



ARNOT MANDERSON
ADVOCATES

Advocates Library
Parliament House, Edinburgh EH1 1RF
tel 0131 260 5824 www.amadvocates.co.uk

Time limits in Scottish litigation

16 July 2026

Euan Bruce



ARNOT MANDERSON

ADVOCATES

Advocates Library
Parliament House, Edinburgh EH1 1RF
tel 0131 260 5824 www.amadvocates.co.uk

Outline

- Why do time limits exist
- Prescription and limitation
- Negative prescription
- Personal injury and clinical negligence
- Historical abuse
- Defamation
- Discretion to allow claims to proceed
- Amendment after expiry of a time limit



ARNOT MANDERSON

ADVOCATES

Advocates Library
Parliament House, Edinburgh EH1 1RF
tel 0131 260 5824 www.amadvocates.co.uk

Why do time limits exist

- Interests of justice
- Certainty
- Efficiency
- Evidence
- Fairness

Prescription and limitation

- Prescription and Limitation (Scotland) Act 1973
- Distinction

Five-year negative prescription

(Sections 6 and 11 and Schedules 1 and 2)

- Extinction
- Obligation
- Enforceability
- Computation

Twenty-year negative prescription (Section 7)

- Long-stop
- Extension of prescription period

Personal injury and clinical negligence (Sections 17, 18 and 19A)

- Three-year limitation period
- Injuries sustained or act or omission ceased
- Date of knowledge
- Fatal claims

Historical abuse (Sections 17A-D)

- Which claims are covered
- When would the claim not be allowed to proceed
- Prescription

Defamation (Section 18A)

- One-year limitation period
- Single publication

Discretion to allow claims to proceed (Section 19A)

- Equitable basis
- *J v C* [2017] CSIH 8

Amendment after expiry of a time limit

- Circumstances where this may occur
- Principle: *Pompa's Trustees* 1942 SC 119
- *Perth and Kinross Council v Scottish Water* 2017 SC 164