from the expiration of the said period, the validity of the title so far as relating to the said interest in the particular land shall be exempt from challenge.

(1A) Subsection (1) above shall not apply where—

(a) possession was founded on the recording of a deed which is *invalidex facie* or was forged; or

*Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.*

*Changes to legislation: Prescription and Limitation (Scotland) Act 1973, Section 1 is up to date with all changes known to be in force on or before 13 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)*

- (b) possession was founded on registration in respect of an interest in land in the Land Register of Scotland proceeding on a forged deed and the person appearing from the Register to be entitled to the interest was aware of the forgery at the time of registration in his favour.]
- (2) This section applies to any interest in land the title to which can competently be recorded [<sup>F3</sup>or which is registrable in the Land Register of Scotland.]
- (3) In the computation of a prescriptive period for the purposes of this section in a case where the deed in question is a decree of adjudication for debt, any period before the expiry of the legal shall be disregarded.
- (4) Where in any question involving an interest in any foreshore or in any salmon fishings this section is pled against the Crown as owner of the regalia, subsection (1) above shall have effect as if for the words “ten years” there were substituted the words “twenty years”.
- (5) This section is without prejudice to the operation of section 2 of this Act.

#### Textual Amendments

- F1** Word inserted by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\), s. 10\(a\)](#)
- F2** [S. 1\(1\)\(ii\)](#) and [\(1A\)](#) inserted by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\), s. 10\(a\)](#)
- F3** Words added by [Land Registration \(Scotland\) Act 1979 \(c. 33, SIF 31:3\), s. 10\(b\)](#)

#### Modifications etc. (not altering text)

- C1** [S. 1](#) restricted (31.10.1994) by [1994 c. 21, ss. 10\(2\)\(b\)\(4\), 68\(2\)\(a\)](#) (with [s. 40\(7\)](#)); [S.I. 1994/2553, art.2](#)

#### Marginal Citations

- M1** [1979 c. 33\(31:3\)](#).

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