
STATUTORY INSTRUMENTS

1989 No. 1339

The Limitation (Northern Ireland) Order 1989

PART IV

EXTENSION AND EXCLUSION OF TIME LIMITS

Fraud, concealment and mistake

Postponement of time limit: fraud, concealment or mistake

71.—(1) Subject to paragraphs (3) and (5), where in any action for which a time limit is fixed by this Order, 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 time limit does 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 paragraph (1), 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 Article enables 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 Article—

- (a) in the case of fraud or concealment of any fact relevant to the plaintiff's right of action if—
 - (i) he was not a party to the fraud or (as the case may be) to the concealment of that fact; and
 - (ii) 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) Paragraph (1) does not apply in relation to the time limit fixed by Article 8(3) or in relation to that time limit as applied by virtue of Article 9(2).

(6) In this Article "defendant" includes—

- (a) the defendant's agent; and
- (b) any person through whom the defendant claims and his agent.

(7) Articles 11 and 12 do not apply to any action to which paragraph (1)(b) applies (and accordingly the time limit referred to in that paragraph, in any case to which either of those Articles would otherwise apply, is the time limit applicable under Article 6(1)).