

SCHEDULES

SCHEDULE 1

ACCRUAL OF RIGHTS OF ACTION TO RECOVER LAND

Accrual of right of action: present interests in land

1. Where the person bringing an action to recover land, or some person through whom he claims—

- (a) has been in possession of the land; and
- (b) has, while entitled to possession of the land, been dispossessed or discontinued his possession,

the right of action is to be treated as having accrued on the date of the dispossession or discontinuance.

2. Where—

- (a) any person brings an action to recover any land of a deceased person, whether under a will or on intestacy; and
- (b) the deceased person—
 - (i) was on the date of death in possession of the land or, in the case of a rentcharge created by will or taking effect upon his death, in possession of the land charged; and
 - (ii) was the last person entitled to the land to be in possession of it,

the right of action is to be treated as having accrued on the date of his death.

3. Where—

- (a) any person brings an action to recover land, being an estate or interest in possession assured, otherwise than by will, to him or to some person through whom he claims, by a person who, at the date when the assurance took effect—
 - (i) was in possession of the land; or
 - (ii) as respects a rentcharge created by the assurance, was in possession of the land charged; and
- (b) no person has been in possession of the land by virtue of the assurance,

the right of action is to be treated as having accrued on the date when the assurance took effect.

Accrual of right of action: future interests in land

4. The right of action to recover any land is, where—

- (a) the estate or interest claimed was an interest in reversion or remainder or any future estate or interest; and
- (b) no person has taken possession of the land by virtue of the estate or interest claimed,

to be treated as having accrued on the date on which the estate or interest fell into possession by the determination of the preceding estate or interest.

Accrual of right of action: certain tenancies

5.—(1) Subject to paragraph (2), for the purposes of this Order—

- (a) a tenancy from year to year or other period, without a lease in writing, is to be treated as being determined at the expiration of the first year or other period, and
- (b) accordingly, the right of action of the person entitled to the land subject to the tenancy is to be treated as having accrued on the date on which the tenancy is determined.

(2) Where any rent or other periodic payment has subsequently been received in respect of the tenancy, the right of action is to be treated as having accrued on the date of the last receipt of rent or other periodic payment.

6.—(1) Where—

- (a) any person is in possession of land by virtue of a lease in writing by which a yearly conventional rent of not less than ten pounds is reserved; and
- (b) the rent is received by some person (in this paragraph referred to as “the wrongful recipient”) wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease; and
- (c) no rent is subsequently received by the person rightfully so entitled,

the right of action of the last#named person to recover the land is to be treated as having accrued at the date when the rent was first received by the wrongful recipient and not at the date of the determination of the lease.

(2) Sub#paragraph (1) does not apply to a lease granted by the Crown or a lease the lessor's interest under which is vested in the Crown.

Accrual of right of action: forfeiture or breach of condition

7.—(1) A right of action to recover land by virtue of a forfeiture or breach of condition is to be treated as having accrued on the date on which the forfeiture was incurred or the condition broken.

(2) Where—

- (a) a right of action to recover land by virtue of a forfeiture or breach of condition has accrued to a person entitled to an estate or interest in reversion or remainder; and
- (b) the land was not recovered by virtue of the forfeiture or breach,

the right of action to recover the land is not to be treated as having accrued to that person until his estate or interest fell into possession, as if no such forfeiture or breach of condition had occurred.

Right of action not to accrue without adverse possession

8.—(1) No right of action to recover land is to be treated as accruing unless the land is in the possession of some person in whose favour the period of limitation can run (in this paragraph referred to as “adverse possession”).

(2) Where—

- (a) under paragraphs 1 to 7 a right of action to recover land is treated as accruing on a certain date; and
- (b) no person is in adverse possession of the land on that date,

the right of action is not to be treated as accruing unless and until adverse possession is taken of the land.

(3) Where—

- (a) a right of action to recover land has accrued; and
- (b) after the accrual, before the right of action is barred, the land ceases to be in adverse possession,

the right of action is no longer to be treated as having accrued and no fresh right of action is to be treated as accruing unless and until the land is again taken into adverse possession.

(4) For the purposes of this paragraph—

- (a) possession of any land subject to a rentcharge by a person (other than the person entitled to the rentcharge) who does not pay the rentcharge is to be treated as adverse possession of the rentcharge; and
- (b) receipt of the conventional rent under a lease by a person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease is to be treated as adverse possession of the land.

(5) For the purpose of determining whether a person occupying any land is in adverse possession of the land it is not to 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.

(6) Sub#paragraph (5) does not prejudice a finding to the effect that a person's occupation of any land is by implied permission of the person entitled to the land where the finding is justified on the actual facts of the case.

Settled land and land held on trust for sale: effect of beneficiary's possession

9. Where—

- (a) any settled land, within the meaning of the Settled Land Acts 1882 to 1890; or
- (b) any land held on trust for sale,

is in the possession of a person entitled to a beneficial interest in the land or in the proceeds of sale, not being a person solely and absolutely entitled thereto, for the purposes of this Order no right of action to recover the land is to be treated as accruing during that possession to any person in whom the land is vested as trustee or to any other person entitled to a beneficial interest in the land or the proceeds of sale.

Changes to legislation:

There are currently no known outstanding effects for the The Limitation (Northern Ireland) Order 1989, SCHEDULE 1.