



# Prescription and Limitation (Scotland) Act 1973

## 1973 CHAPTER 52

### PART II

#### LIMITATION OF ACTIONS

**[<sup>F1</sup>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](#)

**[<sup>F2</sup>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.

[ This section does not apply to an action of damages in respect of personal injuries to <sup>F3</sup>(1A) which section 18ZA applies.]

- (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

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- (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 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\(1\)](#)
- F3** S. 17(1A) inserted (21.4.2021) by [Automated and Electric Vehicles Act 2018 \(c. 18\)](#), s. 21, [Sch. para. 1](#); S.I. 2021/396, reg. 3(c)(d)

#### 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

### [<sup>F4</sup>17A Actions in respect of personal injuries resulting from childhood abuse

- (1) The time limit in section 17 does not apply to an action of damages if—
- (a) the damages claimed consist of damages in respect of personal injuries,
  - (b) the person who sustained the injuries was a child on the date the act or omission to which the injuries were attributable occurred or, where the act or omission was a continuing one, the date the act or omission began,
  - (c) the act or omission to which the injuries were attributable constitutes abuse of the person who sustained the injuries, and
  - (d) the action is brought by the person who sustained the injuries.
- (2) In this section—
- “abuse” includes sexual abuse, physical abuse, emotional abuse and abuse which takes the form of neglect,
  - “child” means an individual under the age of 18.

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#### Textual Amendments

- F4** Ss. 17A-17D inserted (4.10.2017) by [Limitation \(Childhood Abuse\) \(Scotland\) Act 2017 \(asp 3\)](#), **ss. 1, 2(2)**; [S.S.I. 2017/279](#), [reg. 2](#)

### **17B Childhood abuse actions: previously accrued rights of action**

Section 17A has effect as regards a right of action accruing before the commencement of section 17A.

#### Textual Amendments

- F4** Ss. 17A-17D inserted (4.10.2017) by [Limitation \(Childhood Abuse\) \(Scotland\) Act 2017 \(asp 3\)](#), **ss. 1, 2(2)**; [S.S.I. 2017/279](#), [reg. 2](#)

### **17C Childhood abuse actions: previously litigated rights of action**

- (1) This section applies where a right of action in respect of relevant personal injuries has been disposed of in the circumstances described in subsection (2).
- (2) The circumstances are that—
  - (a) prior to the commencement of section 17A, an action of damages was brought in respect of the right of action (“the initial action”), and
  - (b) the initial action was disposed of by the court—
    - (i) by reason of section 17, or
    - (ii) in accordance with a relevant settlement.
- (3) A person may bring an action of damages in respect of the right of action despite the initial action previously having been disposed of (including by way of decree of absolvitor).
- (4) In this section—
  - (a) personal injuries are “relevant personal injuries” if they were sustained in the circumstances described in paragraphs (b) and (c) of section 17A(1),
  - (b) a settlement is a “relevant settlement” if—
    - (i) it was agreed by the parties to the initial action,
    - (ii) the pursuer entered into it under the reasonable belief that the initial action was likely to be disposed of by the court by reason of section 17, and
    - (iii) any sum of money which it required the defender to pay to the pursuer, or to a person nominated by the pursuer, did not exceed the pursuer’s expenses in connection with bringing and settling the initial action.
- (5) The condition in subsection (4)(b)(iii) is not met if the terms of the settlement indicate that the sum payable under it is or includes something other than reimbursement of the pursuer’s expenses in connection with bringing and settling the initial action.

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#### Textual Amendments

**F4** Ss. 17A-17D inserted (4.10.2017) by [Limitation \(Childhood Abuse\) \(Scotland\) Act 2017 \(asp 3\)](#), **ss. 1, 2(2)**; [S.S.I. 2017/279](#), **reg. 2**

### 17D Childhood abuse actions: circumstances in which an action may not proceed

- (1) The court may not allow an action which is brought by virtue of section 17A(1) to proceed if either of subsections (2) or (3) apply.
- (2) This subsection applies where the defender satisfies the court that it is not possible for a fair hearing to take place.
- (3) This subsection applies where—
  - (a) the defender satisfies the court that, as a result of the operation of section 17B or (as the case may be) 17C, the defender would be substantially prejudiced were the action to proceed, and
  - (b) having had regard to the pursuer's interest in the action proceeding, the court is satisfied that the prejudice is such that the action should not proceed.]

#### Textual Amendments

**F4** Ss. 17A-17D inserted (4.10.2017) by [Limitation \(Childhood Abuse\) \(Scotland\) Act 2017 \(asp 3\)](#), **ss. 1, 2(2)**; [S.S.I. 2017/279](#), **reg. 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.
- [<sup>F5</sup>(1A) This section does not apply to an action of damages in respect of personal injuries or death to which section 18ZA applies.]
- (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.

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- (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 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 <sup>F6</sup>the Damages (Scotland) Act 2011].

#### Textual Amendments

- F5** S. 18(1A) inserted (21.4.2021) by Automated and Electric Vehicles Act 2018 (c. 18), s. 21, **Sch. para. 2**; S.I. 2021/396, reg. 3(c)(d)
- F6** 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

#### <sup>F7</sup>18ZA Actions under section 2 of the Automated and Electric Vehicles Act 2018

- (1) This section applies to an action of damages under section 2 of the 2018 Act (liability of insurers etc where accident caused by automated vehicle).
- (2) An action may not be brought after the expiry of the period of 3 years beginning with—
- the date of the accident mentioned in subsection (1) or (as the case may be) subsection (2) of that section, or
  - where subsection (3) applies, the date on which the person who sustained the injuries first became aware of the facts mentioned in subsection (4) (if later).
- (3) This subsection applies where the damages claimed consist of or include damages in respect of personal injuries (to the pursuer or any other person).
- (4) The facts are—
- that the injury in question was significant;
  - that the injury was attributable in whole or in part to an accident caused by an automated vehicle when driving itself; and
  - the identity of the insurer of the vehicle (in the case of an action under section 2(1) of the 2018 Act) or the owner of the vehicle (in the case of an action under section 2(2) of that Act).
- (5) Expressions used in subsection (4) that are defined for the purposes of Part 1 of the 2018 Act have the same meaning in that subsection as in that Part.
- (6) In the computation of the period specified in subsection (2) above any time during which the person who sustained the injuries was under legal disability by reason of nonage or unsoundness of mind is to be disregarded.

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- (7) If a person injured in the accident dies before the expiry of the period mentioned in subsection (2) above, an action may not be brought after the expiry of the period of 3 years beginning with—
- (a) the date of death of the person, or
  - (b) where subsection (3) applies, the date on which the pursuer first became aware of the facts mentioned in subsection (4) (if later).
- (8) Where an action has not been brought before the expiry of the period mentioned in subsection (2) above and the person subsequently dies in consequence of injuries sustained in the accident, an action may not be brought in respect of those injuries or that death.
- (9) Subsection (10) applies if a person injured in the accident dies and the person seeking to bring the action is a relative of the deceased.
- (10) In the computation of the period specified in subsection (7) any time during which the relative was under legal disability by reason of nonage or unsoundness of mind is to be disregarded.
- (11) In this section—
- “the 2018 Act” means the Automated and Electric Vehicles Act 2018;
  - “relative” has the same meaning as in the Damages (Scotland) Act 2011.

#### Textual Amendments

- F7** Ss. 18ZA-18ZC inserted (21.4.2021) by [Automated and Electric Vehicles Act 2018 \(c. 18\)](#), s. 21, [Sch. para. 3](#); S.I. 2021/396, reg. 3(c)(d)

### 18ZB Section 18ZA: extension of limitation periods

- (1) Subsection (2) applies where a person would be entitled, but for section 18ZA, to bring an action other than one in which the damages claimed are confined to damages for loss of or damage to property.
- (2) The court may, if it seems to it equitable to do so, allow the person to bring the action despite that section.

#### Textual Amendments

- F7** Ss. 18ZA-18ZC inserted (21.4.2021) by [Automated and Electric Vehicles Act 2018 \(c. 18\)](#), s. 21, [Sch. para. 3](#); S.I. 2021/396, reg. 3(c)(d)

### 18ZC Actions under section 5 of the Automated and Electric Vehicles Act 2018

- (1) Subsection (2) applies where, by virtue of section 5 of the Automated and Electric Vehicles Act 2018 (right of insurer etc to claim against person responsible for accident), an insurer or vehicle owner becomes entitled to bring an action against any person.
- (2) The action may not be brought after the expiry of the period of 2 years beginning with the date on which the right of action accrued (under subsection (5) of that section).]

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### Textual Amendments

**F7** Ss. 18ZA-18ZC inserted (21.4.2021) by [Automated and Electric Vehicles Act 2018 \(c. 18\)](#), s. 21, [Sch. para. 3](#); S.I. 2021/396, reg. 3(c)(d)

## [<sup>F8</sup>18ZD Actions relating to construction products

- (1) An action under section 148 of the Building Safety Act 2022 may not be brought after the expiration of 15 years from the date on which the right of action accrued (see subsection (8) of that section).
- (2) An action under section 149 of the Building Safety Act 2022 may not be brought after—
  - (a) if the right of action accrued before the commencement date, the expiration of the period of 30 years from the date on which it accrued (see subsection (8) of that section), and
  - (b) if the right of action accrued on or after the commencement date, the expiration of the period of 15 years beginning with the date on which it accrued.
- (3) In a case where—
  - (a) a right of action under section 149 of the Building Safety Act 2022 accrued before the commencement date, and
  - (b) the expiration of the period of 30 years beginning with the date on which the right of action accrued falls in the year beginning with the commencement date,
 subsection (2)(a) has effect as if it referred to the expiration of that year.
- (4) In subsections (2) and (3) “the commencement date” is the day on which section 149 of the Building Safety Act 2022 came into force.
- (5) No other period of limitation specified by this Part of this Act applies in relation to an action referred to in subsection (1) or (2).
- (6) In the computation of a period of time specified in subsection (1) or (2), there is to be disregarded any time during which the person seeking to bring the action (P)—
  - (a) was under a legal disability by reason of nonage or unsoundness of mind, or
  - (b) failed to bring the action by reason of—
    - (i) fraud on the part of the person against whom the action is to be brought (D) or the part of any person acting on D’s behalf, or
    - (ii) error induced by words or conduct of D or any person acting on D’s behalf,
 (but not including, for the purposes of paragraph (b), any time occurring after P could with reasonable diligence have discovered the fraud or error mentioned in that paragraph).
- (7) For the purposes of subsection (6)(b), it does not matter whether D, or the person acting on D’s behalf, intended the fraud or the words or conduct to cause P to fail to bring the action.]

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### Textual Amendments

**F8** S. 18ZD inserted (28.6.2022) by **Building Safety Act 2022 (c. 30), ss. 151(2), 170(3)**

## [<sup>F9</sup> 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 [<sup>F10</sup>or under section 21, 22 or 23 of the 2021 Act (actionable types of malicious publication)] shall be brought unless it is commenced within a period of [<sup>F11</sup>one year] after the date when the right of action accrued.

[ Where—

- <sup>F12</sup>(1A) (a) a person publishes a statement to the public or to a section of the public (“the first publication”), and  
 (b) the person subsequently publishes (whether or not to the public) the same statement or a statement that is substantially the same (“the subsequent publication”),

any right of action against the person for defamation or under section 21, 22 or 23 of the 2021 Act in respect of the subsequent publication is to be treated as having accrued on the date of the first publication.

- (1B) Subsection (1A) does not apply where the court determines that the manner of the subsequent publication is materially different from the manner of the first publication.

- (1C) In determining whether the manner of the subsequent publication is materially different from the manner of the first publication, the court may have regard to—

- (a) the level of prominence that the statement is given,  
 (b) the extent of the subsequent publication, and  
 (c) any other matter that the court considers relevant.]

- (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 [<sup>F13</sup>or harmed by a malicious publication in a manner described in section 21, 22 or 23 of the 2021 Act] 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.

[ This section continues to have effect in relation to a statement which was published  
<sup>F14</sup>(3A) before [<sup>F15</sup>8 August 2022] as if it had not been amended by section 32 of the 2021 Act.

- (3B) In determining whether subsection (1A) applies, no account is to be taken of a statement which was published before [<sup>F16</sup>8 August 2022].]

- (4) In this section—

[<sup>F17</sup>(a) “the 2021 Act” means the Defamation and Malicious Publication (Scotland) Act 2021,]

- (b) references to the date when a right of action accrued shall be construed [<sup>F18</sup>(subject to subsection (1A))] as references to the date when the [<sup>F19</sup>statement] in respect of which the action for defamation [<sup>F20</sup>or, as the case may be, under section 21, 22 or 23 of the 2021 Act] is to be brought [<sup>F21</sup>was published, and]]



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[<sup>F22</sup>(c) “statement” has the meaning given in section 36 of the 2021 Act (interpretation).]

#### Textual Amendments

- F9** S. 18A inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36: 1), s. 12(2)
- F10** Words in s. 18A(1) inserted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(2)(a), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F11** Words in s. 18A(1) substituted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(2)(b), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F12** S. 18A(1A)-(1C) inserted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(3), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F13** Words in s. 18A(2) inserted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(4), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F14** S. 18A(3A)(3B) inserted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(5), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F15** Words in s. 18A(3A) substituted (8.8.2022) by The Defamation and Malicious Publication (Scotland) Act 2021 (Commencement and Transitional Provision) Regulations 2022 (S.S.I. 2022/154), regs. 1(1), 3
- F16** Words in s. 18A(3B) substituted (8.8.2022) by The Defamation and Malicious Publication (Scotland) Act 2021 (Commencement and Transitional Provision) Regulations 2022 (S.S.I. 2022/154), regs. 1(1), 3
- F17** S. 18A(4)(aa) substituted for s. 18A(4)(a) (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(6)(a), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F18** Words in s. 18A(4)(b) inserted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(6)(b)(i), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F19** Word in s. 18A(4)(b) substituted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(6)(b)(ii), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F20** Words in s. 18A(4)(b) inserted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(6)(b)(iii), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F21** Words in s. 18A(4)(b) substituted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(6)(b)(iv), 39(2); S.S.I. 2022/154, regs. 1(2), 2
- F22** S. 18A(4)(c) inserted (8.8.2022) by Defamation and Malicious Publication (Scotland) Act 2021 (asp 10), ss. 32(6)(c), 39(2); S.S.I. 2022/154, regs. 1(2), 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).

#### [<sup>F23</sup>18B Actions of harassment.

- (1) This section applies to actions of harassment (within the meaning of section 8 [<sup>F24</sup>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,

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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

**F23** S. 18B inserted (16.6.1997) by 1997 c. 40, ss. 10(1); S.I. 1997/1418, art. 2

**F24** Words in s. 18B(1) inserted (21.7.2011) by Domestic Abuse (Scotland) Act 2011 (asp 13), ss. 1(4), 5(2)

#### [<sup>F25</sup>19A Power of court to override time-limits etc.

- (1) Where a person would be entitled, but for any of the provisions of [<sup>F26</sup>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 [<sup>F27</sup>(but see section 19AA)].
- (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. ]

[<sup>F28</sup>(4) An action which would not be entertained but for this section shall not be tried by jury.]

#### Textual Amendments

**F25** S. 19A inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 23(a)

**F26** Words in s. 19A(1) substituted (16.7.1997) by virtue of 1997 c. 40, ss. 10(2); S.I. 1997/1418, art. 2

**F27** Words in s. 19A(1) inserted (30.6.2021) by Overseas Operations (Service Personnel and Veterans) Act 2021 (c. 23), s. 14(2), Sch. 3 para. 1(2); S.I. 2021/678, reg. 2

**F28** S. 19A(4) added by Prescription and Limitation (Scotland) Act 1984 (c. 45, SIF 97), s. 6(1), Sch. 1 para. 8(b)

#### [<sup>F29</sup>19AA Restriction of court's power to override time-limits: overseas armed forces actions

- (1) This section applies where the court is considering whether to exercise its power under section 19A to override time-limits in respect of an overseas armed forces action (see subsection (1)).

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- (2) The court must exercise its power—
  - (a) in accordance with subsection (3), and
  - (b) subject to the rules in subsections (5) to (7).
- (3) The court must have particular regard to—
  - (a) the effect of the delay in bringing the action on the cogency of evidence adduced or likely to be adduced by the parties, with particular reference to—
    - (i) the likely impact of the operational context on the ability of members of Her Majesty's forces to remember relevant events or actions fully or accurately, and
    - (ii) the extent of dependence on the memories of members of Her Majesty's forces, taking into account the effect of the operational context on their ability to record, or to retain records of, relevant events or actions; and
  - (b) the likely impact of the action on the mental health of any witness or potential witness who is a member of Her Majesty's forces.
- (4) In subsection (3)(a) references to “the operational context” are to the fact that the events to which the action relates took place in the context of overseas operations, and include references to the exceptional demands and stresses to which members of Her Majesty's forces are subject.
- (5) The first rule referred to in subsection (2)(b) is that an overseas armed forces action for which a limitation period is specified in section 17 must be brought within the period of 6 years beginning with the section 17 relevant date.
- (6) The second rule referred to in subsection (2)(b) is that an overseas armed forces action for which a limitation period is specified in section 18(2) must be brought within the period of 6 years beginning with the section 18 relevant date.
- (7) The third rule referred to in subsection (2)(b) is that, in respect of an overseas armed forces action to which section 18 applies, the court may exercise its power to override section 18(4) only if the injured person in question died within the period of 6 years beginning with the section 17 relevant date.
- (8) In the application of the rule in subsection (5) or (7) to an action in respect of which (in accordance with section 17(3)) any time has been disregarded when computing the limitation period specified in section 17(2) for the purposes of section 17 or 18(4) (as the case may be), the reference to the period of 6 years is to be treated as a reference to the period of 6 years plus the period that was so disregarded.
- (9) In the application of the rule in subsection (6) to an action in respect of which (in accordance with section 18(3)) any time has been disregarded when computing the limitation period specified in section 18(2), the reference to the period of 6 years is to be treated as a reference to the period of 6 years plus the period that was so disregarded.
- (10) In the application of the rule in subsection (5) or (7) to an overseas armed forces action in respect of which a limitation period has been suspended in accordance with section 1(1) of the Limitation (Enemies and War Prisoners) Act 1945 (as modified by section 4 of that Act), any reference to the period of 6 years is to be treated as a reference to the period of 6 years plus—
  - (a) the period during which the limitation period was suspended, and

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- (b) any extra period after the suspension ended during which the action could have been brought only because of an extension provided for by section 1(1) of that Act.
- (11) In this section, an “overseas armed forces action” means an action which, or an action which includes a claim which—
- (a) is against the Ministry of Defence, the Secretary of State for Defence, or any member of Her Majesty's forces,
  - (b) is brought in connection with overseas operations (see subsection (13)), and
  - (c) relates to damage that occurred outside the British Islands.
- (12) In subsection (11), “damage” means—
- (a) in the case of an overseas armed forces action for which a limitation period is specified in section 17, the personal injuries to which the action relates;
  - (b) in the case of an overseas armed forces action for which a limitation period is specified in section 18(2), the death to which the action relates (and where a person sustains personal injuries outside the British Islands which are a substantial cause of their later death in any of the British Islands, or vice versa, the death is for the purposes of subsection (11)(c) to be treated as occurring where the injuries were sustained).
- (13) In this section—
- “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act);
- “overseas operations” means any operations outside the British Islands, including peacekeeping operations and operations for dealing with terrorism, civil unrest or serious public disorder, in the course of which members of Her Majesty's forces come under attack or face the threat of attack or violent resistance;
- “the section 17 relevant date” means the date from which the period of 3 years starts to run in accordance with subsection (2) of section 17;
- “the section 18 relevant date” means the date from which the period of 3 years starts to run in accordance with subsection (2) of section 18.
- (14) In this section, references—
- (a) to the British Islands include the territorial sea adjacent to the United Kingdom and the territorial sea adjacent to any of the Channel Islands or the Isle of Man (and the reference to any of the British Islands is to be read accordingly);
  - (b) to a member of Her Majesty's forces, in relation to an overseas armed forces action, include an individual who was a member of Her Majesty's forces at the time of the events to which the action relates.]

#### Textual Amendments

**F29** S. 19AA inserted (30.6.2021) by [Overseas Operations \(Service Personnel and Veterans\) Act 2021](#) (c. 23), s. 14(2), [Sch. 3 para. 1\(3\)](#); S.I. 2021/678, reg. 2

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### **[<sup>F30</sup>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 [<sup>F31</sup>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
    - [<sup>F32</sup>(aa) an application is made for a prohibitory property order, or]
    - (b) an application is made for an interim administration order,
 whichever is the [<sup>F33</sup>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 <sup>F34</sup>(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**

- F30** 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)
- F31** 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)
- F32** 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)
- F33** 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)
- F34** S. 19B(4A) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 1**; S.I. 2018/78, reg. 5(1)(a)

### **[<sup>F35</sup>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).

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- (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

**F35** 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)**

#### [<sup>F36</sup>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 [<sup>F37</sup>(“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 [<sup>F38</sup>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 <sup>F39</sup>(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,
  - (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.

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(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 [<sup>F40</sup>the 2005 Order] have the same meaning in this section as in that Part.]

#### Textual Amendments

- F36** 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)**
- F37** 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)**
- F38** 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)
- F39** 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)**
- F40** 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)**

#### [<sup>F41</sup>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), [<sup>F42</sup>18ZA(2) or (7), 18ZC(2) [<sup>F43</sup>, 18ZD(1) or (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

- F41** 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)
- F42** Words in s. 19CA(1) inserted (21.4.2021) by [Automated and Electric Vehicles Act 2018 \(c. 18\)](#), s. 21, [Sch. para. 4](#); S.I. 2021/396, reg. 3(c)(d)
- F43** Words in s. 19CA(1) inserted (28.6.2022) by [Building Safety Act 2022 \(c. 30\)](#), ss. **151(4)**, 170(3)

#### [<sup>F44</sup>19CB] **Interruption of section 18A(1) limitation period: mediation**

- (1) In any computation of the period specified in section 18A(1), any period of mediation in relation to a relevant matter is to be disregarded.
- (2) For the purposes of this section, a period of mediation—
  - (a) begins on the day on which a mediator is appointed by the parties, and
  - (b) ends on such day as the parties may agree or, otherwise, on the day—
    - (i) on which a party notifies another party that they are withdrawing from the mediation,

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- (ii) which falls 14 days after the day on which a party makes a request for confirmation that another party is continuing with the mediation (and no response has been received), or
- (iii) which falls 14 days after the day on which the mediator resigns or dies or otherwise becomes incapable of acting (and no replacement has been appointed).

(3) In this section—

“mediation” means a structured process, whereby two or more parties to a dispute attempt, with the assistance of a mediator, to resolve or reduce disagreement between or among them with a view to resolution of the dispute without recourse to court,

“mediator” means an independent person who is appointed by the parties to conduct a mediation, whether or not for remuneration, in an effective, impartial, and competent way,

“party” means a party to the mediation, and

“relevant matter” means a matter to which a limitation period applies by virtue of section 18A(1).]

#### Textual Amendments

**F44** S. 19CB inserted (8.8.2022) by [Defamation and Malicious Publication \(Scotland\) Act 2021 \(asp 10\)](#), ss. 33, 39(2); S.S.I. 2022/154, reg. 2 (with reg. 4(2))

#### [<sup>F45</sup>19C] **Interruption of section 18A(1) limitation period: media complaints and expert determination**

- (1) In any computation of the period specified in section 18A(1), any relevant period in relation to a relevant matter is to be disregarded.
- (2) For the purposes of this section, a relevant period—
  - (a) begins on the day on which the parties agree, in writing, to attempt to resolve the dispute by way of a complaints process or expert determination (“the process”), and
  - (b) ends on such day as the parties may agree or, otherwise, on the day—
    - (i) on which a party notifies another party that they are withdrawing from the process,
    - (ii) which falls 14 days after the day on which a party makes a request for confirmation that another party is continuing with the process (and no response has been received),
    - (iii) which falls 14 days after the day on which any person (other than a party) who was conducting or facilitating the process resigns or dies or otherwise becomes incapable of acting (and no replacement has been appointed).
- (3) This section does not apply where the process is one to which section 19CA or 19CB applies.
- (4) In this section—
 

“complaints process” means a process whereby two or more parties to a dispute attempt to resolve the dispute between them by referring the relevant



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matter to an independent person that handles complaints relating to the publication of material in the medium in question to make a determination on the merits of the relevant matter,

“expert determination” means a process whereby two or more parties to a dispute attempt to resolve the dispute between them by appointing a single independent and suitable individual who holds appropriate professional qualifications and is a member of a suitable professional body to act as an expert and decide the dispute, such person to be agreed by the parties or, failing which, to be determined in a manner agreed by the parties,

“party” means a party to the complaints process or expert determination,

“relevant matter” means a matter to which a limitation period applies by virtue of section 18A(1).

(5) The Scottish Ministers may by regulations amend the definitions in subsection (4).

(6) Regulations under subsection (5) are subject to the affirmative procedure.]

#### Textual Amendments

**F45** S. 19CC inserted (8.8.2022) by [Defamation and Malicious Publication \(Scotland\) Act 2021 \(asp 10\)](#), [ss. 34, 39\(2\)](#); [S.S.I. 2022/154](#), [reg. 2](#) (with [reg. 4\(2\)](#))

#### [<sup>F46</sup>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.

(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

**F46** 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](#)

#### <sup>F47</sup>19F Extension of limitation periods: cross-border mediation

.....

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### Textual Amendments

**F47** S. 19F omitted (31.12.2020) by virtue of [The Civil and Family Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/441\)](#), regs. 1(2)(b), **2(3)** (with reg. 7)

**20, 21.** ..... **F48**

### Textual Amendments

**F48** Ss. 20 and 21 repealed by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), s. 6(2), **Sch. 2**

## [<sup>F49</sup>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 , 18 [<sup>F50</sup>, 18A or 18ZA] 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 [<sup>F51</sup>of the said section 18 or, as the case may be, subsection (4)(b) of the said section 18A][<sup>F52</sup>or subsection (3) or (7)(b) of the said section 18ZA] 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

**F49** S. 22 substituted by [Prescription and Limitation \(Scotland\) Act 1984 \(c. 45, SIF 97\)](#), **s. 3**

**F50** Words in s. 22(2) substituted (21.4.2021) by [Automated and Electric Vehicles Act 2018 \(c. 18\)](#), s. 21, **Sch. para. 6(a)**; S.I. 2021/396, reg. 3(c)(d)

**F51** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\)](#), **s. 12(4)**

**F52** Words in s. 22(2) inserted (21.4.2021) by [Automated and Electric Vehicles Act 2018 \(c. 18\)](#), s. 21, **Sch. para. 6(b)**; S.I. 2021/396, reg. 3(c)(d)

**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\(3\)\(a\)](#)