

# Limitation Act 1980

## Chapter 58

### Part I

#### Ordinary Time Limits for Different Classes of Action

*Time limits under Part I subject to extension or exclusion under Part II*

#### **1 Time limits under Part I subject to extension or exclusion under Part II**

- (1) This Part of this Act gives the ordinary time limits for bringing actions of the various classes mentioned in the following provisions of this Part.
- (2) The ordinary time limits given in this Part of this Act are subject to extension or exclusion in accordance with the provisions of Part II of this Act.

*Actions founded on tort*

#### **2 Time limit for actions founded on tort**

An action founded on tort shall not be brought after the expiration of six years from the date on which the cause of action accrued.

#### **3 Time limit in case of successive conversions and extinction of title of owner of converted goods**

- (1) Where any cause of action in respect of the conversion of a chattel has accrued to any person and, before he recovers possession of the chattel, a further conversion takes place, no action shall be brought in respect of the further conversion after the expiration of six years from the accrual of the cause of action in respect of the original conversion.
- (2) Where any such cause of action has accrued to any person and the period prescribed for bringing that action has expired and he has not during that period recovered possession of the chattel, the title of that person to the chattel shall be extinguished.

#### **4A Time limit for actions for defamation or malicious falsehood**

The time limit under section 2 of this Act shall not apply to an action for—

- (a) libel or slander, or malicious falsehood;
- (b) slander of title, slander of goods or other malicious falsehood,

but no such action shall be brought after the expiration of one year from the date

on which the cause of action accrued.

*Actions founded on simple contract*

**5 Time limit for actions founded on simple contract**

An action founded on simple contract shall not be brought after the expiration of six years from the date on which the cause of action accrued.

**6 Special time limit for actions in respect of certain loans**

- (1) Subject to subsection (3) below, section 5 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.

- (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 5 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.

**7 Time limit for actions to enforce certain awards**

An action to enforce an award, where the submission is not by an instrument under seal, shall not be brought after the expiration of six years from the date on which the cause of action accrued.

*General rule for actions on a specialty*

**8 Time limit for actions on a specialty**

- (1) An action upon a specialty shall not be brought after the expiration of twelve years from the date on which the cause of action accrued.
- (2) Subsection (1) above shall not affect any action for which a shorter period of limitation is prescribed by any other provision of this Act.

*Actions for sums recoverable by statute*

**9 Time limit for actions for sums recoverable by statute**

- (1) An action to recover any sum recoverable by virtue of any enactment shall not be brought after the expiration of six years from the date on which the cause of action accrued.
- (2) Subsection (1) above shall not affect any action to which section 10 of this Act applies.

**10 Special time limit for claiming contribution**

- (1) Where under section 1 of the Civil Liability (Contribution) Act 1978 any person becomes entitled to a right to recover contribution in respect of any damage from any other person, no action to recover contribution by virtue of that right shall be brought after the expiration of two years from the date on which that right accrued.
- (2) For the purposes of this section the date on which a right to recover contribution in respect of any damage accrues to any person (referred to below in this section as “the relevant date”) shall be ascertained as provided in subsections (3) and (4) below.
- (3) If the person in question is held liable in respect of that damage—
  - (a) by a judgment given in any civil proceedings; or
  - (b) by an award made on any arbitration,

the relevant date shall be the date on which the judgment is given, or the date of the award (as the case may be).

For the purposes of this subsection no account shall be taken of any judgment or award given or made on appeal in so far as it varies the amount of damages awarded against the person in question.

- (4) If, in any case not within subsection (3) above, the person in question makes or agrees to make any payment to one or more persons in compensation for that damage (whether he admits any liability in respect of the damage or not), the relevant date shall be the earliest date on which the amount to be paid by him is agreed between him (or his representative) and the person (or each of the persons, as the case may be) to whom the payment is to be made.
- (5) An action to recover contribution shall be one to which sections 28, 32, 33A and 35 of this Act apply, but otherwise Parts II and III of this Act (except sections 34, 37 and 38) shall not apply for the purposes of this section.

*Actions in respect of wrongs causing personal injuries or death*

**11 Special time limit for actions in respect of personal injuries**

- (1) This section applies to any action for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of provision made by or

under a statute or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to the plaintiff or any other person.

- (2) None of the time limits given in the preceding provisions of this Act shall apply to an action to which this section applies.
- (3) An action to which this section applies shall not be brought after the expiration of the period applicable in accordance with subsection (4) or (5) below.
- (4) Except where subsection (5) below applies, the period applicable is three years from—
  - (a) the date on which the cause of action accrued; or
  - (b) the date of knowledge (if later) of the person injured.
- (5) If the person injured dies before the expiration of the period mentioned in subsection (4) above, the period applicable as respects the cause of action surviving for the benefit of his estate by virtue of section 1 of the Law Reform (Miscellaneous Provisions) Act 1934 shall be three years from—
  - (a) the date of death; or
  - (b) the date of the personal representative's knowledge,whichever is the later.
- (7) If there is more than one personal representative, and their dates of knowledge are different, subsection (5)(b) above shall be read as referring to the earliest of those dates.

## **12 Special time limit for actions under Fatal Accidents legislation**

- (1) An action under the Fatal Accidents Act 1976 shall not be brought if the death occurred when the person injured could no longer maintain an action and recover damages in respect of the injury (whether because of a time limit in this Act or in any other Act, or for any other reason).

Where any such action by the injured person would have been barred by the time limit in section 11 or 11A of this Act, no account shall be taken of the possibility of that time limit being overridden under section 33 of this Act.

- (2) None of the time limits given in the preceding provisions of this Act shall apply to an action under the Fatal Accidents Act 1976, but no such action shall be brought after the expiration of three years from—
  - (a) the date of death; or
  - (b) the date of knowledge of the person for whose benefit the action is brought,whichever is the later.

- (3) An action under the Fatal Accidents Act 1976 shall be one to which sections 28, 33, 33A and 35 of this Act apply, and the application to any such action of the time limit under subsection (2) above shall be subject to section 39; but otherwise Parts II and III of this Act shall not apply to any such action.

### **13 Operation of time limit under section 12 in relation to different dependants**

- (1) Where there is more than one person for whose benefit an action under the Fatal Accidents Act 1976 is brought, section 12(2)(b) of this Act shall be applied separately to each of them.
- (2) Subject to subsection (3) below, if by virtue of subsection (1) above the action would be outside the time limit given by section 12(2) as regards one or more, but not all, of the persons for whose benefit it is brought, the court shall direct that any person as regards whom the action would be outside that limit shall be excluded from those for whom the action is brought.
- (3) The court shall not give such a direction if it is shown that if the action were brought exclusively for the benefit of the person in question it would not be defeated by a defence of limitation (whether in consequence of section 28 of this Act or an agreement between the parties not to raise the defence, or otherwise).

### **14 Definition of date of knowledge for purposes of sections 11 and 12**

- (1) Subject to subsection (1A) below, In sections 11 and 12 of this Act references to a person's date of knowledge are references to the date on which he first had knowledge of the following facts—
- (a) that the injury in question was significant; and
  - (b) that the injury was attributable in whole or in part to the act or omission which is alleged to constitute negligence, nuisance or breach of duty; and
  - (c) the identity of the defendant; and
  - (d) 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,

and knowledge that any acts or omissions did or did not, as a matter of law, involve negligence, nuisance or breach of duty is irrelevant.

- (2) For the purposes of this section an injury is significant if the person whose date of knowledge is in question would reasonably have considered 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.
- (3) For the purposes of this section 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 medical or other

appropriate expert advice which it is reasonable for him to seek,

but a person shall not be fixed under this subsection 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.

*Actions in respect of latent damage not involving personal injuries*

**14A Special time limit for negligence actions where facts relevant to cause of action are not known at date of accrual**

- (1) This section applies to any action for damages for negligence, other than one to which section 11 of this Act applies, where the starting date for reckoning the period of limitation under subsection (4)(b) below falls after the date on which the cause of action accrued.
- (2) Section 2 of this Act shall not apply to an action to which this section applies.
- (3) An action to which this section applies shall not be brought after the expiration of the period applicable in accordance with subsection (4) below.
- (4) 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 subsection (5) below, if that period expires later than the period mentioned in paragraph (a) above.
- (5) For the purposes of this section, the starting date for reckoning the period of limitation under subsection (4)(b) above 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.
- (6) In subsection (5) above “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 subsection (8) below.
- (7) For the purposes of subsection (6)(a) above, 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.
- (8) The other facts referred to in subsection (6)(b) above 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.
- (9) Knowledge that any acts or omissions did or did not, as a matter of law, involve negligence is irrelevant for the purposes of subsection (5) above.
- (10) For the purposes of this section 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 shall not be taken by virtue of this subsection to have 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.

#### **14B Overriding time limit for negligence actions not involving personal injuries**

- (1) An action for damages for negligence, other than one to which section 11 of this Act applies, shall not be brought after the expiration of fifteen years from the date (or, if more than one, from the last of the dates) on which there occurred any act or omission—
- (a) which is alleged to constitute negligence; and
  - (b) to which the damage in respect of which damages are claimed is alleged to be attributable (in whole or in part).
- (2) This section bars the right of action in a case to which subsection (1) above applies notwithstanding that—
- (a) the cause of action has not yet accrued; or
  - (b) where section 14A of this Act applies to the action, the date which is for the purposes of that section the starting date for reckoning the period mentioned in subsection (4)(b) of that section has not yet occurred,

before the end of the period of limitation prescribed by this section.

#### *Actions to recover land and rent*

#### **19 Time limit for actions to recover rent**

No action shall be brought, to recover arrears of rent, or damages in respect of arrears of rent, after the expiration of six years from the date on which the arrears became due.

#### *Actions in respect of trust property or the personal estate of deceased persons*

## **21 Time limit for actions in respect of trust property**

- (1) No period of limitation prescribed by this Act shall apply to an action by a beneficiary under a trust, being an action—
  - (a) in respect of any fraud or fraudulent breach of trust to which the trustee was a party or privy; or
  - (b) to recover from the trustee trust property or the proceeds of trust property in the possession of the trustee, or previously received by the trustee and converted to his use.
- (2) 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 subsection (1)(b) above 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.

- (3) Subject to the preceding provisions of this section, an action by a beneficiary to recover trust property or in respect of any breach of trust, not being an action for which a period of limitation is prescribed by any other provision of this Act, shall not be brought after the expiration of six years from the date on which the right of action accrued.

For the purposes of this subsection, the right of action shall not be treated as having accrued to any beneficiary entitled to a future interest in the trust property until the interest fell into possession.

- (4) No beneficiary as against whom there would be a good defence under this Act shall derive any greater or other benefit from a judgment or order obtained by any other beneficiary than he could have obtained if he had brought the action and this Act had been pleaded in defence.

## **22 Time limit for actions claiming personal estate of a deceased person**

Subject to section 21(1) and (2) of this Act—

- (a) no action in respect of any claim to the personal estate of a deceased person or to any share or interest in any such estate (whether under a will or on intestacy) shall be brought after the expiration of twelve years from the date on which the right to receive the share or interest accrued; and
- (b) no action to recover arrears of interest in respect of any legacy, or damages in respect of such arrears, shall be brought after the expiration of six years from the date on which the interest became due.

*Actions for an account*

**23 Time limit in respect 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.

*Miscellaneous and supplemental*

**24 Time limit for actions to enforce judgments**

- (1) An action shall not be brought upon any judgment after the expiration of six years from the date on which the judgment became enforceable.
- (2) No arrears of interest in respect of any judgment debt shall be recovered after the expiration of six years from the date on which the interest became due.

Part II

Extension or Exclusion of Ordinary Time Limits

*Disability*

**28 Extension of limitation period in case of disability**

- (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.
- (4A) If the action is one to which section 4A of this Act applies, subsection (1) above shall have effect—
  - (a) in the case of an action for libel or slander, as if for the words from “at any time” to “occurred)” there were substituted the words “by him at any time before the expiration of one year from the date on which he ceased to be under a disability”; and

- (b) in the case of an action for slander of title, slander of goods or other malicious falsehood, as if for the words “six years” there were substituted the words “one year”.
- (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”.

**28A Extension for cases where the limitation period is the period under section 14A(4)(b)**

- (1) Subject to subsection (2) below, if in the case of any action for which a period of limitation is prescribed by section 14A of this Act—
  - (a) the period applicable in accordance with subsection (4) of that section is the period mentioned in paragraph (b) of that subsection;
  - (b) on the date which is for the purposes of that section the starting date for reckoning that period the person by reference to whose knowledge that date fell to be determined under subsection (5) of that section was under a disability; and
  - (c) section 28 of this Act does not apply to the action,

the action may be brought at any time before the expiration of three years from the date when he ceased to be under a disability or died (whichever first occurred) notwithstanding that the period mentioned above has expired.
- (2) An action may not be brought by virtue of subsection (1) above after the end of the period of limitation prescribed by section 14B of this Act.

*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 a mortgagee of personal property to bring a foreclosure action in respect of the property has accrued.
- (2) If the person in possession of personal property in question acknowledges the title of the person to whom the right of action has accrued, the right shall be treated as having accrued on and not before the date of the acknowledgment.
- (3) In the case of a foreclosure or other action by a mortgagee, if the person in possession of the 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.
- (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 mortgaged personalty by any person in possession of it shall bind all other persons in possession during the ensuing period of limitation.
- (2) In the case of a mortgage of personal property 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.
- (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 otherwise).

*Fraud, concealment and mistake*

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

- (1) Subject to subsections (3) and (4A) 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.
- (5) Sections 14A and 14B of this Act shall not apply to any action to which subsection (1)(b) above applies (and accordingly the period of limitation referred to in that subsection, in any case to which either of those sections would otherwise apply, is the period applicable under section 2 of this Act).

**32A Discretionary exclusion of time limit for actions for defamation or malicious falsehood**

- (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 operation of section 4A of this Act prejudices 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 that section shall not apply to the action or shall not apply to any specified cause of action to which the action relates.

- (2) 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) where the reason or one of the reasons for the delay was that all or any of the facts relevant to the cause of action did not become known to the plaintiff until after the end of the period mentioned in section 4A—
    - (i) the date on which any such facts did become known to him; and
    - (ii) the extent to which he acted promptly and reasonably once he knew whether or not the facts in question might be capable of giving rise to an action; and
  - (c) the extent to which, having regard to the delay, relevant evidence is likely—
    - (i) to be unavailable; or
    - (ii) to be less cogent than if the action had been brought within the period mentioned in section 4A.
- (3) In the case of an action for slander of title, slander of goods or other malicious falsehood brought by a personal representative—
- (a) the references in subsection (2) above to the plaintiff shall be construed as including the deceased person to whom the cause of action accrued and any

previous personal representative of that person; and

(b) nothing in section 28(3) of this Act shall be construed as affecting the court's discretion under this section.

(4) In this section "the court" means the court in which the action has been brought.

*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 11A 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 or subsection (4) of section 11A.

(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, by section 11A 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 or subsection (4) of section 11A, 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 or 11A include references to that section as extended by any of the provisions of this Part of this Act other than this section or by any provision of Part III of this Act.

### Part III

#### Miscellaneous and General

#### **35 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 the case of any other new claim, 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 33 of this Act or by rules of court, no Court shall

allow a new claim within subsection (1)(b) above, 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 subsection (3) above applies to be made as there mentioned, but only if the conditions specified in subsection (5) below are satisfied, and subject to any further restrictions the rules may impose.
- (5) The conditions referred to in subsection (4) above 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 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) above 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) above, 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) above 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.

### **36 Equitable jurisdiction and remedies**

- (1) The following time limits under this Act, that is to say—
  - (a) the time limit under section 2 for actions founded on tort;

- (aa) the time limit under section 4A for actions for libel or slander, or for slander of title, slander of goods or other malicious falsehood;
- (b) the time limit under section 5 for actions founded on simple contract;
- (c) the time limit under section 7 for actions to enforce awards where the submission is not by an instrument under seal;
- (d) the time limit under section 8 for actions on a specialty;
- (e) the time limit under section 9 for actions to recover a sum recoverable by virtue of any enactment; and
- (f) the time limit under section 24 for actions to enforce a judgment,

shall not apply to any claim for specific performance of a contract or for an injunction or for other equitable relief, except in so far as any such time limit may be applied by the court by analogy in like manner as the corresponding time limit under any enactment repealed by the Limitation Act 1939 was applied in England before 1st July 1940.

- (2) Nothing in this Act shall affect any equitable jurisdiction to refuse relief on the ground of acquiescence or otherwise.

### **38 Interpretation**

- (1) In this Act, unless the context otherwise requires—

“action” includes any proceeding in a court of law;

“personal estate” and “personal property” do not include chattels real;

“personal injuries” includes any disease and any impairment of a person’s physical or mental condition, and “injury” and cognate expressions shall be construed accordingly;

“trust” and “trustee” have the same meanings respectively as in the Trustee Act 1925.

- (2) For the purposes of this Act a person shall be treated as under a disability while he is an infant, or lacks capacity to conduct legal proceedings.
- (5) Subject to subsection (6) below, a person shall be treated as claiming through another person if he became entitled by, through, under, or by the act of that other person to the right claimed.
- (6) A person becoming entitled to any estate or interest by virtue of a special power of appointment shall not be treated as claiming through the appointor.
- (9) References in Part II of this Act to a right of action shall include references to—
  - (a) a cause of action;
  - (b) a right to receive money secured by a mortgage or charge on any property;

- (c) a right to recover proceeds of the sale of land; and
  - (d) a right to receive a share or interest in the personal estate of a deceased person.
- (10) References in Part II to the date of the accrual of a right of action shall be construed—
- (a) in the case of an action upon a judgment, as references to the date on which the judgment became enforceable; and
  - (b) in the case of an action to recover arrears of rent or interest, or damages in respect of arrears of rent or interest, as references to the date on which the rent or interest became due.

### **39 Saving for other limitation enactments**

This Act shall not apply to any action or arbitration for which a period of limitation is prescribed by or under any other enactment (whether passed before or after the passing of this Act).

### **41 Short title, commencement and extent**

- (1) This Act may be cited as the Limitation Act 1980.