
STATUTORY INSTRUMENTS

1976 No. 1158 (N.I. 18)

NORTHERN IRELAND

The Limitation (Northern Ireland) Order 1976

Laid before Parliament in draft

Made 23rd July 1976

Coming into Operation 23rd August 1976

ARRANGEMENT OF ORDER

Article

1. Title, commencement and citation.
2. Interpretation.
3. New time limits.
4. Persons under disability.
5. Transitional provisions.
6. Amendments and repeals.

SCHEDULES:

Schedule 1—Amendments.

Schedule 2—Repeals.

At the Court of Saint James, the 23rd day of July 1976

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953 (a), was pleased, by Letters Patent dated the 29th day of June 1976, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (b), and of all other powers enabling Her Majesty in that behalf, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

(a) 1937 c. 16; 1943 c. 42; 1953 c. 1 (2 & 3 Eliz. 2).

(b) 1974 c. 28.

Title, commencement and citation

1.—(1) This Order may be cited as the Limitation (Northern Ireland) Order 1976 and shall come into operation at the expiration of a period of one month beginning with the date on which it is made.

(2) This Order and the Limitation Acts (Northern Ireland) 1958 and 1964 may be cited together as the Limitation Acts (Northern Ireland) 1958 to 1976.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 (a) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

New time limits

3. After section 9 of the Statute of Limitations (Northern Ireland) 1958 (b) there shall be inserted the following sections:—

“Time limit
for personal
injuries.

9A.—(1) This section applies to any action for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of provision made by or under a statute or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to the plaintiff or any other person.

(2) Sections 8 and 9 shall not apply to an action to which this section applies.

(3) Subject to section 9D, an action to which this section applies shall not be brought after the expiration of the period specified in subsections (4) and (5).

(4) Except where subsection (5) applies, the said period is three years from—

(a) the date on which the cause of action accrued, or

(b) the date (if later) of the plaintiff’s knowledge.

(5) If the person injured dies before the expiration of the period in subsection (4), the period as respects the cause of action surviving for the benefit of the estate of the deceased by virtue of section 14 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937 (c) shall be three years from—

(a) the date of death, or

(b) the date of the personal representative’s knowledge,

whichever is the later.

(6) In this section, and in section 9B, references to a person’s date of knowledge are references to the date on which he first had knowledge of the following facts—

(a) that the injury in question was significant, and

(b) that that injury was attributable in whole or in part to the act or omission which is alleged to constitute negligence, nuisance or breach of duty, and

(c) the identity of the defendant, and

(d) if it is alleged that the act or omission was that of a person other than the defendant, the identity of that person and the additional facts supporting the bringing of an action against the defendant,

(a) 1954 c. 33 (N.I.). (b) 1958 c. 10 (N.I.). (c) 1937 c. 9 (N.I.).

and knowledge that any acts or omissions did or did not, as a matter of law, involve negligence, nuisance or breach of duty is irrelevant.

(7) For the purposes of this section an injury is significant if the plaintiff would reasonably have considered it sufficiently serious to justify his instituting proceedings for damages against a defendant who did not dispute liability and was able to satisfy a judgment.

(8) For the purposes of this section and section 9B a person's knowledge includes knowledge which he might reasonably have been expected to acquire—

(a) from facts observable or ascertainable by him, or

(b) from facts ascertainable by him with the help of medical or other appropriate expert advice which it is reasonable for him to seek,

but a person shall not be fixed under this subsection with knowledge of a fact ascertainable only with the help of expert advice so long as he has taken all reasonable steps to obtain (and, where appropriate, to act on) that advice.

(9) For the purposes of this section 'personal representative' includes any person who is or has been a personal representative of the deceased, including an executor who has not proved the will (whether or not he has renounced probate); and regard shall be had to any knowledge acquired by any such person while a personal representative or previously.

(10) If there is more than one personal representative and their dates of knowledge are different, subsection (5) (b) shall be read as referring to the earliest of those dates.

Time limit
for actions
under Fatal
Accidents
Act 1846.

9B.—(1) This section has effect subject to section 9D.

(2) An action under the Fatal Accidents Act 1846 (a) shall not be brought if the death occurred when the person injured could no longer maintain an action and recover damages in respect of the injury (whether because of a time limit in this Act or in any other statutory provision, or any other reason).

Where any such action by the injured person would have been barred by the time limit in section 9A, no account shall be taken of the possibility of that time limit being overridden under section 9D.

(3) An action under the Fatal Accidents Act 1846 shall not be brought after the expiration of three years from—

(a) the date of death, or

(b) the date of knowledge of the person for whose benefit the action is brought,

whichever is the later.

(4) Subsection (3) shall not apply to an action for which a period of limitation is prescribed by any other limitation provision,

(a) 1846 c. 93.

and sections 8 to 9A shall not apply to an action under the Fatal Accidents Act 1846.

(5) An action under the Fatal Accidents Act 1846 shall be one to which sections 49 and 50 (persons under disability) apply, but otherwise Parts I, IV and V shall not apply to the action.

Dependants
subject to
different
time limits.

9C.—(1) This section applies where there is more than one person for whose benefit an action under the Fatal Accidents Act 1846 is brought.

(2) Section 9B (3) (b) shall be applied separately to each of them, and if that would debar one or more of them, but not all, the court shall direct that any person who would be so debarred shall be excluded from those for whom the action is brought unless it is shown that if the action were brought exclusively for the benefit of that person it would not be defeated by a defence of limitation (whether in consequence of section 50 (persons under disability), or an agreement between the parties not to raise the defence, or otherwise).

Court's
power to
override
time limits.

9D.—(1) If it appears to the court that it would be equitable to allow an action to proceed having regard to the degree to which—

(a) the provisions of section 9A or 9B prejudice the plaintiff or any person whom he represents, and
(b) any decision of the court under this subsection would prejudice the defendant or any person whom he represents,
the court may direct that those provisions shall not apply to the action, or shall not apply to any specified cause of action to which the action relates.

(2) The court shall not under this section disapply section 9B (2) except where the reason why the person injured could no longer maintain an action was because of the time limit in section 9A.

(3) In acting under this section the court shall have regard to all the circumstances of the case and in particular to—

- (a) the length of, and the reasons for, the delay on the part of the plaintiff;
- (b) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the plaintiff or the defendant is or is likely to be less cogent than if the action had been brought within the time allowed by section 9A or as the case may be 9B;
- (c) the conduct of the defendant after the cause of action arose, including the extent if any to which he responded to requests reasonably made by the plaintiff for information or inspection for the purpose of ascertaining facts which were or might be relevant to the plaintiff's cause of action against the defendant;
- (d) the duration of any disability of the plaintiff arising after the date of the accrual of the cause of action;

- (e) the extent to which the plaintiff acted promptly and reasonably once he knew whether or not the act or omission of the defendant, to which the injury was attributable, might be capable at that time of giving rise to an action for damages;
- (f) the steps, if any, taken by the plaintiff to obtain medical, legal or other expert advice and the nature of any such advice he may have received.

(4) In a case where the person injured died when, because of section 9A, he could no longer maintain an action and recover damages in respect of the injury, the court shall have regard in particular to the length of, and the reasons for, the delay on the part of the deceased.

(5) In a case under subsection (4), or any other case where the time limit, or one of the time limits, depends on the date of knowledge of a person other than the plaintiff, subsection (3) shall have effect with appropriate modifications, and shall have effect in particular as if references to the plaintiff included references to any person whose date of knowledge is or was relevant in determining a time limit.

(6) A direction by the court disapplying the provisions of section 9B (2) shall operate to disapply the provisions to the same effect in section 1 of the Fatal Accidents Act 1846.

(7) In this section "the court" means the court in which the action has been brought.

(8) References in this section to sections 9A and 9B include references to those sections as extended by any other provision of this Act."

Persons under disability

4.—(1) Section 50 of the Statute of Limitations (Northern Ireland) 1958 (persons under disability: time limit of 6 years from end of disability) shall have effect subject to the following provisions of this Article.

(2) For subsection (6) there shall be substituted the following subsection:—

"(6) In the case of an action to which section 9A or 9B (3) applies, subsection (1) shall have effect as if for the words 'six years' there were substituted the words 'three years'."

(3) For subsection (9) there shall be substituted the following subsection:—

"(9) In the case of an action to recover an amount recoverable by a tortfeasor under section 16 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937, subsection (1) shall have effect as if for the words 'six years' there were substituted the words 'two years'."

Transitional provisions

5.—(1) The provisions of this Order shall have effect in relation to causes of action which accrued before, as well as causes of action which accrue after, the coming into operation of this Order, and shall have effect in relation to any cause of action which accrued before the coming into operation of this Order notwithstanding that an action in respect thereof has been commenced and is pending at the coming into operation of this Order.

(2) For the purposes of this Article an action shall not be taken to be pending at any time if a final order or judgment has been made or given therein, notwithstanding that an appeal is pending or that the time for appealing has not expired.

(3) It is hereby declared that a decision taken at any time by a court to grant, or not to grant, leave under the Limitation Act (Northern Ireland) 1964 (which, so far as it relates to leave, is repealed by this Order) does not affect the determination of any question in proceedings under this Order, but in such proceedings account may be taken of evidence admitted in proceedings under the provisions of the said Act repealed by this Order.

(4) In this Article "action" includes any proceeding in a court of law, an arbitration and a claim by way of set-off or counterclaim.

Amendments and repeals

6.—(1) The statutory provisions set out in Schedule 1 shall have effect subject to the amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 2 shall be repealed to the extent specified in the third column of that Schedule.

N. E. Leigh

SCHEDULES

Article 6 (1).

SCHEDULE 1

AMENDMENTS

The Fatal Accidents Acts (Northern Ireland) 1846 to 1959

1. In the Fatal Accidents Acts (Northern Ireland) 1846 to 1959 any reference to injury includes any disease and any impairment of a person's physical or mental condition.

The Statute of Limitations (Northern Ireland) 1958

2. In sections 1 (1) (c), 3 and 72 for the words "other limitation enactment" (wherever they occur) there shall be substituted the words "other limitation provision".

3. In section 8 at the beginning there shall be inserted the words "Subject to sections 9A and 9B,".

4. In section 9 (1) for the words "section ten" there shall be substituted the words "sections 9A, 9B and 10".

5. In section 9 (2) for the words "The following actions" there shall be substituted the words "An action claiming damages for slander" and the words from "(a) an action claiming" to the end of the subsection shall cease to have effect.

6. Section 9 (3) (which is unnecessary) shall cease to have effect.

7. In sections 72 (5) and 73 for the words "an enactment" and "enactment" (wherever they occur) there shall be substituted the words "a statutory provision" and "statutory provision" respectively.

8. In section 74 (1)—

(a) for the definition of "other limitation enactment" there shall be substituted the following definition—

" "other limitation provision" means any statutory provision (other than this Act) in force after the commencement of this Act with respect to the limitation of actions;";

(b) in the definition of "personal injuries" there shall be added at the end the words "and "injury" and cognate expressions shall be construed accordingly";

(c) at the end there shall be added the following definition—

"statutory provision" has the same meaning as in section 1 (f) of the Interpretation Act (Northern Ireland) 1954;".

SCHEDULE 2

Article 6 (2).

REPEALS

Chapter	Short Title	Extent of Repeal
9 & 10 Vict. c. 93.	The Fatal Accidents Act 1846.	In section 3 the words from "and that every" to the end of the section.
1954 c. 26.	The Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1954.	The whole Act so far as unrepealed.
1958 c. 10.	The Statute of Limitations (Northern Ireland) 1958.	In section 1 (1) (a) (ii) the words from "as defined" to "1954". In section 9 (2) the words from "(a) an action claiming" to the end of the subsection. Section 9 (3). Section 50 (7).
1964 c. 1.	The Limitation Act (Northern Ireland) 1964.	Sections 1 to 3. Section 4 (3). Section 6. In section 7 subsections (1) to (8) and (10), and in subsection (9) the words "Subject to subsections (1) to (8)," and the words from "and "parent"" to the end.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the law in Northern Ireland on limitation of actions in relation to personal injury actions and actions under the Fatal Accidents Acts and in relation to persons under disability.