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STATUTORY INSTRUMENTS

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**1989 No. 1339**

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

**PART I**

**INTRODUCTORY**

**Title and commencement**

- 1.—(1) This Order may be cited as the Limitation (Northern Ireland) Order 1989.
- (2) This Order comes into operation on the expiration of two months from the date on which it is made.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>F1</sup> applies to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“action” includes any proceeding (other than a criminal proceeding) in a court established by law;

“action to recover land” includes—

- (a) an action claiming a declaration of title to land;
- (b) proceedings by a mortgagee for the delivery of possession of land by a mortgagor;
- (c) proceedings, under paragraph 5 of Schedule 7 to the Land Registration Act (Northern Ireland) 1970<sup>F2</sup>, by a person who is the registered owner of a charge on registered land for possession of the land;

“arbitration agreement” has the same meaning as in<sup>F3</sup> Part I of the Arbitration Act 1996<sup>F4</sup>;

“conventional rent” means a rent payable under a lease or other contract of tenancy (whether in writing or not and whether express or implied) and includes the rent payable by a tenant within the meaning of the Rent (Northern Ireland) Order 1978<sup>F5</sup>, but does not include a fee farm rent payable under a grant which creates the relationship of landlord and tenant;

“foreshore” means the bed and shore, below the line of high water of ordinary or medium tides, of the sea and of every tidal river and tidal estuary and of every channel, creek and bay of the sea or any such river or estuary;

“land” includes corporeal hereditaments and rentcharges, and an interest in the proceeds of the sale of land held upon trust for sale, but save as aforesaid does not include any incorporeal hereditament;

“mortgage” includes an equitable mortgage;

“other limitation provision” means any statutory provision (other than this Order) in force after the commencement of this Order with respect to the limitation of actions (including paragraphs

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(3) to (5) of Article 2 and Articles 3 and 4 of the Foreign Limitation Periods (Northern Ireland) Order 1985<sup>F6</sup>;

“personal estate” does 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 are to be construed accordingly;

“personal property” does not include chattels real;

“personal representative” means the executor, original or by representation, or the administrator of a deceased person;

“rentcharge” means any annuity or periodic sum of money charged upon or payable out of land, and includes—

- (a) any annual or periodic sum payable to the Department of Agriculture—
  - (i) under the Land Purchase Acts;
  - (ii) in respect of any annuity in repayment of an instalment mortgage payable into a fund which was apportioned to the Government of Northern Ireland by section 31 of the Government of Ireland Act 1920<sup>F7</sup> (which relates to the Church Temporalities Fund); and
- (b) any periodic sum payable to the Crown Estate Commissioners under the Crown Estate Act 1961<sup>F8</sup>, being—
  - (i) a Crown rent; or
  - (ii) a quit rent; or
  - (iii) a composition rent; or
  - (iv) any other rentcharge; and
- (c) a fee farm rent, whether the grant under which it arises does or does not create the relationship of landlord and tenant;

but does not include—

- (d) a conventional rent; or
- (e) interest on a mortgage or charge on land;

“Statute of Limitations” means the Statute of Limitations (Northern Ireland) 1958<sup>F9</sup>;

“statutory provision” has the same meaning as in section 1( *f*) of the Interpretation Act (Northern Ireland) 1954<sup>F10</sup>;

(3) In this Order “trustee” does not include—

- (a) a person whose fiduciary relationship arises merely by construction or implication of law and whose fiduciary relationship is not treated by any rule of law as that of an express trustee; or
- (b) a personal representative in the capacity of personal representative.

(4) Where—

- (a) an interest (in this paragraph referred to as a “new interest”) in land, which is conveyed to or vested in a purchaser under the Land Purchase Acts is, under any provision of those Acts or otherwise, a graft or treated as a graft on any previous interest in that land or any other land; and
- (b) the new interest is subject to any rights or equities arising from its being such a graft,

neither the purchaser nor any person claiming through him is, by reason only of the matters mentioned in sub#paragraphs (a) and (b), a trustee for the purposes of this Order in respect of the new interest.

(5) Where the title of any person to any registered land is deemed, by virtue of paragraph 2 of Part I of Schedule 13 to the Land Registration Act (Northern Ireland) 1970<sup>F11</sup>, to be a possessory title, then, neither that person nor any person claiming through him is, by reason only of the registration, a trustee for the purposes of this Order in respect of that land.

(6) In the application of this Order to registered land in respect of which a charge for the payment of a principal sum has been created under section 41 of the Land Registration Act (Northern Ireland) 1970—

- (a) references to a mortgagor are to be construed as references to the registered owner who charged the land;
- (b) references to a mortgagee are to be construed as references to the registered owner of the charge;
- (c) references to a mortgage are to be construed as references to the instrument of charge.

(7) For the purposes of this Order—

- (a) a person is to 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;
- (b) a person whose estate or interest might have been barred by a person entitled to an entailed interest in possession is to be treated as claiming through the person so entitled;
- (c) a person becoming entitled to any estate or interest by virtue of a special power of appointment is not, for the purposes of this Order, to be treated as claiming through the appointor.

(8) In this Order—

- (a) references to a right of action to recover land include references to a right to enter into possession of the land or, as respects a rentcharge, to a right of the Crown to distrain for arrears of the rentcharge;
- (b) references to the bringing of an action to recover land include references to the making of an entry into possession of the land or, as respects a rentcharge, to the making by the Crown of a distress for arrears of the rentcharge.

(9) In this Order—

- (a) references to the possession of land are, in relation to a rentcharge, to be construed as references to the receipt of the rentcharge; and
- (b) references to the date of dispossession or discontinuance of possession of land are, in relation to a rentcharge, to be construed as references to the date of the last receipt of the rentcharge.

(10) For the purposes of section 42 of the Northern Ireland Constitution Act 1973<sup>F12</sup> (validity of Acts of Northern Ireland Parliament), provisions of this Order which re#enact provisions of an Act of the Parliament of Northern Ireland are to be treated as provisions of such an Act.

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| <b>F1</b> | 1954 c. 33 (NI) |
| <b>F2</b> | 1970 c. 8 (NI)  |
| <b>F3</b> | 1996 c. 23      |
| <b>F4</b> | 1996 c. 23      |
| <b>F5</b> | 1978 NI 20      |
| <b>F6</b> | 1985 NI 5       |
| <b>F7</b> | 1920 c. 67      |

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| <b>F8</b>  | 1961 c. 55      |
| <b>F9</b>  | 1958 c. 10 (NI) |
| <b>F10</b> | 1954 c. 33 (NI) |
| <b>F11</b> | 1970 c. 18 (NI) |
| <b>F12</b> | 1973 c. 36      |

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