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STATUTORY INSTRUMENTS

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1982 No. 339 (N.I. 7)

NORTHERN IRELAND

**The Limitation Amendment  
(Northern Ireland) Order 1982**

*Laid before Parliament in draft*

Made 10th March 1982

Coming into operation in accordance with Article 1 (2) and (3).

ARRANGEMENT OF ORDER

*Introductory*

Article

1. Title, commencement and citation.
2. Interpretation.

*Miscellaneous amendments of Statute of Limitations*

3. Limitation in case of new claims in pending actions.
4. Limitation in case of certain loans.
5. Limitation in case of theft.
6. Accrual of right of action in case of certain tenancies.
7. Licence not to be implied by law to defeat adverse possession.
8. Relief for trustee retaining trust property as beneficiary.
9. Effect of acknowledgment or part payment.
10. Postponement of limitation period in case of fraud, concealment or mistake.
11. Admiralty actions.
12. Application to the Crown.
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*Miscellaneous and supplementary*

14. Limitation in case of claim for compensation out of Insurance Fund in Land Registry.
15. Amendments and repeals.

SCHEDULES:

Schedule 1—Amendments to the Statute of Limitations.

Schedule 2—Repeals.

At the Court at Buckingham Palace; the 10th day of March 1982

Present,

The Queen's Most Excellent Majesty in Council

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

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Introductory*

*Title, commencement and citation*

1.—(1) This Order may be cited as the Limitation Amendment (Northern Ireland) Order 1982.

(2) This Order, except Article 3, shall come into operation on the expiration of one month from the day on which it is made.

(3) Article 3 shall come into operation on such day as the Secretary of State may by order appoint.

(4) This Order and the Limitation Acts (Northern Ireland) 1958 to 1976 may be cited together as the Limitation Acts (Northern Ireland) 1958 to 1982.

*Interpretation*

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

(2) In this Order “the Statute of Limitations” means the Statute of Limitations (Northern Ireland) 1958 (c).

*Miscellaneous amendments of Statute of Limitations*

*Limitation in case of new claims in pending actions*

3. For section 2 of the Statute of Limitations (application of Act to set-off or counterclaim) there shall be substituted the following section—

“Application of this Act to new claims in pending actions.

2.—(1) For the purposes of this Act, any new claim made in the course of any action shall be deemed to be a separate action and to have been commenced—

(a) in the case of a new claim made in or by way of third party proceedings, on the date on which those proceedings were commenced; and

(b) in any other case, on the same date as the original action.

(2) In this section a new claim means any claim by way of set-off or counterclaim, and any claim involving either—

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(a) 1974 c. 28. (b) 1954 c. 33 (N.I.). (c) 1958 c. 10 (N.I.).

- (a) the addition or substitution of a new cause of action; or
- (b) the addition or substitution of a new party;

and “third party proceedings” means any proceedings brought in the course of any action by any party to the action against a person not previously a party to the action, other than proceedings brought by joining any such person as defendant to any claim already made in the original action by the party bringing the proceedings.

(3) Except as provided by section 9D, by rules of court, or by county court rules, neither the High Court nor any county court shall allow a new claim within subsection (1) (b), other than an original set-off or counterclaim, to be made in the course of any action after the expiry of any time limit under this Act which would affect a new action to enforce that claim.

For the purposes of this subsection, a claim is an original set-off or an original counterclaim if it is a claim made by way of set-off or (as the case may be) by way of counterclaim by a party who has not previously made any claim in the action.

(4) Rules of court and county court rules may provide for allowing a new claim to which subsection (3) applies to be made as there mentioned, but only if the conditions specified in subsection (5) are satisfied, and subject to any further restrictions the rules may impose.

(5) The conditions referred to in subsection (4) are the following—

- (a) in the case of a claim involving a new cause of action, if the new cause of action arises out of the same facts or substantially the same facts as are already in issue on any claim previously made in the original action; and
- (b) in the case of a claim involving a new party, if the addition or substitution of the new party is necessary for the determination of the original action.

(6) The addition or substitution of a new party shall not be regarded for the purposes of subsection (5) (b) as necessary for the determination of the original action unless either—

- (a) the new party is substituted for a party whose name was given in any claim made in the original action in mistake for the new party’s name; or
- (b) any claim already made in the original action cannot be maintained by or against an existing party unless the new party is joined or substituted as plaintiff or defendant in that action.

(7) Subject to subsection (4), rules of court and county court rules may provide for allowing a party to any action to claim relief in a new capacity in respect of a new cause of action notwithstanding that he had no title to make that claim at the date of the commencement of the action.

This subsection shall not be taken as prejudicing the power of rules of court to provide for allowing a party to claim relief in a new capacity without adding or substituting a new cause of action.

(8) Subsections (3) to (7) shall apply in relation to a new claim made in the course of third party proceedings as if those proceedings were the original action, and subject to such other modifications as may be prescribed by rules of court or county court rules in any case or class of case.”.

*Limitation in case of certain loans*

4. After section 8 of the Statute of Limitations (limitation of actions founded on contract) there shall be inserted the following section—

“Limitation  
in case of  
certain loans.

**8A.—**(1) Subject to subsection (3), section 8 (a) shall not bar the right of action on a contract of loan to which this section applies.

(2) This section applies to any contract of loan which—

(a) does not provide for repayment of the debt on or before a fixed or determinable date; and

(b) does not effectively (whether or not it purports to do so) make the obligation to repay the debt conditional on a demand for repayment made by or on behalf of the creditor or on any other matter;

except where in connection with taking the loan the debtor enters into any collateral obligation to pay the amount of the debt or any part of it (as, for example, by delivering a promissory note as security for the debt) on terms which would exclude the application of this section to the contract of loan if they applied directly to repayment of the debt.

(3) Where a demand in writing for repayment of the debt under a contract of loan to which this section applies is made by or on behalf of the creditor (or, where there are joint creditors, by or on behalf of any one of them) section 8 (a) shall thereupon apply as if the cause of action to recover the debt had accrued on the date on which the demand was made.

(4) In this section “promissory note” has the same meaning as in the Bills of Exchange Act 1882 (a).”.

*Limitation in case of theft*

5. After section 15 of the Statute of Limitations (limitation in case of successive conversions and extinction of title of owner of converted goods) there shall be inserted the following section—

“Limitation  
in case of  
theft.

**15A.—**(1) The right of any person from whom a chattel is stolen to bring an action in respect of the theft shall not be subject to the time limits under sections 9 (1) and 15 (1), but if his title to the chattel is extinguished under section 15 (2) he may not bring an action in respect of a theft preceding the loss of his title, unless the theft in question preceded the conversion from which time began to run for the purposes of section 15 (2).

(2) Subsection (1) shall apply to any conversion related to the theft of a chattel as it applies to the theft of a chattel; and, except as provided below, every conversion following the theft of a chattel before the person from whom it is stolen recovers possession of it

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(a) 1882 c. 61.

shall be regarded for the purposes of this section as related to the theft.

If anyone purchases the stolen chattel in good faith neither the purchase nor any conversion following it shall be regarded as related to the theft.

(3) Any cause of action accruing in respect of the theft or any conversion related to the theft of a chattel to any person from whom the chattel is stolen shall be disregarded for the purpose of applying section 15 (1) or (2) to his case.

(4) Where in any action brought in respect of the conversion of a chattel it is proved that the chattel was stolen from the plaintiff or anyone through whom he claims it shall be presumed that any conversion following the theft is related to the theft unless the contrary is shown.

(5) In this section 'theft' includes—

(a) any conduct outside Northern Ireland which would be theft if committed in Northern Ireland; and

(b) obtaining any chattel (in Northern Ireland or elsewhere) in the circumstances described in section 15 (1) of the Theft Act (Northern Ireland) 1969 (a) (obtaining by deception) or by blackmail within the meaning of section 20 of that Act;

and references in this section to a chattel being 'stolen' shall be construed accordingly.”.

*Accrual of right of action in case of certain tenancies*

6.—(1) Section 21 of the Statute of Limitations (accrual of right of action in case of certain tenancies) shall have effect subject to the following provisions of this Article.

(2) The following provisions shall cease to have effect, namely—

(a) subsections (1) and (2);

(b) in subsection (6) the words from the beginning to “Crown, and”.

(3) In subsection (5) (a) for the words “twenty shillings” there shall be substituted the words “ten pounds a year”.

(4) Paragraph (3) shall not affect the operation of section 21 (5) (a) in any case where the lease in question was granted before the coming into operation of this Article.

*Licence not to be implied by law to defeat adverse possession*

7. At the end of section 22 of the Statute of Limitations (right of action not to accrue unless there is adverse possession) there shall be added the following subsection—

“(5) For the purpose of determining whether a person occupying any land is in adverse possession of the land it shall not be assumed by implication of law that his occupation is by permission of the person entitled to the land merely by virtue of the fact that his occupation is not inconsistent with the latter's present or future enjoyment of the land.

This provision shall not be taken as prejudicing a finding to the effect that a person's occupation of any land is by implied permission of the person entitled

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(a) 1969 c. 16 (N.I.).

to the land in any case where such a finding is justified on the actual facts of the case.”.

*Relief for trustee retaining trust property as beneficiary*

8. Section 45 of the Statute of Limitations (exclusion of actions against trustees in cases of fraud or retention of trust property) shall be renumbered as subsection (1) of that section and after that subsection there shall be added the following subsection—

“(2) Where a trustee who is also a beneficiary under the trust receives or retains trust property or its proceeds as his share on a distribution of trust property under the trust, his liability in any action brought by virtue of paragraph (b) of subsection (1) to recover that property or its proceeds after the expiration of the period of limitation prescribed by this Act for bringing an action to recover trust property shall be limited to the excess over his proper share.

This subsection only applies if the trustee acted honestly and reasonably in making the distribution.”.

*Effect of acknowledgment or part payment*

9.—(1) At the end of section 58 of the Statute of Limitations (formal provisions as to acknowledgments) there shall be added the following subsections—

“(3) A current period of limitation may be repeatedly extended under sections 51 to 57 by further acknowledgments.

(4) A right of action, once barred by this Act, shall not be revived by any subsequent acknowledgment.”.

(2) Section 66 of the Statute of Limitations (formal provisions as to part payment) shall be renumbered as subsection (1) of that section and after that subsection there shall be added the following subsections—

“(2) A current period of limitation may be repeatedly extended under sections 61 to 65 by further payments.

(3) A right of action, once barred by this Act, shall not be revived by any subsequent payment.”.

(3) In consequence of the provision made by paragraphs (1) and (2) the following provisions of the Statute of Limitations shall cease to have effect, namely—

(a) in section 6 (1) (a) the words from “except in so far” to “Part IV”;

(b) section 59 (5);

(c) in section 67 (4) the words “subject to subsection (5)”;

(d) section 67 (5);

(e) section 68 (1) (ii).

(4) Nothing in this Article (or in the corresponding repeals made by this Order) shall affect the operation of the Statute of Limitations in relation to any acknowledgment or payment made before the coming into operation of this Article.

*Postponement of limitation period in case of fraud, concealment or mistake*

10. For sections 70 and 71 of the Statute of Limitations (postponement of limitation period in cases of fraud and mistake) there shall be substituted the following section—

“Postpone-  
ment of limit-  
ation period in  
case of fraud,  
concealment  
or mistake.

**70.—(1)** Subject to subsection (3), where in the case of any action for which a period of limitation is prescribed by this Act, either—

- (a) the action is based upon the fraud of the defendant; or
- (b) any fact relevant to the plaintiff’s right of action has been deliberately concealed from him by the defendant; or
- (c) the action is for relief from the consequences of a mistake;

the period of limitation shall not begin to run until the plaintiff has discovered the fraud, concealment or mistake (as the case may be) or could with reasonable diligence have discovered it.

(2) For the purposes of subsection (1), deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts to deliberate concealment of the facts involved in that breach of duty.

(3) Nothing in this section shall enable any action—

- (a) to recover, or recover the value of, any property; or
- (b) to enforce any charge against, or set aside any transaction affecting, any property;

to be brought against the purchaser of the property or any person claiming through him in any case where the property has been purchased for valuable consideration by an innocent third party since the fraud or concealment or (as the case may be) the transaction in which the mistake was made took place.

(4) A purchaser is an innocent third party for the purposes of this section—

- (a) in the case of fraud or concealment of any fact relevant to the plaintiff’s right of action, if he was not a party to the fraud or (as the case may be) to the concealment of that fact and did not at the time of the purchase know or have reason to believe that the fraud or concealment had taken place; and
- (b) in the case of mistake, if he did not at the time of the purchase know or have reason to believe that the mistake had been made.

(5) References in this section to the defendant include references to the defendant’s agent and to any person through whom the defendant claims and his agent.”.

#### *Admiralty actions*

**11.—(1)** The Statute of Limitations shall apply to any cause of action within the Admiralty jurisdiction of the High Court as it applies to any other cause of action.

(2) Accordingly, the following provisions of the Statute of Limitations shall cease to have effect, namely—

- (a) section 16 (1); and
- (b) in sections 38 (1), 39 (1) and 41 the words “(other than a ship)”.

*Application to the Crown*

12. Without prejudice to the application of section 4 of the Statute of Limitations in relation to any provision inserted in that Act by any of the preceding provisions of this Order, that section shall apply for the purposes of the preceding provisions of this Order as it applies for the purposes of that Act.

*Transitional provisions*

13.—(1) Nothing in any of the preceding provisions of this Order shall—

- (a) enable any action to be brought which was barred by the Statute of Limitations before that provision comes into operation; or
- (b) affect any action or arbitration commenced before that provision comes into operation or the title to any property which is the subject of any such action or arbitration.

(2) Subject to paragraph (1) and Articles 6 (4) and 9 (4), the preceding provisions of this Order shall have effect in relation to causes of action accruing and things taking place before, as well as in relation to causes of action accruing and things taking place after, those provisions respectively come into operation.

(3) In this Article “action” has the same meaning as in the Statute of Limitations.

*Miscellaneous and supplementary*

*Limitation in case of claim for compensation out of Insurance Fund in Land Registry*

14.—(1) In Schedule 9 to the Land Registration Act (Northern Ireland) 1970 (a) in paragraph 4 (claim for compensation to be made within six years from the time when the right to compensation accrued) for sub-paragraph (2) there shall be substituted the following sub-paragraphs—

“(2) For the purposes of sub-paragraph (1), a right to compensation shall be deemed to accrue—

- (a) where the right to compensation arises from the rectification of a register pursuant to section 69 and the claim, or part thereof, is made by virtue of paragraph 5, on the date on which the claimant discovers the error or omission or could with reasonable diligence have discovered it;
- (b) in any other case where the right to compensation arises from the rectification of a register pursuant to section 69, on the date on which the order for rectification is made under that section;
- (c) where the right to compensation arises from an error in, or omission from, a register which is not rectified pursuant to section 69, on the date on which the claimant discovers the error or omission or could with reasonable diligence have discovered it;
- (d) in regard to an error in a certificate referred to in paragraph 1 (1) (c) or in a certified copy or extract referred to in paragraph 1 (1) (d) on the date on which the claimant discovers the error or could with reasonable diligence have discovered it.

(3) A person deriving title (otherwise than for valuable consideration and in good faith) from another shall be deemed for the purposes of sub-paragraph (2) (a) (c) and (d) to have discovered an error or omission on the date on which that other person discovered or could with reasonable diligence have discovered it.”.

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(a) 1970 c. 18 (N.I.).

(2) This Article applies to any claim for compensation made under the said Schedule 9 after the coming into operation of this Article, and applies notwithstanding that a similar claim was not or could not have been entertained under that Schedule before that date.

*Amendments and repeals*

15.—(1) The Statute of Limitations shall have effect subject to the minor and consequential amendments specified in Schedule 1.

(2) The provisions of the Statute of Limitations specified in Schedule 2 are hereby repealed to the extent specified in the third column of that Schedule.

*N. E. Leigh,*  
Clerk of the Privy Council.

## SCHEDULES

Article 15 (1).

### SCHEDULE 1

#### AMENDMENTS TO THE STATUTE OF LIMITATIONS

1. In section 7 after the word “fraud” insert the word “concealment”.
2. In section 8—
  - (a) for the words “sections 9A and 9B” substitute the words “sections 8A, 9A and 9B”;
  - (b) paragraph (c) shall cease to have effect;
  - (c) in paragraph (e) sub-paragraph (i) shall cease to have effect.
3. In section 9A—
  - (a) in subsection (4) (b) for the words from “(if later)” to the end substitute the words “of knowledge (if later) of the person injured”;
  - (b) in subsection (7) for the words from “this” to “plaintiff” substitute the words “subsection (6) an injury is significant if the person whose date of knowledge is in question”; and
  - (c) in subsection (8) for the words “this section and section 9B” substitute the words “subsection (6)”.
4. In section 9B (5) after the word “sections” insert the words “2 (new claims in pending actions) and”.
5. For section 11 substitute the following section—

“Limitation of actions for an account.”	11. An action for an account shall not be brought after the expiration of any time limit under this Act which is applicable to the claim which is the basis of the duty to account.”
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6. In section 13 (1) for the word “twelve” substitute the word “six”.
7. Section 14 shall cease to have effect.
8. In section 15—
  - (a) in subsection (1) the words “or wrongful detention” wherever they occur shall cease to have effect;
  - (b) in subsection (2) the words from “and for” to “aforesaid” shall cease to have effect.

9. Sections 24 and 26 shall cease to have effect.
10. In section 48 (c) sub-paragraph (i) shall cease to have effect.
11. In section 49 (2) for the words from “but” to “presumed” substitute the words “a person is of unsound mind if he is a person who, by reason of mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961, is incapable of managing his affairs; and without prejudice to the generality of the foregoing provision, a person shall be conclusively presumed for the purposes of that subsection”.
12. In section 50 subsections (5) and (10) shall cease to have effect.
13. In section 59 (3) for the words “right to” substitute the words “equity of”.
14. In section 67 (1) after the words “mortgagor or” insert the words “any other person liable for the debt or by”.

## REPEALS

Chapter	Short Title	Extent of Repeal
1958 c. 10 (N.I.).	The Statute of Limitations (Northern Ireland) 1958.	<p>In section 6 (1) (a) the words from "except in so far" to "Part IV".</p> <p>Section 8 (c) and (e) (i).</p> <p>Section 14.</p> <p>In section 15 (1) the words "or wrongful detention" wherever they occur.</p> <p>In section 15 (2) the words from "and for" to "aforesaid".</p> <p>Section 16 (1).</p> <p>Section 21 (1) and (2).</p> <p>In section 21 (6) the words from the beginning to "Crown, and".</p> <p>Section 24.</p> <p>Section 26.</p> <p>In sections 38 (1), 39 (1) and 41 the words "(other than a ship)".</p> <p>Section 48 (c) (i).</p> <p>Section 50 (5) and (10).</p> <p>Section 59 (5).</p> <p>In section 67 (4) the words "subject to subsection (5)".</p> <p>Section 67 (5).</p> <p>Section 68 (1) (ii).</p>

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order makes miscellaneous amendments to the law on limitation of actions corresponding to those made in England and Wales by the Limitation Amendment Act 1980 which implemented recommendations contained in the Law Reform Committee's 21st Report on Limitation of Actions (Cmnd. 6923). The principal amendments to the Statute of Limitations (Northern Ireland) 1958 are—

- (a) where no time for repayment is specified in a contract of loan the six year period of limitation will begin to run in favour of the borrower only when the lender has made a written demand for payment and not, as formerly, when the loan is made (Article 4);
- (b) in relation to claims for conversion of goods, a thief cannot set up a defence of limitation to a claim by the owner (Article 5);
- (c) once a right of action has been barred it shall not be capable of revival by acknowledgment or part payment (Article 9).

The Order also amends the limitation period in relation to claims for compensation from the Insurance Fund in the Land Registry.