
STATUTORY INSTRUMENTS

1987 No. 1629 (N.I. 17)

The Limitation (Amendment) (Northern Ireland) Order 1987

- - - - - 15th September 1987

- - - - - 16th December 1987

Title and commencement

1.—(1) This Order may be cited as the Limitation (Amendment) (Northern Ireland) Order 1987.
Para. (2) rep. by 1989 NI 11

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 applies 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 1958 Act” has the meaning given by Article 3;

“action” includes any proceeding in a court of law, an arbitration and any new claim within the meaning of section 2 of the 1958 Act.

Arts. 3, 4 rep. by 1989 NI 11

Accrual of cause of action to successive owners in respect of latent damage to property

5.—(1) Subject to paragraphs (2) to (7), where—

- (a) a cause of action (“the original cause of action”) has accrued to any person in respect of any negligence to which damage to any property in which he has an interest is attributable (in whole or in part); and
- (b) another person acquires an interest in that property after the date on which the original cause of action accrued but before the material facts about the damage have become known to any person who, at the time when he first has knowledge of those facts, has any interest in the property;

a fresh cause of action in respect of that negligence shall accrue to that other person on the date on which he acquires his interest in the property.

(2) A cause of action accruing to any person by virtue of paragraph (1)—

- (a) shall be treated as if based on breach of a duty of care at common law owed to the person to whom it accrues; and

(b) shall be treated for the purposes of section 9E of the 1958 Act (special time limit for negligence actions where facts relevant to cause of action are not known at date of accrual) as having accrued on the date on which the original cause of action accrued.

(3) Section 50 of the 1958 Act (extension of limitation period in case of disability) shall not apply in relation to any such cause of action.

(4) Paragraph (1) shall not apply in any case where the person acquiring an interest in the damaged property is either—

- (a) a person in whom the original cause of action vests by operation of law; or
- (b) a person in whom the interest in that property vests by virtue of any order made by a court under Article 498 of the Companies (Northern Ireland) Order 1986 (vesting of company property in liquidator).

(5) For the purpose of paragraph (1)(b), the material facts about the damage are such facts about the damage as would lead a reasonable person who has an interest in the damaged property at the time when those facts become known to him to consider 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.

(6) For the purposes of this Article 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 appropriate expert advice which it is reasonable for him to seek;

but a person shall not be taken by virtue of this paragraph to have knowledge of a fact ascertainable by him 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.

(7) This Article shall bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland, but as regards the Crown's liability in tort shall not bind the Crown further than the Crown is made liable in tort by the Crown Proceedings Act 1947.

Art. 6 rep. by 1989 NI 11

Transitional provisions

Paras. (1)(2) rep. by 1989 NI 11

(3) Article 5 shall only apply in cases where an interest in damaged property is acquired after this Order comes into force but shall so apply, subject to paragraph (4), irrespective of whether the original cause of action accrued before or after this Order comes into force.

(4) Where—

- (a) a person acquires an interest in damaged property in circumstances to which Article 5 would apart from this paragraph apply; but
- (b) the original cause of action accrued more than six years before this Order comes into force;

a cause of action shall not accrue to that person by virtue of paragraph (1) of that Article unless section 70(1)(b) of the 1958 Act (postponement of limitation period in case of deliberate concealment of relevant facts) would apply to any action founded on the original cause of action.

Changes to legislation:

There are currently no known outstanding effects for the The Limitation (Amendment) (Northern Ireland) Order 1987.