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STATUTORY INSTRUMENTS

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**1989 No. 1339**

**The Limitation (Northern Ireland) Order 1989**

**PART II**

**ACTIONS OF CONTRACT AND TORT AND CERTAIN OTHER ACTIONS**

**Time limit: actions for personal injuries**

7.—(1) This Article 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) Articles 4 and 6 do not apply to an action to which this Article applies.

(3) Subject to Article 50, an action to which this Article applies may not be brought after the expiration of the period specified in paragraphs (4) and (5).

(4) Except where paragraph (5) applies, that period is three years from—

- (a) the date on which the cause of action accrued, or
- (b) the date of knowledge (if later) of the person injured.

(5) If the person injured dies before the expiration of the period in paragraph (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<sup>(1)</sup> is three years from—

- (a) the date of death; or
- (b) the date of the personal representative's knowledge,

whichever is the later.

(6) Subject to paragraph (7), in this Article and in Article 9, 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,

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.

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(1) 1937 c. 9 (N.I.)

(7) In Article 8 and in Article 9 so far as that Article applies to an action by virtue of Article 9(1) of the Consumer Protection (Northern Ireland) Order 1987(2) (death caused by defective product) references to a person's date of knowledge are references to the date on which he first had knowledge of the following facts—

- (a) such facts about the damage caused by the defect as would lead a reasonable person who had suffered such damage 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; and
- (b) that the damage was wholly or partly attributable to the facts and circumstances alleged to constitute the defect; and
- (c) the identity of the defendant;

but, in determining the date on which a person first had such knowledge there is to be disregarded both the extent (if any) of that person's knowledge on any date of whether particular facts or circumstances would or would not, as a matter of law, constitute a defect and, in a case relating to loss of or damage to property, any knowledge which that person had on a date on which he had no right of action by virtue of Part II of that Order in respect of the loss or damage.

(8) For the purposes of paragraph (6) an injury is significant if the person whose date of knowledge is in question 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.

(9) For the purposes of paragraph (6) 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 is not to be fixed under this paragraph 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.

(10) For the purposes of this Article and Article 8—

- (a) "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
- (b) regard is to be had to any knowledge acquired by any such person while a personal representative or previously.

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