



# Limitation Act 1980

## 1980 CHAPTER 58

### PART II

#### EXTENSION OR EXCLUSION OF ORDINARY TIME LIMITS

##### *Disability*

- 28** (1) Subject to the following provisions of this section, if on the date when any right of action accrued for which a period of limitation is prescribed by this Act, the person to whom it accrued was under a disability, the action may be brought at any time before the expiration of six years from the date when he ceased to be under a disability or died (whichever first occurred) notwithstanding that the period of limitation has expired.
- (2) This section shall not affect any case where the right of action first accrued to some person (not under a disability) through whom the person under a disability claims.
- (3) When a right of action which has accrued to a person under a disability accrues, on the death of that person while still under a disability, to another person under a disability, no further extension of time shall be allowed by reason of the disability of the second person.
- (4) No action to recover land or money charged on land shall be brought by virtue of this section by any person after the expiration of thirty years from the date on which the right of action accrued to that person or some person through whom he claims.
- (5) If the action is one to which section 10 of this Act applies, subsection (1) above shall have effect as if for the words " six years " there were substituted the words " two years ".
- (6) If the action is one to which section 11 or 12(2) of this Act applies, subsection (1) above shall have effect as if for the words " six years " there were substituted the words " three years ".

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*Status: This is the original version (as it was originally enacted).*

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### *Acknowledgment and part payment*

#### **29 Fresh accrual of action on acknowledgment or part payment**

- (1) Subsections (2) and (3) below apply where any right of action (including a foreclosure action) to recover land or an advowson or any right of a mortgagee of personal property to bring a foreclosure action in respect of the property has accrued.
- (2) If the person in possession of the land, benefice or personal property in question acknowledges the title of the person to whom the right of action has accrued—
  - (a) the right shall be treated as having accrued on and not before the date of the acknowledgment; and
  - (b) in the case of a right of action to recover land which has accrued to a person entitled to an estate or interest taking effect on the determination of an entailed interest against whom time is running under section 27 of this Act, section 27 shall thereupon cease to apply to the land.
- (3) In the case of a foreclosure or other action by a mortgagee, if the person in possession of the land, benefice or personal property in question or the person liable for the mortgage debt makes any payment in respect of the debt (whether of principal or interest) the right shall be treated as having accrued on and not before the date of the payment.
- (4) Where a mortgagee is by virtue of the mortgage in possession of any mortgaged land and either—
  - (a) receives any sum in respect of the principal or interest of the mortgage debt; or
  - (b) acknowledges the title of the mortgagor, or his equity of redemption;
 an action to redeem the land in his possession may be brought at any time before the expiration of twelve years from the date of the payment or acknowledgment.
- (5) Subject to subsection (6) below, where any right of action has accrued to recover—
  - (a) any debt or other liquidated pecuniary claim ; or
  - (b) any claim to the personal estate of a deceased person or to any share or interest in any such estate ;
 and the person liable or accountable for the claim acknowledges the claim or makes any payment in respect of it the right shall be treated as having accrued on and not before the date of the acknowledgment or payment.
- (6) A payment of a part of the rent or interest due at any time shall not extend the period for claiming the remainder then due, but any payment of interest shall be treated as a payment in respect of the principal debt.
- (7) Subject to subsection (6) above, a current period of limitation may be repeatedly extended under this section by further acknowledgments or payments, but a right of action, once barred by this Act, shall not be revived by any subsequent acknowledgment or payment.

#### **30 Formal provisions as to acknowledgments and part payments**

- (1) To be effective for the purposes of section 29 of this Act, an acknowledgment must be in writing and signed by the person making it.
- (2) For the purposes of section 29, any acknowledgment or payment—

- (a) may be made by the agent of the person by whom it is required to be made under that section; and
- (b) shall be made to the person, or to an agent of the person, whose title or claim is being acknowledged or, as the case may be, in respect of whose claim the payment is being made.

### **31 Effect of acknowledgment or part payment on persons other than the maker or recipient**

- (1) An acknowledgment of the title to any land, benefice, or mortgaged personalty by any person in possession of it shall bind all other persons in possession during the ensuing period of limitation.
- (2) A payment in respect of a mortgage debt by the mortgagor or any other person liable for the debt, or by any person in possession of the mortgaged property, shall, so far as any right of the mortgagee to foreclose or otherwise to recover the property is concerned, bind all other persons in possession of the mortgaged property during the ensuing period of limitation.
- (3) Where two or more mortgagees are by virtue of the mortgage in possession of the mortgaged land, an acknowledgment of the mortgagor's title or of his equity of redemption by one of the mortgagees shall only bind him and his successors and shall not bind any other mortgagee or his successors.
- (4) Where in a case within subsection (3) above the mortgagee by whom the acknowledgment is given is entitled to a part of the mortgaged land and not to any ascertained part of the mortgage debt the mortgagor shall be entitled to redeem that part of the land on payment, with interest, of the part of the mortgage debt which bears the same proportion to the whole of the debt as the value of the part of the land bears to the whole of the mortgaged land.
- (5) Where there are two or more mortgagors, and the title or equity of redemption of one of the mortgagors is acknowledged as mentioned above in this section, the acknowledgment shall be treated as having been made to all the mortgagors.
- (6) An acknowledgment of any debt or other liquidated pecuniary claim shall bind the acknowledgor and his successors but not any other person.
- (7) A payment made in respect of any debt or other liquidated pecuniary claim shall bind all persons liable in respect of the debt or claim.
- (8) An acknowledgment by one of several personal representatives of any claim to the personal estate of a deceased person or to any share or interest in any such estate, or a payment by one of several personal representatives in respect of any such claim, shall bind the estate of the deceased person.
- (9) In this section " successor ", in relation to any mortgagee or person liable in respect of any debt or claim, means his personal representatives and any other person on whom the rights under the mortgage or, as the case may be, the liability in respect of the debt or claim devolve (whether on death or bankruptcy or the disposition of property or the determination of a limited estate or interest in settled property or otherwise).

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

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*Fraud, concealment and mistake*

**32 Postponement of limitation period in case of fraud, concealment or mistake**

(1) Subject to subsection (3) below, 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.

References in this subsection to the defendant include references to the defendant's agent and to any person through whom the defendant claims and his agent.

(2) For the purposes of subsection (1) above, 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.

*Discretionary exclusion of time limit for actions in respect of personal injuries or death*

**33 Discretionary exclusion of time limit for actions in respect of personal injuries or death**

(1) if it appears to the court that it would be equitable to allow an action to proceed having regard to the degree to which—

- (a) the provisions of section 11 or 12 of this Act prejudice the plaintiff or any person whom he represents ; and
- (b) any decision of the court under this subsection would prejudice the defendant or any person whom he represents ;

the court may direct that those provisions shall not apply to the action, or shall not apply to any specified cause of action to which the action relates.

- (2) The court shall not under this section disapply section 12(1) except where the reason why the person injured could no longer maintain an action was because of the time limit in section 11.

If, for example, the person injured could at his death no longer maintain an action under the Fatal Accidents Act 1976 because of the time limit in Article 29 in Schedule 1 to the Carriage by Air Act 1961, the court has no power to direct that section 12(1) shall not apply.

- (3) In acting under this section the court shall have regard to all the circumstances of the case and in particular to—
- (a) the length of, and the reasons for, the delay on the part of the plaintiff;
  - (b) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the plaintiff or the defendant is or is likely to be less cogent than if the action had been brought within the time allowed by section 11 or (as the case may be) by section 12;
  - (c) the conduct of the defendant after the cause of action arose, including the extent (if any) to which he responded to requests reasonably made by the plaintiff for information or inspection for the purpose of ascertaining facts which were or might be relevant to the plaintiff's cause of action against the defendant;
  - (d) the duration of any disability of the plaintiff arising after the date of the accrual of the cause of action ;
  - (e) the extent to which the plaintiff acted promptly and reasonably once he knew whether or not the act or omission of the defendant, to which the injury was attributable, might be capable at that time of giving rise to an action for damages ;
  - (f) the steps, if any, taken by the plaintiff to obtain medical, legal or other expert advice and the nature of any such advice he may have received.
- (4) In a case where the person injured died when, because of section 11, he could no longer maintain an action and recover damages in respect of the injury, the court shall have regard in particular to the length of, and the reasons for, the delay on the part of the deceased.
- (5) In a case under subsection (4) above, or any other case where the time limit, or one of the time limits, depends on the date of knowledge of a person other than the plaintiff, subsection (3) above shall have effect with appropriate modifications, and shall have effect in particular as if references to the plaintiff included references to any person whose date of knowledge is or was relevant in determining a time limit.
- (6) A direction by the court disapplying the provisions of section 12(1) shall operate to disapply the provisions to the same effect in section 1(1) of the Fatal Accidents Act 1976.
- (7) In this section " the court" means the court in which the action has been brought.
- (8) References in this section to section 11 include references to that section as extended by any of the preceding provisions of this Part of this Act or by any provision of Part III of this Act