
STATUTORY INSTRUMENTS

1989 No. 1339

The Limitation (Northern Ireland) Order 1989

PART III

**ACTIONS TO RECOVER LAND, ACTIONS IN RESPECT OF
MORTGAGES OR CHARGES AND CERTAIN OTHER ACTIONS**

Actions in respect of trust property

Time limit: trustees etc.

42.—(1) Subject to Article 43, an action to recover money or other property or in respect of any breach of trust, not being an action for which a time limit is fixed by any other provision of this Order, may not be brought against a trustee or any person claiming through him after the expiration of six years from the date on which the right of action accrued.

(2) For the purposes of paragraph (1), a right of action is not to be treated as accruing to a beneficiary entitled to a future interest in trust property until the interest falls into possession.

(3) No beneficiary, as against whom there would be a good defence by virtue of this Article, may derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought the action and this Order had been pleaded in defence.

Exclusion of actions against trustees in cases of fraud or retention of trust property

43.—(1) No time limit fixed by this Order applies to an action against a trustee, or any person claiming through him, where—

- (a) the claim is founded on any fraud or fraudulent breach of trust to which the trustee was party or privy; or
- (b) the claim is to recover trust property or the proceeds thereof still retained by the trustee or previously received by the trustee and converted to his own use.

(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 (1)(b) to recover that property or its proceeds after the expiration of the time limit fixed by this Order for bringing an action to recover trust property is limited to the excess over his proper share.

(3) Paragraph (2) only applies if the trustee acted honestly and reasonably in making the distribution.