
STATUTORY INSTRUMENTS

1989 No. 1339

The Limitation (Northern Ireland) Order 1989

PART IV

EXTENSION AND EXCLUSION OF TIME LIMITS

Discretionary Power of Court to Override certain Time Limits

Court's power to override certain time limits

50.—(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 Article 7, 8 or 9 prejudice the plaintiff or any person whom he represents; and
- (b) any decision of the court under this paragraph would prejudice the defendant or any person whom he represents,

the court may direct that those provisions are not to apply to the action, or are not to apply to any specified cause of action to which the action relates.

(2) The court must not under this Article disapply—

- (a) Article 8(3); or
- (b) where the damages claimed by the plaintiff are confined to damages for loss of or damage to any property, any other provision in its application to an action by virtue of Part II of the Consumer Protection (Northern Ireland) Order 1987(1).

(3) The court must not under this Article disapply Article 9(2) except where the reason why the person injured could no longer maintain an action was because of the time limit in Article 7 or 8(4).

(4) In acting under this Article, the court is to 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 Article 7, 8 or, as the case may be, 9;
- (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.

(5) In a case where the person injured died when, because of Article 7 or 8(4), he could no longer maintain an action and recover damages in respect of the injury, the court is to have regard in particular to the length of, and the reasons for, the delay on the part of the deceased.

(6) In a case under paragraph (5), 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, paragraph (4) has effect with appropriate modifications, and 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.

(7) A direction by the court disapplying Article 9(2) operates to disapply the provisions to the same effect in Article 3(1) of the Fatal Accidents (Northern Ireland) Order 1977(2).

(8) In this Article “the court” means the court in which the action has been brought.

(9) References in this Article to Article 7, 8 or 9 include references to those Articles as extended by any other provision of this Order.

Discretionary extension of time limit: actions for libel or slander

51. Where a person to whom a cause of action for libel or slander has accrued has not brought such an action for damages within the period of three years mentioned in Article 6(2) (or, where applicable, the period allowed by Article 48(1) as modified by Article 48(7)) because all or any of the facts relevant to that cause of action did not become known to him until after the expiration of that period, such an action for damages—

- (a) may be brought by him at any time before the expiration of one year from the earliest date on which he knew all the facts relevant to that cause of action; but
- (b) is not to be so brought without the leave of the High Court.