



Limitation Amendment Act 1980

1980 CHAPTER 24

An Act to amend the law with respect to the limitation of actions and arbitrations and with respect to the liability of a debtor who becomes his creditor's executor by representation or administrator. [1st May 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Miscellaneous amendments of Limitation Act 1939

1 Limitation in case of certain loans

After section 2 of the Limitation Act 1939 (referred to below in this Act as " the principal Act") there shall be inserted the following section—

“2AA Limitation in case of certain loans.

- (1) Subject to subsection (3) of this section, section 2(1)(a) of this Act shall not bar the right of action on a contract of loan to which this section applies.
- (2) This section 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 section to the contract of loan if they applied directly to repayment of the debt.

Status: This is the original version (as it was originally enacted).

- (3) Where a demand in writing for repayment of the debt under a contract of loan to which this section applies is made by or on behalf of the creditor (or, where there are joint creditors, by or on behalf of any one of them) section 2(1)(a) of this Act shall thereupon apply as if the cause of action to recover the debt had accrued on the date on which the demand was made.
- (4) In this section ' promissory note ' has the same meaning as in the Bills of Exchange Act 1882”.

2 **Limitation in case of theft**

After section 3 of the principal Act (limitation in case of successive conversions and extinction of title of owner of converted goods) there shall be inserted the following section—

“3A Limitation in case of theft.

- (1) The right of any person from whom a chattel is stolen to bring an action in respect of the theft shall not be subject to the time limits under sections 2(1) (a) and 3(1) of this Act, but if his title to the chattel is extinguished under section 3(2) of this Act 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 section 3(2).
- (2) Subsection (1) above shall apply 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 shall be regarded for the purposes of this section as related to the theft.

If anyone purchases the stolen chattel in good faith neither the purchase nor any conversion following it shall be regarded 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 shall be disregarded for the purpose of applying section 3(1) or (2) of this Act 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 shall be presumed that any conversion following the theft is related to the theft unless the contrary is shown.
- (5) In this section ' theft ' includes—
 - (a) any conduct outside England and Wales which would be theft if committed in England and Wales; and
 - (b) obtaining any chattel (in England and Wales or elsewhere) in the circumstances described in section 15(1) of the Theft Act 1968 (obtaining by deception) or by blackmail within the meaning of section 21 of that Act;

and references in this section to a chattel being ' stolen ' shall be construed accordingly.”

3 Accrual of right of action in case of certain tenancies

- (1) Subsection (1) of section 9 of the principal Act (special rule for accrual of the right of action in respect of the reversion on a tenancy at will) shall cease to have effect
- (2) In subsection (3) of that section (accrual of right of action where rent is received by a person wrongfully claiming to be entitled to the land in reversion), for the words "twenty shillings" there shall be substituted the words "ten pounds a year".
- (3) Subsection (2) above shall not affect the operation of section 9(3) in any case where the lease in question was granted before the commencement of this Act.
- (4) For subsection (4) of that section there shall be substituted the following subsection—
 - “(4) Subsection (3) of this section shall not apply to any lease granted by the Crown”.

4 Licence not to be implied by law to defeat adverse possession

The following subsection shall be added at the end of section 10 of the principal Act (right of action not to accrue or continue unless there is adverse possession)—

- “(4) For the purpose of determining whether a person occupying any land is in adverse possession of the land it shall not 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.

This provision shall not be taken as prejudicing a finding to the effect that a person's occupation of any land is by implied permission of the person entitled to the land in any case where such a finding is justified on the actual facts of the case.”

5 Relief for trustee retaining trust property as beneficiary

- (1) After subsection (1) of section 19 of the principal Act (limitation of actions in respect of trust property) there shall be inserted the following subsection—

“(1A) 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 (b) of the foregoing subsection to recover that property or its proceeds after the expiration of the period of limitation prescribed by this Act for bringing an action to recover trust property shall be limited to the excess over his proper share.

This subsection only applies if the trustee acted honestly and reasonably in making the distribution.”

- (2) In sections 7(1) and 20 of that Act, for the words "subsection (1)" there shall be substituted the words "subsections (1) and (1A)".

6 Effect of acknowledgement or part payment

- (1) The following subsection shall be added at the end of section 23 of the principal Act (fresh accrual of action on acknowledgement or part payment)—

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“(5) Subject to the proviso to the last foregoing subsection, a current period of limitation may be repeatedly extended under this section by further acknowledgements or payments, but a right of action, once barred by this Act, shall not be revived by any subsequent acknowledgement or payment.”

- (2) In subsection (4) of that section the words " the last" (which are redundant in view of the provision made by subsection (1) above) shall be omitted.
- (3) In section 25 of that Act, the provisos to subsections (5) and (6) (which respectively limit the effect of an acknowledgement or payment made after the expiration of the period of limitation prescribed for the bringing of an action to recover a debt or other liquidated pecuniary claim) shall cease to have effect.
- (4) In section 33(a) of that Act (actions already barred) the words from " except" to " Act" shall cease to have effect.
- (5) Nothing in this section (or in the corresponding repeals made by this Act) shall affect the operation of the principal Act in relation to any acknowledgement or payment made before the commencement of this Act.

7 Postponement of limitation period in case of fraud, concealment or mistake

For section 26 of the principal Act there shall be substituted the following section—

“26 Postponement of limitation period in case of fraud, concealment or mistake.

- (1) Subject to subsection (3) of this section, where in the case of any action for which a period of limitation is prescribed by this Act, either—
 - (a) the action is based upon the fraud of the defendant; or
 - (b) any fact relevant to the plaintiff's right of action has been deliberately concealed from him by the defendant; or
 - (c) the action is for relief from the consequences of a mistake;
 the period of limitation shall not begin to run until the plaintiff has discovered the fraud, concealment or mistake (as the case may be) or could with reasonable diligence have discovered it.
- (2) For the purposes of the last foregoing subsection, deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts to deliberate concealment of the facts involved in that breach of duty.
- (3) Nothing in this section shall enable any action—
 - (a) to recover, or recover the value of, any property; or
 - (b) to enforce any charge against, or set aside any transaction affecting, any property;
 to be brought against the purchaser of the property or any person claiming through him in any case where the property has been purchased for valuable consideration by an innocent third party since the fraud or concealment or (as the case may be) the transaction in which the mistake was made took place.
- (4) A purchaser is an innocent third party for the purposes of this section—

- (a) in the case of fraud or concealment of any fact relevant to the plaintiff's right of action, if he was not a party to the fraud or (as the case may be) to the concealment of that fact and did not at the time of the purchase know or have reason to believe that the fraud or concealment had taken place ; and
- (b) in the case of mistake, if he did not at the time of the purchase know or have reason to believe that the mistake had been made. (5) References in this section to the defendant include references to the defendant's agent and to any person through whom the defendant claims and his agent.”

8 Limitation in case of new claims in pending actions: rules of court

For section 28 of the principal Act (provisions as to set-off or counterclaim) there shall be substituted the following section—

“28 New claims in pending actions: rules of court.

- (1) For the purposes of this Act, any new claim made in the course of any action shall be deemed to be a separate action and to have been commenced—
 - (a) in the case of a new claim made in or by way of third party proceedings, on the date on which those proceedings were commenced; and
 - (b) in any other case, on the same date as the original action.
- (2) In this section a new claim means any claim by way of set-off or counterclaim, and any claim involving either—
 - (a) the addition or substitution of a new cause of action; or
 - (b) the addition or substitution of a new party;and " third party proceedings " means any proceedings brought in the course of any action by any party to the action against a person not previously a party to the action, other than proceedings brought by joining any such person as defendant to any claim already made in the original action by the party bringing the proceedings.
- (3) Except as provided by section 2D of this Act or by rules of court, neither the High Court nor any county court shall allow a new claim within subsection (1) (b) of this section, other than an original set-off or counterclaim, to be made in the course of any action after the expiry of any time limit under this Act which would affect a new action to enforce that claim.

For the purposes of this subsection, a claim is an original set-off or an original counterclaim if it is a claim made by way of set-off or (as the case may be) by way of counterclaim by a party who has not previously made any claim in the action.

- (4) Rules of court may provide for allowing a new claim to which the last foregoing subsection applies to be made as there mentioned, but only if the conditions specified in the next following subsection are satisfied, and subject to any further restrictions the rules may impose.
- (5) The conditions referred to in the last foregoing subsection are the following—
 - (a) in the case of a claim involving a new cause of action, if the new cause of action arises out of the same facts or substantially the same facts

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as are already in issue on any claim previously made in the original action; and

- (b) in the case of a claim involving a new party, if the addition or substitution of the new party is necessary for the determination of the original action.

- (6) The addition or substitution of a new party shall not be regarded for the purposes of subsection (5)(b) of this section as necessary for the determination of the original action unless either—

- (a) the new party is substituted for a party whose name was given in any claim made in the original action in mistake for the new party's name; or
- (b) any claim already made in the original action cannot be maintained by or against an existing party unless the new party is joined or substituted as plaintiff or defendant in that action.

- (7) Subject to subsection (4) of this section, rules of court may provide for allowing a party to any action to claim relief in a new capacity in respect of a new cause of action notwithstanding that he had no title to make that claim at the date of the commencement of the action.

This subsection shall not be taken as prejudicing the power of rules of court to provide for allowing a party to claim relief in a new capacity without adding or substituting a new cause of action.

- (8) Subsections (3) to (7) of this section shall apply in relation to a new claim made in the course of third party proceedings as if those proceedings were the original action, and subject to such other modifications as may be prescribed by rules of court in any case or class of case.

- (9) In this section 'rules of court' means rules made under section 99 of the Supreme Court of Judicature (Consolidation) Act 1925 or section 102 of the County Courts Act 1959 (as the case may require)."

9 Admiralty actions

- (1) Subject to section 32 of the principal Act (saving for other limitation enactments), that Act shall apply to any cause of action within the Admiralty jurisdiction of the High Court as it applies to any other cause of action.
- (2) Sections 2(6) and 18(6) of that Act (which respectively exclude the application of section 2(1) to certain causes of action within the Admiralty jurisdiction of the High Court and exclude the application of section 18 to a mortgage or charge on a ship) shall cease to have effect.

Miscellaneous and supplementary

10 Debtor who becomes creditor's executor by representation or administrator to account for debt to estate

After section 21 of the Administration of Estates Act 1925 (rights and liabilities of administrator) there shall be inserted the following section—

“21A Debtor who becomes creditor's executor by representation or administrator to account for debt to estate.

- (1) Subject to subsection (2) of this section, where a debtor becomes his deceased creditor's executor by representation or administrator—
 - (a) his debt shall thereupon be extinguished; but
 - (b) he shall be accountable for the amount of the debt as part of the creditor's estate in any case where he would be so accountable if he had been appointed as an executor by the creditor's will.
- (2) Subsection (1) of this section does not apply where the debtor's authority to act as executor or administrator is limited to part only of the creditor's estate which does not include the debt; and a debtor whose debt is extinguished by virtue of paragraph (a) shall not be accountable for its amount by virtue of paragraph (b) of that subsection in any case where the debt was barred by the Limitation Act 1939 before he became the creditor's executor or administrator.
- (3) In this section 'debt' includes any liability, and 'debtor' and 'creditor' shall be construed accordingly.”

11 Application to the Crown

Without prejudice to the application of section 30 of the principal Act in relation to any provision inserted in that Act by any of the preceding provisions of this Act, that section shall apply for the purposes of this Act as it applies for the purposes of the principal Act.

12 Transitional provisions

- (1) Nothing in any provision of this Act shall—
 - (a) enable any action to be brought which was barred by the principal Act before that provision comes into force; or
 - (b) affect any action or arbitration commenced before that provision comes into force or the title to any property which is the subject of any such action or arbitration.
- (2) Subject to subsection (1) above and sections 3(3) and 6(5) of this Act, the provisions of this Act shall have effect in relation to causes of action accruing and things taking place before, as well as in relation to causes of action accruing and things taking place after, those provisions respectively come into force.
- (3) In this section "action" has the same meaning as in the principal Act.

13 Amendments and repeals

- (1) The principal Act shall have effect subject to the amendments specified in Schedule 1 to this Act, being amendments consequential on the provisions of this Act and amendments to facilitate consolidation of the Limitation Acts 1939 to 1975 and this Act.
- (2) The provisions of the principal Act specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

14 Citation, commencement and extent

- (1) This Act may be cited as the Limitation Amendment Act 1980.
- (2) This Act and the Limitation Acts 1939 to 1975 may be cited together as the Limitation Acts 1939 to 1980.
- (3) This Act, except section 8, shall come into force at the end of the period of three months beginning with the date on which it is passed; and any reference in any provision of this Act to the commencement of this Act is a reference to the date on which that provision comes into force.
- (4) Section 8 of this Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint, and different days may be appointed for different purposes of that section (including its application in relation to different courts or proceedings).
- (5) This Act does not extend to Scotland or to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 13(1).

AMENDMENTS

- 1 Any reference below in this Schedule to a numbered section is a reference to the section of that number in the principal Act.
- 2 In section 2—
 - (a) subsection (1)(b) shall be omitted ;
 - (b) in subsection (1)(d), the words from " other than " to the end shall be omitted;
 - (c) subsection (2) shall be omitted ;
 - (d) in subsection (4), for the word " twelve" there shall be substituted the word " six "; and
 - (e) subsection (5) shall be omitted.
- 3 In section 2A—
 - (a) in subsection (4) (b), for the words from " (if later " to the end there shall be substituted the words " of knowledge (if later) of the person injured ";
 - (b) in subsection (7), for the words from " this " to " plaintiff " there shall be substituted the words " subsection (6) above an injury is significant if the person whose date of knowledge is in question ";
 - (c) in subsection (8), for the words " the said sections" there shall be substituted the words " subsection (6) above ".
- 4 In section 2B—
 - (a) in subsection (4), for the words " and section 2A" there shall be substituted the words " (whether passed before or after the passing of this Act), and sections 2 and 2A ";
 - (b) in subsection (5), for the words from " section" to " applies " there shall be substituted the words " sections 22 and 28 of this Act apply ".
- 5 In section 3—
 - (a) the words " or wrongful detention" and the words " or detention " shall be omitted wherever they occur in subsection (1); and
 - (b) in subsection (2), the words from " and for " to " aforesaid " shall be omitted.
- 6 Section 13 shall cease to have effect.
- 7 In section 17, the words " or dower " shall be omitted.
- 8 After section 20 there shall be inserted the following section—

“20A Limitation of actions for an account.

An action for an account shall not be brought after the expiration of any time limit under this Act which is applicable to the claim which is the basis of the duty to account.”

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- 9 In section 25—
- (a) in subsection (2) after the word " or " in the first place where it occurs there shall be inserted the words " any other person liable for the debt or by "; and
 - (b) in subsection (4), for the words " right to" there shall be substituted the words " equity of ".
- 10 In section 27—
- (a) in subsection (1), after the word " actions" there shall be inserted the words " (whether passed before or after the passing of this Act) "; and
 - (b) in subsection (5), after the word " arbitration " in the second place where it occurs there shall be inserted the word " agreement ".
- 11 In the proviso to section 30(1), for the words from " Customs Acts" to "excise " there shall be substituted the words " customs and excise Acts (within the meaning of the Customs and Excise Management Act 1979) ".
- 12 In section 31(1)—
- (a) in the definition of " land " the words from " (except" to " sole)" shall be omitted ; and
 - (b) in the definition of " rentcharge" the words from " a modus " to " sole or " shall be omitted.
- 13 In section 31(3) for the words from "but" to "presumed" there shall be substituted the words " a person is of unsound mind if he is a person who, by reason of mental disorder within the meaning of the Mental Health Act 1959, is incapable of managing and administering his property and affairs ; and, without prejudice to the generality of the foregoing provision, a person shall be conclusively presumed for the purposes of that subsection ".
- 14 In section 31(7)—
- (a) paragraph (a) shall be omitted ; and
 - (b) in paragraph (c), the word "dower" shall be omitted in both places where it occurs.
- 15 In section 32 the references to any other enactment shall be construed as references to any other enactment, whether passed before or after the passing of the principal Act (or this Act).

SCHEDULE 2

Section 13(2).

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
2 & 3 Geo. 6. c. 21.	The Limitation Act 1939.	In section 2, subsections (1) (b), (2), (5) and (6) and in subsection (1)(d) the words from " other than " to the end. In section 3, the words " or wrongful detention " and " or detention" wherever they occur in subsection (1), and

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Chapter	Short Title	Extent of Repeal
		<p>in subsection (2) the words from " and for " to " aforesaid "</p> <p>Section 9(1).</p> <p>Section 13.</p> <p>In section 17, the words " or dower".</p> <p>Section 18(6).</p> <p>In section 22, paragraph (e) of the proviso.</p> <p>In section 23(4), the words " the last".</p> <p>In section 25, the provisos to subsections (5) and (6).</p> <p>In section 31(1), the words from " (except" to " sole) " in the definition of " land " and the words from " a modus " to " sole or " in the definition of " rentcharge ".</p> <p>In section 31(7), paragraph (a), and in paragraph (c), the word "dower" in both places where it occurs.</p> <p>In section 33(a), the words, from " except" to " Act".</p>