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STATUTORY INSTRUMENTS

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**1989 No. 1339**

**The Limitation (Northern Ireland) Order 1989**

**PART V**

**MISCELLANEOUS AND GENERAL**

*Art. 72 rep. by 1996 c. 23*

**[<sup>F1</sup> Actions for recovery of property obtained through unlawful conduct etc.**

**72A.**—(1) None of the time limits fixed by Parts II and III applies to any proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 (civil recovery of proceeds of unlawful conduct).

(2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be brought after the expiration of the period of [<sup>F2</sup>20 years] from the date on which the [<sup>F3</sup>relevant person's] cause of action accrued.

(3) Proceedings under that Chapter are brought when—

(a) a claim form is issued, or

[ an application is made for a property freezing order, or]  
<sup>F4</sup>(aa)

(b) an application is made for an interim receiving order,

whichever is the [<sup>F5</sup>earliest].

(4) The [<sup>F6</sup>relevant person's] cause of action accrues in respect of any recoverable property—

(a) in the case of proceedings for a recovery order in respect of property obtained through unlawful conduct, when the property is so obtained,

(b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained through unlawful conduct which it represents is so obtained.

[  
<sup>F7</sup>(4A) Paragraph (4) is subject to section 13(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).]

(5) If—

(a) a person would (but for a time limit fixed by this Order) have a cause of action in respect of the conversion of a chattel, and

(b) proceedings are started under that Chapter for a recovery order in respect of the chattel, Article 17(2) does not prevent his asserting on an application under section 281 of that Act that the property belongs to him, or the court making a declaration in his favour under that section.

(6) If the court makes such a declaration, his title to the chattel is to be treated as not having been extinguished by Article 17(2).

(7) Expressions used in this Article and Part 5 of that Act have the same meaning in this Article as in that Part.

[  
<sup>F8</sup>(8) In this Article “relevant person” means—

- [<sup>F9</sup>(a) the National Crime Agency,
- (b) the Director of the Serious Fraud Office, or
- (c) the Director of Public Prosecutions for Northern Ireland.]]

<b>F1</b>	2002 c. 29
<b>F2</b>	Words in art. 72A(2) substituted (25.1.2010) by <a href="#">Policing and Crime Act 2009 (c. 26)</a> , <b>ss. 62</b> , 116(1); <a href="#">S.I. 2009/3096</a> , <b>art. 3(h)</b>
<b>F3</b>	Words in art. 72A(2) substituted (1.4.2008) by <a href="#">Serious Crime Act 2007 (c. 27)</a> , <b>ss. 74(2)</b> , 94(1), <b>Sch. 8 para. 153(2)</b> ; <a href="#">S.I. 2008/755</a> , <b>art. 2(1)(a)</b> (subject to arts. 3-14)
<b>F4</b>	2005 c. 15
<b>F5</b>	2005 c. 15
<b>F6</b>	Words in art. 72A(4) substituted (1.4.2008) by <a href="#">Serious Crime Act 2007 (c. 27)</a> , <b>ss. 74(2)</b> , 94(1), <b>Sch. 8 para. 153(3)</b> ; <a href="#">S.I. 2008/755</a> , <b>art. 2(1)(a)</b> (subject to arts. 3-14)
<b>F7</b>	<a href="#">Art. 72A(4A)</a> inserted (27.4.2017 for specified purposes, 28.6.2021 for N.I. in so far as not already in force) by <a href="#">Criminal Finances Act 2017 (c. 22)</a> , <b>s. 58(5)(6)</b> , <b>Sch. 5 para. 5</b> ; <a href="#">S.I. 2021/724</a> , <b>reg. 4(c)</b>
<b>F8</b>	<a href="#">Art. 72A(8)</a> inserted (1.4.2008) by <a href="#">Serious Crime Act 2007 (c. 27)</a> , <b>ss. 74(2)</b> , 94(1), <b>Sch. 8 para. 153(4)</b> ; <a href="#">S.I. 2008/755</a> , <b>art. 2(1)(a)</b> (subject to arts. 3-14)
<b>F9</b>	<a href="#">Art. 72A(8)(a)</a> substituted (7.10.2013) by <a href="#">Crime and Courts Act 2013 (c. 22)</a> , <b>s. 61(2)</b> , <b>Sch. 8 para. 37</b> ; <a href="#">S.I. 2013/1682</a> , <b>art. 3(v)</b>

[<sup>F10</sup>**Actions to prohibit dealing with property subject to an external request**

**72AB.**—(1) None of the time limits fixed by Parts 2 and 3 applies to any proceedings under Part 4A of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 (giving effect to external request by means of civil proceedings).

(2) Proceedings under that Part of that Order for a prohibition order in respect of relevant property shall not be brought after the expiration of the period of 20 years from the date on which the relevant person’s cause of action accrued.

(3) Proceedings under that Part are brought when an application is made for a prohibition order.

(4) The relevant person’s cause of action accrues in respect of relevant property when the property is obtained (or when it is believed to have been obtained) as a result of or in connection with criminal conduct.

(5) In this Article—

- (a) “criminal conduct” is to be construed in accordance with section 447(8) of the Act ,
- (b) expressions used in this Article and Part 4A of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 have the same meaning in this Article as in that Part.

(6) In this Article “relevant person” means—

- (a) the National Crime Agency,
- (b) the Director of Public Prosecutions for Northern Ireland, or
- (c) the Director of the Serious Fraud Office.]

**F10** Art. 72AB inserted (11.11.2013) by [The Proceeds of Crime Act 2002 \(External Requests and Orders\) \(Amendment\) Order 2013 \(S.I. 2013/2604\)](#), arts. 1(1), **5(2)**

### **[<sup>F11</sup>Actions for recovery of property for purposes of an external order**

**72B.**—(1) None of the time limits fixed by Parts 2 and 3 of this Order applies to any proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 (civil proceedings for the realisation of property to give effect to an external order).

(2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be brought after the expiration of the period of [<sup>F12</sup>20 years] from the date on which the [<sup>F13</sup>relevant person's] cause of action accrued.

(3) Proceedings under that Chapter are brought when—

- (a) a claim form is issued, or
- (b) an application is made for a property freezing order, or
- (c) an application is made for an interim receiving order,

whichever is earliest.

[  
<sup>F14</sup>(3A) If, before an event mentioned in paragraph (3) occurs, an application is made for a prohibition order under Part 4A of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005, the proceedings under Chapter 2 of Part 5 of the Order are to be treated as having been brought when that application is made.]

(4) The [<sup>F15</sup>relevant person's] cause of action accrues in respect of any recoverable property—

- (a) in the case of proceedings for a recovery order in respect of property obtained, or believed to have been obtained, as a result of or in connection with criminal conduct, when the property is so obtained,
- (b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained, or believed to have been obtained, as a result of or in connection with criminal conduct which it represents is so obtained.

(5) If—

- (a) a person would (but for a time limit fixed by this Order) have a cause of action in respect of the conversion of a chattel, and
- (b) proceedings are started under that Chapter for a recovery order in respect of the chattel, Article 17(2) of this Order does not prevent his asserting on an application under article 192 of that Order that the property belongs to him, or the court making a declaration in his favour under that article.

(6) If the court makes such a declaration, his title to the chattel is to be treated as not having been extinguished by Article 17(2) of this Order.

(7) In this Article—

- (a) “ criminal conduct ” is to be construed in accordance with section 447(8) of the Proceeds of Crime Act 2002, and
- (b) expressions used in this Article which are also used in Part 5 of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 have the same meaning in this Article as in that Part.

[  
<sup>F16</sup>(8) In this Article “ relevant person ” means—

- (a) the Serious Organised Crime Agency,
- (b) the Director of the Serious Fraud Office, or
- (c) the Director of Public Prosecutions for Northern Ireland.]]

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| <b>F11</b> | Art. 72B inserted (1.1.2006) by <a href="#">Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 (S.I. 2005/3181)</a> , <a href="#">arts. 1</a> , 201(3)  |
| <b>F12</b> | Words in art. 72B(2) substituted (25.1.2010) by <a href="#">Policing and Crime Act 2009 (c. 26)</a> , <a href="#">ss. 62</a> , 116(1); <a href="#">S.I. 2009/3096</a> , <a href="#">art. 3(h)</a>                   |
| <b>F13</b> | Words in art. 72B(2) substituted (1.4.2008) by <a href="#">Proceeds of Crime Act 2002 (External Requests and Orders) (Amendment) Order 2008 (S.I. 2008/302)</a> , <a href="#">arts. 1(1)</a> , <a href="#">5(2)</a> |
| <b>F14</b> | Art. 72B(3A) inserted (11.11.2013) by <a href="#">The Proceeds of Crime Act 2002 (External Requests and Orders) (Amendment) Order 2013 (S.I. 2013/2604)</a> , <a href="#">arts. 1(1)</a> , <a href="#">5(3)</a>     |
| <b>F15</b> | Words in art. 72B(4) substituted (1.4.2008) by <a href="#">Proceeds of Crime Act 2002 (External Requests and Orders) (Amendment) Order 2008 (S.I. 2008/302)</a> , <a href="#">arts. 1(1)</a> , <a href="#">5(2)</a> |
| <b>F16</b> | Art. 72B(8) inserted (1.4.2008) by <a href="#">Proceeds of Crime Act 2002 (External Requests and Orders) (Amendment) Order 2008 (S.I. 2008/302)</a> , <a href="#">arts. 1(1)</a> , <a href="#">5(3)</a>             |

#### [<sup>F17</sup> **Actions for exploitation proceeds orders**

**72C.**—(1) None of the time limits given in the preceding provisions of this Order applies to proceedings under Part 7 of the Coroners and Justice Act 2009 (criminal memoirs etc ) for an exploitation proceeds order.

(2) Proceedings under that Part for such an order are not to be brought after the expiration of 6 years from the date on which the enforcement authority's cause of action accrued.

(3) Proceedings under that Part for such an order are brought when an application is made for the order.

(4) Where exploitation proceeds have been obtained by a person from a relevant offence, an enforcement authority's cause of action under that Part in respect of those proceeds accrues when the enforcement authority has actual knowledge that the proceeds have been obtained.

(5) Expressions used in this Article and that Part have the same meaning in this Article as in that Part.]

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| <b>F17</b> | Art. 72C inserted (6.4.2010) by <a href="#">Coroners and Justice Act 2009 (c. 25)</a> , <a href="#">ss. 171(2)</a> , 182(5) (with s. 180); <a href="#">S.I. 2010/816</a> , <a href="#">art. 2</a> , <a href="#">Sch. para. 11</a> |
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#### **New claims in pending actions**

**73.**—(1) For the purposes of this Order, any new claim made in the course of any action is to be treated as a separate action and as having been commenced—

- (a) if it is a new claim made in or by way of third party proceedings, on the date on which those proceedings were commenced; and
- (b) in relation to any other new claim, on the same date as the original action.

(2) Except as provided by Article 50, by rules of court, or by county court rules, neither the High Court nor any county court may allow a new claim within paragraph (1)( b ), 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 Order which would affect a new action to enforce that claim. For the purposes of this paragraph, 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.

(3) Rules of court and county court rules may provide for allowing a new claim to which paragraph (2) applies to be made as there mentioned, but only if the conditions specified in paragraph (4) are satisfied, and subject to any further restrictions the rules may impose.

(4) The conditions referred to in paragraph (3) are the following—

- (a) as respects 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 as are already in issue on any claim previously made in the original action; and
- (b) as respects a claim involving a new party, if the addition or substitution of the new party is necessary for the determination of the original action.

(5) The addition or substitution of a new party is not to be treated for the purposes of paragraph (4) ( b ) 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.

(6) Subject to paragraph (3), rules of court and county court rules 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 paragraph does not prejudice 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.

(7) Paragraphs (2) to (6) 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 or county court rules.

(8) In this Article—

“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;

“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.

**Modifications etc. (not altering text)**

- C1** Art. 73 applied by 1998 c. 41, Sch. 8A para. 26(2) (as inserted (9.3.2017) by [The Claims in respect of Loss or Damage arising from Competition Infringements \(Competition Act 1998 and Other Enactments \(Amendment\)\) Regulations 2017 \(S.I. 2017/385\)](#), reg. 1(2), **Sch. 1 para. 4** (with Sch. 1 para. 5))
- C2** Art. 73 applied (9.6.2018) by [The Trade Secrets \(Enforcement, etc.\) Regulations 2018 \(S.I. 2018/597\)](#), regs. 1(1), **9(b)** (with reg. 19)

## [<sup>F18</sup>Actions relating to the Northern Ireland Troubles

**73A.** This Order has effect subject to section 43 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.]

**F18** Art. 73A inserted (18.11.2023) by Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (c. 41), s. 63(2)(b), Sch. 13 para. 16 (with s. 61)

### Application to the Crown, etc.

**74.**—(1) Except as otherwise expressly provided in this Order and subject to paragraph (2), this Order applies to actions by or against the Crown in like manner as it applies to actions between subjects, and accordingly binds the Crown to the full extent authorised by the constitutional laws of Northern Ireland.

(2) Notwithstanding paragraph (1), this Order does not apply to any proceedings by the Crown—

- (a) for the recovery of any tax or duty or interest thereon of any fine or penalty due in connection with any tax or duty; or
- (b) for a forfeiture under any statutory provision; or
- (c) in respect of the forfeiture of a ship or any interest in a ship.

(3) References in this Order to actions by or against the Crown include references to actions by or (as the case may be) against—

- (a) Her Majesty in right of the Crown or of the Duchy of Lancaster or of the Duchy of Cornwall or the Duke of Cornwall for the time being;
- (b) the Crown in right of Her Majesty's Government in the United Kingdom or in right of her Majesty's Government in Northern Ireland;
- (c) any Minister, Head of a department, officer or other person acting on behalf of the Crown whether in right of Her Majesty's Government in the United Kingdom or in right of Her Majesty's Government in Northern Ireland; or
- (d) any department of either such Government and any officer or other person acting on behalf of any such department.

(4) Nothing in this Order affects the prerogative right of Her Majesty to any gold or silver mine.

(5) In this Article “ship” includes every description of vessel used in navigation not propelled by oars.

### Savings (general)

**75.**—(1) Nothing in this Order affects any equitable jurisdiction to refuse relief on the ground of acquiescence or otherwise.

(2) This Order does not apply—

- (a) to any action or arbitration for which a time limit is fixed by any other statutory provision; or
- (b) to any action or arbitration to which the Crown is a party and for which, if it were between subjects, a time limit would be fixed by any other statutory provision.

(3) Nothing in this Order operates to prescribe the period within which a criminal proceeding must be instituted.

**Transitional provisions, amendments and repeals**

**76.**—(1) Schedule 2 (transitional provisions) has effect.

*Para.(2)—Amendments*

*Para.(3)—Repeals*

**Changes to legislation:**

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