



Prescription and Limitation (Scotland) Act 1973

1973 CHAPTER 52

PART I

PRESCRIPTION

Positive prescription

3 Positive servitudes and public rights of way.

(1) If in the case of a positive servitude over land—

- (a) the servitude has been possessed for a continuous period of twenty years openly, peaceably and without any judicial interruption, and
- (b) the possession was founded on, and followed the execution of, a deed which is sufficient in respect of its terms (whether expressly or by implication) to constitute the servitude,

then, as from the expiration of the said period, the validity of the servitude as so constituted shall be exempt from challenge except on the ground that the deed is invalid *ex facie* or was forged.

(2) If a positive servitude over land has been possessed for a continuous period of twenty years openly, peaceably and without judicial interruption, then, as from the expiration of that period, the existence of the servitude as so possessed shall be exempt from challenge.

(3) If a public right of way over land has been possessed by the public for a continuous period of twenty years openly, peaceably and without judicial interruption, then, as from the expiration of that period, the existence of the right of way as so possessed shall be exempt from challenge.

Changes to legislation: Prescription and Limitation (Scotland) Act 1973, Section 3 is up to date with all changes known to be in force on or before 16 July 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) [View outstanding changes](#)

- (4) References in subsections (1) and (2) of this section to possession of a servitude are references to possession of the servitude by any person in possession of the relative dominant tenement.
- (5) This section is without prejudice to the operation of section 7 of this Act.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(4A) inserted by [2018 asp 15 s. 4\(3\)](#)
- s. 7(3)-(5) inserted by [2018 asp 15 s. 6\(2\)\(b\)](#)
- s. 7A inserted by [2018 asp 15 s. 9\(2\)](#)
- s. 8(1A)-(1C) inserted by [2018 asp 15 s. 7\(3\)](#)
- s. 9(1)(e)-(h) inserted by [2018 asp 15 s. 10\(2\)\(b\)](#)
- s. 9(2A) inserted by [2018 asp 15 s. 11\(2\)](#)
- s. 9A inserted by [2018 asp 15 s. 12](#)
- s. 13A inserted by [2018 asp 15 s. 14\(2\)](#)
- s. 22A(3)(d)-(g) inserted by [2018 asp 15 s. 10\(3\)\(b\)](#)
- s. 22A(7A) inserted by [2018 asp 15 s. 14\(3\)](#)
- s. 32(2) applied (with modifications) by [2021 asp 9 s. 69\(8\)](#)
- Sch. 1 para. 1(fa)(fb) inserted by [2018 asp 15 s. 2\(2\)](#)
- Sch. 1 para. 1(h) inserted by [2018 asp 15 s. 3\(2\)\(b\)](#)
- Sch. 1 para. 2(fa)-(fd) inserted by [2018 asp 15 s. 3\(3\)\(b\)](#)
- Sch. 1 para. 1(d)(da) substituted for Sch. 1 para. 1(d) by [2018 asp 15 s. 1\(2\)](#)
- Sch. 1 para. 2(e)(ea) substituted for Sch. 1 para. 2(e) by [2018 asp 15 s. 3\(3\)\(a\)](#)