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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**

**Part II subject to Part IV**

**3.** This Part has effect subject to Part IV.

**Time limit: actions founded on contract, etc.**

**4.** Subject to Articles 5, 7 and 9, the following actions may not be brought after the expiration of six years from the date on which the cause of action accrued—

- (a) an action founded on simple contract;
- (b) an action founded on quasi-contract;
- (c) an action to enforce an award where the arbitration agreement is not under seal;
- (d) an action to recover any sum recoverable by virtue of any statutory provision, other than—
  - (ii) a debt created by Article 25(2) or 474 of the Companies (Northern Ireland) Order 1986(1); or
  - (iii) an amount recoverable under section 1 of the Civil Liability (Contribution) Act 1978(2).

**Time limit: actions on certain loans**

**5.—(1)** Subject to paragraph (3), Article 4(a) does not bar the right of action on a contract of loan to which this Article applies.

(2) This Article 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 Article 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 Article applies is made by or on behalf of the creditor (or, where there are joint creditors, by or on

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(1) 1986 NI 6  
(2) 1978 c. 47

behalf of any one of them) Article 4(a) thereupon applies as if the cause of action to recover the debt had accrued on the date on which the demand was made.

(4) In this Article “promissory note” has the same meaning as in the Bills of Exchange Act 1882<sup>(3)</sup>.

**Time limit: certain actions founded on tort**

6.—(1) Subject to paragraph (2) and to Articles 7 and 9 and 11 to 13, an action founded on tort may not be brought after the expiration of six years from the date on which the cause of action accrued.

(2) Subject to Article 51, an action for damages for libel or slander may not be brought after the expiration of three years from the date on which the cause of action accrued.

**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>(4)</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.

<sup>(3)</sup> 1882 c. 61

<sup>(4)</sup> 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<sup>(5)</sup> (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.

### **Time limit: actions in respect of defective products**

**8.—**(1) This Article applies to an action for damages by virtue of any provision of Part II of the Consumer Protection (Northern Ireland) Order 1987<sup>(6)</sup>.

(2) The time limits fixed by Articles 4 to 7 do not apply to an action to which this Article applies.

(3) An action to which this Article applies may not be brought after the expiration of ten years from the relevant time, within the meaning of Article 7 of that Order of 1987; and this paragraph operates to extinguish a right of action and does so whether or not that right of action had accrued,

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(5) 1987 NI 20

(6) 1987 NI 20

or time under the following provisions of this Order had begun to run, at the end of that period of ten years.

(4) Subject to paragraph (5), an action to which this Article applies in which the damages claimed by the plaintiff consist of or include damages in respect of personal injuries to the plaintiff or any other person or loss of or damage to any property, may not be brought after the expiration of three years from whichever is the later of—

- (a) the date on which the cause of action accrued; and
- (b) the date of knowledge of the injured person or, in the case of loss of or damage to property, the date of knowledge of the plaintiff or (if earlier) of any person in whom his cause of action was previously vested.

(5) If, in a case where the damages claimed by the plaintiff consist of or include damages in respect of personal injuries to the plaintiff or any other person, the injured person died before the expiration of the period mentioned in paragraph (4), that paragraph has effect as respects the cause of action surviving for the benefit of his estate by virtue of section 14 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937(7) as if for the reference to that period there were substituted a reference to three years from—

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

whichever is the later.

(6) 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.

(7) Expressions used in this Article or Article 7(6) to (10) and in Part II of the Consumer Protection (Northern Ireland) Order 1987(8) have the same meanings in this Article or that Article as in that Part; and Article 4(1) of that Order (Part II to be construed as enacted for the purpose of complying with the product liability Directive) applies for the purpose of construing this Article and the following provisions of this Order so far as they relate to an action by virtue of any provision of that Part as it applies for the purpose of construing that Part.

#### **Time limit: actions under Fatal Accidents (NI) Order 1977**

9.—(1) This Article has effect subject to Article 50.

(2) An action under the Fatal Accidents (Northern Ireland) Order 1977(9) may 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 Order 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 Article 7 or 8, no account is to be taken of the possibility of that time limit being overridden under Article 50.

(3) An action under the Fatal Accidents (Northern Ireland) Order 1977 may 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.

(7) 1937 c. 9 (N.I.)

(8) 1987 NI 20

(9) 1977 NI 18

(4) Paragraph (3) does not apply to an action for which a time limit is fixed by any other limitation provision, and Articles 4 to 7 do not apply to an action under the Fatal Accidents (Northern Ireland) Order 1977.

(5) An action under the Fatal Accidents (Northern Ireland) Order 1977 is one to which Articles 48 (extension of time limit: disability) and 73 (new claims in pending actions) apply, but otherwise Parts IV and V do not apply to the action.

#### **Dependants subject to different time limits**

**10.**—(1) This Article applies where there is more than one person for whose benefit an action under the Fatal Accidents (Northern Ireland) Order 1977 is brought.

(2) Article 9(3)(b) is to be applied separately to each of them, and if that would debar one or more of them, but not all, the court must direct that any person who would be so debarred is to 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 Article 48 (extension of time limit: disability), or an agreement between the parties not to raise the defence, or otherwise).

#### **Special time limit for negligence actions where facts relevant to cause of action are not known at date of accrual**

**11.**—(1) This Article applies to any action for damages for negligence, other than one to which Article 7 applies, where the starting date for reckoning the time limit under paragraph (3)(b) falls after the date on which the cause of action accrued.

(2) An action to which this Article applies may not be brought after the expiration of the period applicable in accordance with paragraph (3).

(3) That period is either—

- (a) six years from the date on which the cause of action accrued; or
- (b) three years from the starting date as defined by paragraph (4), if that period expires later than the period mentioned in sub-paragraph (a).

(4) For the purposes of this Article, the starting date for reckoning the time limit under paragraph (3)(b) is the earliest date on which the plaintiff or any person in whom the cause of action was vested before him first had both the knowledge required for bringing an action for damages in respect of the relevant damage and a right to bring such an action.

(5) In paragraph (4) “the knowledge required for bringing an action for damages in respect of the relevant damage” means knowledge both—

- (a) of the material facts about the damage in respect of which damages are claimed; and
- (b) of the other facts relevant to the current action mentioned in paragraph (7).

(6) For the purposes of paragraph (5)(a), the material facts about the damage are such facts about the damage 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.

(7) The other facts referred to in paragraph (5)(b) are—

- (a) that the damage was attributable in whole or in part to the act or omission which is alleged to constitute negligence; and
- (b) the identity of the defendant; and

- (c) 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.

(8) Knowledge that any acts or omissions did or did not, as a matter of law, involve negligence is irrelevant for the purposes of paragraph (5).

(9) 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 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.

### **Overriding time limit for negligence actions not involving personal injuries**

**12.**—(1) An action for damages for negligence, other than one to which Article 7 applies, may not be brought after the expiration of fifteen years from the date (or, if more than one, from the last of the dates) on which there occurred any act or omission—

- (a) which is alleged to constitute negligence; and
- (b) to which the damage in respect of which damages are claimed is alleged to be attributable (in whole or in part).

(2) This Article bars the right of action in a case to which paragraph (1) applies notwithstanding that—

- (a) the cause of action has not yet accrued; or
- (b) where Article 11 applies to the action, the date which is for the purposes of that Article the starting date for reckoning the period mentioned in paragraph (3)(b) of that Article has not yet occurred,

before the end of the time limit fixed by this Article.

### **Time limit for recovering contribution**

**13.**—(1) Where under section 1 of the Civil Liability (Contribution) Act 1978<sup>(10)</sup> any person becomes entitled to a right to recover contribution in respect of any damage from any other person, no action to recover contribution by virtue of that right may be brought after the end of the period of two years from the date on which that right accrued.

(2) For the purposes of this Order the date on which a right to recover contribution in respect of any damage accrues to any person (in this paragraph referred to as “the relevant date”) is to be ascertained as follows, that is to say—

- (a) if the person in question is held liable in respect of that damage by a judgment given in any civil proceedings, or an award made on any arbitration, the relevant date is the date on which the judgment is given, or the date of the award, as the case may be;
- (b) if, in any case not falling within sub-paragraph (a), the person in question makes or agrees to make any payment to one or more persons in compensation for that damage (whether he admits any liability in respect of the damage or not), the relevant date is the earliest date on which the amount to be paid by him is agreed between him (or his representative) and the person (or each of the persons, as the case may be) to whom the payment is to be made;

(10) 1978 c. 47

and for the purposes of this paragraph no account is to be taken of any judgment or award given or made on appeal in so far as it varies the amount of damages awarded against the person in question.

**Time limit: actions for an account**

**14.** An action for an account may not be brought after the expiration of any time limit under this Order which is applicable to the claim which is the basis of the duty to account.

**Time limit: actions founded on instruments under seal etc.**

**15.** The following actions may not be brought after the expiration of twelve years from the date on which the cause of action accrued—

- (a) an action upon an instrument under seal other than an action upon an instrument under seal to recover—
  - (i) arrears of a rentcharge or of a conventional rent; or
  - (ii) any principal sum of money secured by a mortgage or other charge; or
  - (iii) arrears of interest in respect of any sum of money secured by a mortgage or other charge; or
  - (iv) arrears of an annuity charged on personal property;
- (b) an action to enforce an award where the arbitration agreement is under seal;
- (c) an action to recover a debt created by Article 25(2) or 474 of the Companies (Northern Ireland) Order 1986(11).

**Time limit: actions upon judgments and for arrears of interest on judgment debts**

**16.—(1)** An action may not be brought upon a judgment after the expiration of six years from the date on which the judgment became enforceable.

(2) No arrears of interest in respect of any judgment debt may be recovered after the expiration of six years from the date on which the interest became due.

**Time limit: successive conversions and extinction of title of owner of converted goods**

**17.—(1)** Where—

- (a) any cause of action in respect of the conversion of a chattel has accrued to any person, and
- (b) before he recovers possession of the chattel, a further conversion takes place,

subject to Article 28, no action may be brought in respect of the further conversion after the expiration of six years from the accrual of the cause of action in respect of the original conversion.

(2) Where—

- (a) any such cause of action has accrued to any person and the period fixed for bringing that action has expired; and
- (b) that person has not during that period recovered possession of the chattel,

the title of that person to the chattel is, subject to Article 28, extinguished.

**Time limit: theft**

**18.—(1)** The right of any person from whom a chattel is stolen to bring an action in respect of the theft—

- (a) is not subject to the time limits under Articles 6(1) and 17(1), but
- (b) if his title to the chattel is extinguished under Article 17(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 Article 17(2).

(2) Paragraph (1) applies 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 is to be treated for the purposes of this Article as related to the theft. If anyone purchases the stolen chattel in good faith neither the purchase nor any conversion following it is to be treated 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 is to be disregarded for the purpose of applying Article 17(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 is to be presumed that any conversion following the theft is related to the theft unless the contrary is shown.

(5) In this Article “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<sup>(12)</sup> (obtaining by deception) or by blackmail within the meaning of section 20 of that Act;

and references in this Article to a chattel being “stolen” are to be construed accordingly.

### **Savings (Part II)**

**19.**—(1) This Part does not apply to any claim—

- (a) for specific performance of a contract; or
- (b) for an injunction or for other equitable relief,

except in so far as any provision of this Part may be applied by the court by analogy in like manner as the corresponding enactment repealed by the Statute of Limitations was applied before the commencement of that Act.

(2) Paragraph (1) does not affect the operation of Article 14.

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(12) 1969 c. 16 (N.I.)