



# Prescription and Limitation (Scotland) Act 1973

## 1973 CHAPTER 52

### PART II

#### LIMITATION OF ACTIONS

#### **[<sup>F1</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>F2</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>F3</sup>one year] after the date when the right of action accrued.

[ Where—

- <sup>F4</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—
- the level of prominence that the statement is given,
  - the extent of the subsequent publication, and
  - any other matter that the court considers relevant.]

**Changes to legislation:** Prescription and Limitation (Scotland) Act 1973, Section 18A is up to date with all changes known to be in force on or before 25 March 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

- (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>F5</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>F6</sup>(3A) before [<sup>F7</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>F8</sup>8 August 2022].]
- (4) In this section—
- [<sup>F9</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>F10</sup>(subject to subsection (1A))] as references to the date when the [<sup>F11</sup>statement] in respect of which the action for defamation [<sup>F12</sup>or, as the case may be, under section 21, 22 or 23 of the 2021 Act] is to be brought [<sup>F13</sup>was published, and]]
- [<sup>F14</sup>(c) “statement” has the meaning given in section 36 of the 2021 Act (interpretation).]

#### Textual Amendments

- F1** S. 18A inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36: 1), s. 12(2)
- F2** 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
- F3** 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
- F4** 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
- F5** 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
- F6** 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
- F7** 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
- F8** 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
- F9** 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
- F10** 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
- F11** 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
- F12** 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

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**F13** 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

**F14** 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

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

**C1** S. 18A modified (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), **ss. 8**, 11(2).

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