Op civielrechtelijk vlak blijven lopende procedures en procedures die voor het eind van de overgangsperiode zijn ingeleid, onder het EU-recht vallen. Zoals overeengekomen met het VK, wordt alle informatie op dat gebied in verband met het Verenigd Koninkrijk tot eind 2024 op het e-justitieportaal bijgehouden.

Time limits on procedures

Schotland

1 What are the types of deadlines relevant for civil procedures?

Time for responding to a claim

For Court of Session cases where service is within Europe and furth (or outside) of Europe, the deadline is 21 days from date of service. For certain cases where service is not effected by a method prescribed by these rules, the deadline is 42 days.

For Sheriff Court cases where service is within Europe the deadline is 21 days from date of service. For all cases where service is outside Europe the deadline is 42 days from date of service.

More information can be found in:

Rules of the Court of Session

Ordinary Cause Rules of the Sheriff Courts (local courts)

There are also Simple Procedure and Summary Cause rules for recovery of sums up to £5000.

Periods of prescription or limitation

In Scots law, the time limits within which a court action must be raised are determined by the legal concepts of limitation and negative prescription. Limitation is a rule of procedure – a defence – whereby certain rights and obligations (while remaining in existence) become legally unenforceable after the lapse of a specified period of time. Negative prescription is a rule of substantive law which operates so as to extinguish a person's right or and obligation after the lapse of a specified period of time.

The current law is found in the Prescription and Limitation (Scotland) Act 1973 (as amended).

The provisions on negative prescription set out when contractual rights and obligations are extinguished. The time periods vary depending upon the nature of the obligation.

The Act provides a limitation period for actions for damages, personal injury, defamation and actions in respect of product liability defects. The limitation period is three years from gaining knowledge of the injury, though courts have discretion to allow an action to proceed after that period has elapsed if they think it would be equitable to do so.

There are also different limitation periods set out in various other statutes, for example in relation to the limitation of actions in respect of carriage (of persons or goods) by air, road, sea and rail.

You can find out whether the specific action you would like to raise is subject to specific time limits by seeking the advice of a lawyer or a Citizens Advice Bureau.

2 List of the various days envisaged as non-working days pursuant to the Regulation (EEC, Euratom) n° 1182/71 of 3 June 1971.

Apart from Saturday and Sunday, non-working days in Scotland include the following bank holidays:

New Year's Day: 1 January

New Year Holiday: 2 January

Good Friday: Friday before Easter

Early May Bank Holiday: First Monday in May

Spring Bank Holiday: Last Monday in May

Summer Bank Holiday: First Monday in August

Christmas Day: 25 December

Boxing Day: 26 December

Where Christmas Day, Boxing Day or New Year's Day and 2 January falls on a weekend the next weekday becomes a bank holiday. For example if 25 and 26 December are Saturday and Sunday respectively the following Monday and Tuesday are bank holidays.

All dates are prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 except the Spring Bank holiday and Boxing Day which are subject to Royal Proclamation.

3 What are the applicable general rules on time limits for the various civil procedures?

Prescription and limitation

The Prescription and Limitation (Scotland) Act 1973 as amended sets out detailed provisions on calculation of the various prescriptive and limitation periods as described in the answer to question 1.

4 When an act or a formality has to be carried out within a given period, what is the starting time?

Start time is determined by date of service. For postal service, the date of execution of service is the day after posting of the writ/summons. In respect of a summons where the expiry date happens to fall on a weekend day or a bank or court holiday day, the date of expiry is effectively extended to the next non-weekend or next working day.

5 Can the starting time be affected or modified by the method of transmission or service of documents (personal service by a huissier or postal service)?

Start date is always date of execution of service, regardless of method of service. For details on definition of date of execution of service, please refer to answer to question 4.

6 If the occurrence of an event sets the time running, is the day when the event occurred taken into account in the calculation of the time period?

The date of the act. First day after day of execution of service is the first day counted when counting down deadline (subject to detail given in question 4 about holidays).

7 When a time limit is expressed in days, does the indicated number of days include calendar days or working days?

Calendar days (but see question 4 also on holidays etc). Although time limits cannot expire on a non-working day, when the deadline is counted down all other non-working days are included.

8 When such a period is expressed in weeks, in months or in years?

Whenever the phrase “month” appears in court documents, it means calendar month.

9 When does the deadline expire if expressed in weeks, in months or in years?

Deadlines expire according to the principles outlined in previous questions, i.e. depending upon time limit, it is on the final day, bearing in mind that a countdown begins with the day after date of service.

10 If the deadline expires on a Saturday, Sunday or a public holiday or non-working day, is it extended until the first following working day?

Yes. Please see the answer to question 4.

11 Are there certain circumstances under which deadlines are extended? What are the conditions for benefiting from such extensions?

The time limit for the period of notice for service can be extended by the court, when the case is warranted, if satisfied that this is necessary.

12 What are the time limits for appeals?

In the Court of Session the defender has 14 days from date of intimation of the final order or interlocutor to appeal the decision and notify the court of this intention.

The time limit for lodging an appeal from certain decisions of the Sheriff Court increased from 14 to 28 days from 1 January 2016. These appeals are now lodged directly with the Sheriff Appeal Court.

Appeals by Summary Cause and Simple Procedure are still lodged with the Sheriff Court and the appeal period remains at 14 days.

It should be noted that where the legislation provides for an appeal period for specific types of appeal e.g. statutory appeals, other than those in the Rules, then that time period will apply.

13 Can courts modify time limits, in particular the appearance time limits or fix a special date for appearance?

Only in exceptional circumstances. For shortened periods, the minimum deadline would be 48 hours. Only in cases where interim interdicts are issued in child welfare cases could the requirement of prior notification on the defender be dispensed with entirely. In such cases a hearing could of course be fixed afterwards to allow due process to all parties.

14 When an act intended for a party resident in a place where he/she would benefit from an extension of a time limit is notified in a place where those who reside there do not benefit from such an extension, does this person lose the benefit of such a time limit?

No

15 What are the consequences of non-observance of the deadlines?

If the defender fails to defend the action, judgment can be issued in absence, if so requested by the applicant. This can of course be appealed by the defender, as outlined in the answer to question 12.

16 If the deadline expires, what remedies are available to those who have missed the deadlines, i.e. the defaulting parties?

The defender can apply to the court to extend the deadline. If a judgment has already been issued (in absence), the defender can apply to the court to have the action recalled, subject to the applicable rules of court.

Last update: 30/04/2019

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