



Latent Damage Act 1986

1986 CHAPTER 37

Time limits for negligence actions in respect of latent damage not involving personal injuries

1 Time limits for negligence actions in respect of latent damage not involving personal injuries.

The following sections shall be inserted in the ^{M1}Limitation Act 1980 (referred to below in this Act as the 1980 Act) immediately after section 14 (date of knowledge for purposes of special time limits for actions in respect of personal injuries or death)—

“ 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

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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 identify 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;

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

Marginal Citations

M1 1980 c. 58.

2 Provisions consequential on section 1.

- (1) The following section shall be inserted in the 1980 Act immediately after section 28 (extension of limitation period in case of disability on date of accrual of cause of action)—

“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.”

- (2) In section 32 of the 1980 Act (postponement of limitation period in case of fraud, concealment or mistake), at the end there shall be added the following subsection—

“(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).”

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