



Limitation Act 1975

CHAPTER 54

ARRANGEMENT OF SECTIONS

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Limitation Act 1975

1975 CHAPTER 54

An Act to amend the law about the limitation of actions and other proceedings. [1st August 1975]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Personal injuries

1. After section 2 of the Limitation Act 1939 there shall be inserted the following sections—

“Time limit for personal injuries.”

2A.—(1) This section applies to any action for damage 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.

New time limits.
1939 c. 21

(2) Section 2 of this Act shall not apply to an action to which this section applies.

(3) Subject to section 2D below, an action to which this section applies shall not be brought after the expiration of the period specified in subsections (4) and (5) below.

(4) Except where subsection (5) applies, the said period is three years from—

(a) the date on which the cause of action accrued, or

(b) the date (if later) of the plaintiff's knowledge.

(5) If the person injured dies before the expiration of the period in subsection (4) above, the period as respects the cause of action surviving for the benefit of the estate of the deceased by virtue of section 1 of the Law Reform (Miscellaneous Provisions) Act 1934 shall be three years from—

1934 c. 41.

(a) the date of death, or

(b) the date of the personal representative's knowledge,

whichever is the later.

(6) In this section, and in section 2B below, 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 that 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.

(7) For the purposes of this section an injury is significant if the plaintiff 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.

(8) For the purposes of the said sections 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.

(9) For the purposes of this section 'personal representative' includes any person who is or has been a personal representative of the deceased, including an executor who has not proved the will (whether or not he has renounced probate) but not anyone appointed only as a special personal representative in relation to settled land; and regard shall be had to any knowledge acquired by any such person while a personal representative or previously.

(10) 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.

Time limit
for actions
under Fatal
Accidents
Act 1846.

2B.—(1) This section has effect subject to section 2D below.

(2) An action under the Fatal Accidents Act 1846 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 any other reason). 1846 c. 93.

Where any such action by the injured person would have been barred by the time limit in section 2A above, no account shall be taken of the possibility of that time limit being overridden under section 2D of this Act.

(3) An action under the Fatal Accidents Act 1846 shall not 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.

(4) Subsection (3) above shall not apply to an action for which a period of limitation is prescribed by or under any Act other than this Act, and section 2A above shall not apply to an action under the Fatal Accidents Act 1846.

(5) An action under the Fatal Accidents Act 1846 shall be one to which section 22 of this Act (persons under disability) applies, but otherwise Part II and Part III of this Act shall not apply to the action.

1846 c. 93. Dependants subject to different time limits.

2C.—(1) This section applies where there is more than one person for whose benefit an action under the Fatal Accidents Act 1846 is brought.

(2) Section 2B(3)(b) shall be applied separately to each of them, and if that would debar one or more of them, but not all, the court shall direct that any person who would be so debarred shall be excluded from those for whom the action is brought unless it is shown that if the action were brought exclusively for the benefit of that person it would not be defeated by a defence of limitation (whether in consequence of section 22 of this Act (persons under disability), or an agreement between the parties not to raise the defence, or otherwise).

Court's power to override time limits.

2D.—(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 2A or 2B 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 2B(2) except where the reason why the person injured could no longer maintain an action was because of the time limit in section 2A.

1961 c. 27.

If, for example, the person injured could at his death no longer maintain an action under the Fatal Accidents Act 1846 because of the time limit in Article 29 in Schedule 1 to the Carriage by Air Act 1961, the court has no power to direct that section 2B(2) shall not apply.

(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 2A or as the case may be 2B ;

- (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 2A, 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 2B(2) shall operate to disapply the provisions to the same effect in section 1 of the Fatal Accidents Act 1846.

1846 c. 93.

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

(8) References in this section to section 2A include references to that section as extended by any provision of Parts II and III of this Act."

Persons under disability.
1939 c. 21.

2.—(1) At the end of section 22 of the Limitation Act 1939 (persons under disability: time limit of 6 years from end of disability) there shall be inserted the following subsections:—

“(2) If the action is one to which section 2A or 2B(3) of this Act applies subsection (1) of this section shall have effect as if for the words ‘6 years’ there were substituted the words ‘3 years’.

(3) Where this section applies by virtue of section 4(3) of the Limitation Act 1963 (contribution between tortfeasors) subsection (1) of this section shall have effect as if for the words ‘6 years’ there were substituted the words ‘2 years’”.

1954 c. 36.
1963 c. 47.

(2) The provisions of this section are in substitution for the subsection (2) added to section 22 by the Law Reform (Limitation of Actions &c.) Act 1954, and in substitution for the proviso to section 4(3) of the Limitation Act 1963.

Supplemental

Transitional provisions.

3.—(1) The provisions of this Act shall have effect in relation to causes of action which accrued before, as well as causes of action which accrue after, the commencement of this Act, and shall have effect in relation to any cause of action which accrued before the commencement of this Act notwithstanding that an action in respect thereof has been commenced and is pending at the commencement of this Act.

(2) For the purposes of this section an action shall not be taken to be pending at any time if a final order or judgment has been made or given therein, notwithstanding that an appeal is pending or that the time for appealing has not expired.

(3) It is hereby declared that a decision taken at any time by a court to grant, or not to grant, leave under Part I of the Limitation Act 1963 (which, so far as it relates to leave, is repealed by this Act) does not affect the determination of any question in proceedings under this Act, but in such proceedings account may be taken of evidence admitted in proceedings under the said provisions repealed by this Act.

(4) In this section “action” includes any proceeding in a court of law, an arbitration and a claim by way of set-off or counterclaim.

Citation,
extent, repeals
and com-
mencement.

4.—(1) This Act may be cited as the Limitation Act 1975.

(2) The Limitation Act 1939, the Law Reform (Limitation of Actions, &c.) Act 1954, the Limitation Act 1963 and this Act may be cited together as the Limitation Acts 1939 to 1975.

(3) This Act shall not extend to Scotland or Northern Ireland.

(4) The consequential and minor amendments in Schedule 1 to this Act shall have effect.

(5) The enactments specified in Schedule 2 to this Act shall be repealed to the extent specified in the third column of that Schedule.

(6) This Act shall come into force on 1st September 1975.

SCHEDULES

Section 4(4).

SCHEDULE 1

CONSEQUENTIAL AND MINOR AMENDMENTS

The Fatal Accidents Acts

1. In the Fatal Accidents Acts 1846 to 1959 any reference to injury includes any disease and any impairment of a person's physical or mental condition, and section 2B of the Limitation Act 1939 (inserted by this Act) shall be construed accordingly.

1939 c. 21.

The Limitation Act 1939

2. At the end of section 2 of the Limitation Act 1939 there shall be inserted the following subsection—

“(8) This section has effect subject to section 2A below.”

3. In section 31(1) of the Limitation Act 1939 after the definitions of “personal estate” and “personal property” there shall be inserted the following definitions—

““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”.

1954 c. 36.

In the Limitation Act 1939 the proviso to section 2(1) and the definition of “personal injuries” inserted by section 2 of the Law Reform (Limitation of Actions, &c.) Act 1954 shall cease to have effect.

4. In section 32 of the Limitation Act 1939 (saving for other limitation enactments) after the words “prescribed by” (in both places) there shall be inserted the words “or under”.

SCHEDULE 2

Section 4(5).

REPEALS

Chapter	Short title	Extent of repeal
9 & 10 Vict. c. 93.	The Fatal Accidents Act 1846.	In section 3 the words from “and that every” to the end of the section.
2 & 3 Geo. 6. c. 21.	The Limitation Act 1939.	In section 22 the subsection added by section 2(2) of the Law Reform (Limitation of Actions, &c.) Act 1954.
2 & 3 Eliz. 2. c. 36.	The Law Reform (Limitation of Actions, &c.) Act 1954.	Section 2. Section 3.
1963 c. 47.	The Limitation Act 1963.	Sections 1 to 3B. In section 4(3) the proviso. Section 6. All of section 7 except sub- section (7), and in subsection (7) the words “Subject to the preceding provisions of this section”.
1971 c. 43.	The Law Reform (Miscel- laneous Provisions) Act 1971.	Part I. The Schedules.

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