

## SCHEDULES

### SCHEDULE 1 **N.I.**

#### ACCRUAL OF RIGHTS OF ACTION TO RECOVER LAND

##### Accrual of right of action: present interests in land

1. Where the person bringing an action to recover land, or some person through whom he claims—

- (a) has been in possession of the land; and
- (b) has, while entitled to possession of the land, been dispossessed or discontinued his possession,

the right of action is to be treated as having accrued on the date of the dispossession or discontinuance.

2. Where—

- (a) any person brings an action to recover any land of a deceased person, whether under a will or on intestacy; and
- (b) the deceased person—
  - (i) was on the date of death in possession of the land or, in the case of a rentcharge created by will or taking effect upon his death, in possession of the land charged; and
  - (ii) was the last person entitled to the land to be in possession of it,

the right of action is to be treated as having accrued on the date of his death.

3. Where—

- (a) any person brings an action to recover land, being an estate or interest in possession assured, otherwise than by will, to him or to some person through whom he claims, by a person who, at the date when the assurance took effect—
  - (i) was in possession of the land; or
  - (ii) as respects a rentcharge created by the assurance, was in possession of the land charged; and
- (b) no person has been in possession of the land by virtue of the assurance,

the right of action is to be treated as having accrued on the date when the assurance took effect.

##### Accrual of right of action: future interests in land

4. The right of action to recover any land is, where—

- (a) the estate or interest claimed was an interest in reversion or remainder or any future estate or interest; and
- (b) no person has taken possession of the land by virtue of the estate or interest claimed,

to be treated as having accrued on the date on which the estate or interest fell into possession by the determination of the preceding estate or interest.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Limitation (Northern Ireland) Order 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

### Accrual of right of action: certain tenancies

5.—(1) Subject to paragraph (2), for the purposes of this Order—

- (a) a tenancy from year to year or other period, without a lease in writing, is to be treated as being determined at the expiration of the first year or other period, and
- (b) accordingly, the right of action of the person entitled to the land subject to the tenancy is to be treated as having accrued on the date on which the tenancy is determined.

(2) Where any rent or other periodic payment has subsequently been received in respect of the tenancy, the right of action is to be treated as having accrued on the date of the last receipt of rent or other periodic payment.

6.—(1) Where—

- (a) any person is in possession of land by virtue of a lease in writing by which a yearly conventional rent of not less than ten pounds is reserved; and
- (b) the rent is received by some person (in this paragraph referred to as “the wrongful recipient”) wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease; and
- (c) no rent is subsequently received by the person rightfully so entitled,

the right of action of the last#named person to recover the land is to be treated as having accrued at the date when the rent was first received by the wrongful recipient and not at the date of the determination of the lease.

(2) Sub#paragraph (1) does not apply to a lease granted by the Crown or a lease the lessor's interest under which is vested in the Crown.

### Accrual of right of action: forfeiture or breach of condition

7.—(1) A right of action to recover land by virtue of a forfeiture or breach of condition is to be treated as having accrued on the date on which the forfeiture was incurred or the condition broken.

(2) Where—

- (a) a right of action to recover land by virtue of a forfeiture or breach of condition has accrued to a person entitled to an estate or interest in reversion or remainder; and
- (b) the land was not recovered by virtue of the forfeiture or breach,

the right of action to recover the land is not to be treated as having accrued to that person until his estate or interest fell into possession, as if no such forfeiture or breach of condition had occurred.

### Right of action not to accrue without adverse possession

8.—(1) No right of action to recover land is to be treated as accruing unless the land is in the possession of some person in whose favour the period of limitation can run (in this paragraph referred to as “adverse possession”).

(2) Where—

- (a) under paragraphs 1 to 7 a right of action to recover land is treated as accruing on a certain date; and
- (b) no person is in adverse possession of the land on that date,

the right of action is not to be treated as accruing unless and until adverse possession is taken of the land.

(3) Where—

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Limitation (Northern Ireland) Order 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) a right of action to recover land has accrued; and
- (b) after the accrual, before the right of action is barred, the land ceases to be in adverse possession,

the right of action is no longer to be treated as having accrued and no fresh right of action is to be treated as accruing unless and until the land is again taken into adverse possession.

(4) For the purposes of this paragraph—

- (a) possession of any land subject to a rentcharge by a person (other than the person entitled to the rentcharge) who does not pay the rentcharge is to be treated as adverse possession of the rentcharge; and
- (b) receipt of the conventional rent under a lease by a person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease is to be treated as adverse possession of the land.

(5) For the purpose of determining whether a person occupying any land is in adverse possession of the land it is not to be assumed by implication of law that his occupation is by permission of the person entitled to the land merely by virtue of the fact that his occupation is not inconsistent with the latter's present or future enjoyment of the land.

(6) Sub#paragraph (5) does not prejudice a finding to the effect that a person's occupation of any land is by implied permission of the person entitled to the land where the finding is justified on the actual facts of the case.

Settled land and land held on trust for sale: effect of beneficiary's possession

9. Where—

- (a) any settled land, within the meaning of the Settled Land Acts 1882 to 1890; or
- (b) any land held on trust for sale,

is in the possession of a person entitled to a beneficial interest in the land or in the proceeds of sale, not being a person solely and absolutely entitled thereto, for the purposes of this Order no right of action to recover the land is to be treated as accruing during that possession to any person in whom the land is vested as trustee or to any other person entitled to a beneficial interest in the land or the proceeds of sale.

## SCHEDULE 2 N.I.

### TRANSITIONAL PROVISIONS

1. Nothing in this Order affects the operation of section 10 of the Statute of Limitations, as it had effect immediately before 1st January 1979 (the date of commencement of the Civil Liability (Contribution) Act 1978<sup>F1</sup>), in relation to any case where the damage in question occurred before that date.

**F1** 1978 c. 47

2. It is hereby declared that a decision taken at any time by a court to grant, or not to grant, leave under the Limitation Act (Northern Ireland) 1964<sup>F2</sup> (which, so far as it related to leave, was repealed by the Limitation (Northern Ireland) Order 1976<sup>F3</sup>) does not affect the determination of any question in proceedings under any provision of this Order which corresponds to a provision of the Limitation (Northern Ireland) Order 1976, but in such proceedings account may be taken of evidence admitted in proceedings under the Limitation Act (Northern Ireland) 1964.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Limitation (Northern Ireland) Order 1989*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

**F2** [1964 c. 1 \(NI\)](#)

**F3** [1976 NI 18](#)

3. Notwithstanding anything in Article 59(4) or in the repeals made by this Order, the Statute of Limitations continues to have effect in relation to any acknowledgment or payment made before the commencement of Article 9 of the Limitation Amendment (Northern Ireland) Order 1982<sup>F4</sup> (which amended sections 58 and 66 of the Statute of Limitations and made certain repeals in sections 59 and 67 of that Act so as to prevent the revival by acknowledgment or part payment of a right of action barred by that Act) as it had effect immediately before Article 9 came into operation.

**F4** [1982 NI 7](#)

4. Article 74(2)( c ) is to be treated for the purposes of the Hovercraft Act 1968<sup>F5</sup> as if it were contained in an Act passed before that Act.

**F5** [1968 c. 59](#)

5. In relation to a lease granted before the commencement of Article 6(3) of the Limitation Amendment (Northern Ireland) Order 1982 (which substituted “ten pounds a year” for “twenty shillings” in section 21 of the Statute of Limitations), paragraph 6(1)( a ) of Schedule 1 has effect as if for “ten pounds” there were substituted “ twenty shillings ”.

6.—(1) Nothing in this Order affects any right or title, subsisting immediately before the commencement of this Order, which has effect by virtue of the Judgment Mortgage (Ireland) Act 1850<sup>F6</sup> of a person who under that Act is a mortgagor or mortgagee of an estate or interest in land, or of any person claiming through him.

(2) Accordingly, the Statute of Limitations (as it was in force immediately before that commencement) shall continue to apply for the purpose of determining whether any such right of such a person (or of any person claiming through him) is barred, or whether the right or title of such a person (or of any person claiming through him) is extinguished.

**F6** [1850 c. 29](#)

7.—(1) Nothing in this Order—

- (a) enables any action to be brought which was barred by this Order or (as the case may be) by the Statute of Limitations before the relevant date; or
- (b) affects any action or arbitration commenced before that date or the title to any property which is the subject of any such action or arbitration.

(2) In sub#paragraph (1) “the relevant date” means—

- (a) in relation to Article 73, 1st December 1982 (the date of commencement of Article 3 of the Limitation Amendment (Northern Ireland) Order 1982<sup>F7</sup> (which substituted the provisions reproduced in Article 73 for section 2 of the Statute of Limitations));
- (b) in relation to Articles 11, 12 and 49, 16th December 1987 (the date of commencement of the provisions of the Limitation (Amendment) (Northern Ireland) Order 1987<sup>F8</sup> which inserted the provisions reproduced in those Articles in the Statute of Limitations); and
- (c) in relation to any other provision of this Order, 11th April 1982 (the date of commencement of the Limitation Amendment (Northern Ireland) Order 1982, except Article 3).

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Limitation (Northern Ireland) Order 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

**F7** 1982 NI 7  
**F8** 1987 NI 17

N.I.

*Schedule 3 — Amendments*

N.I.

*Schedule 4 — Repeals*

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Limitation (Northern Ireland) Order 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- art. 51A continued by [2023 c. 41 Sch. 10 para. 2\(11\)\(a\)](#)
- art.72Sch.3 para.1 revoked by [1996 c. 23 s.107\(2\)Sch.4](#)