
STATUTORY INSTRUMENTS

1989 No. 1339

The Limitation (Northern Ireland) Order 1989

PART II

ACTIONS OF CONTRACT AND TORT AND CERTAIN OTHER ACTIONS

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.

Changes to legislation:

There are currently no known outstanding effects for the The Limitation (Northern Ireland) Order 1989, Section 11.