



# Limitation Act 1980

## 1980 CHAPTER 58

### PART III

#### MISCELLANEOUS AND GENERAL

#### 38 Interpretation.

- (1) In this Act, unless the context otherwise requires—
- “action” includes any proceeding in a court of law, including an ecclesiastical court;
  - “land” includes corporeal hereditaments, tithes and rent-charges and any legal or equitable estate or interest therein <sup>F1</sup>. . . but except as provided above in this definition does not include any incorporeal hereditament;
  - “personal estate” and “personal property” do 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 shall be construed accordingly;
  - “rent” includes a rentcharge and a rentservic;e;
  - “rentcharge” means any annuity or periodical sum of money charged upon or payable out of land, except a rent service or interest on a mortgage on land;
  - “settled land”, “statutory owner” and “tenant for life” have the same meanings respectively as in the <sup>M1</sup>Settled Land Act 1925;
  - “trust” and “trustee” have the same meanings respectively as in the <sup>M2</sup>Trustee Act 1925; and
  - <sup>F2</sup> . . .
- (2) For the purposes of this Act a person shall be treated as under a disability while he is an infant, or of unsound mind.
- (3) For the purposes of subsection (2) above a person is of unsound mind if he is a person who, by reason of mental disorder [<sup>F3</sup>is incapable of managing and administering his property and affairs; and in this section “mental disorder” has the same meaning as in the <sup>M3</sup>Mental Health Act 1983]

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- (4) Without prejudice to the generality of subsection (3) above, a person shall be conclusively presumed for the purposes of subsection (2) above to be of unsound mind—
- (a) while he is liable to be detained or subject to guardianship under [<sup>F4</sup>the Mental Health Act 1983 (otherwise than by virtue of section 35 or 89)]; and
  - [<sup>F5</sup>(b) while he is receiving treatment [<sup>F6</sup>for mental disorder] as an in-patient in any hospital within the meaning of the Mental Health Act 1983 [<sup>F7</sup>or independent hospital or care home within the the meaning of the Care Standards Act 2000] without being liable to be detained under the said Act of 1983 (otherwise than by virtue of section 35 or 89), being treatment which follows without any interval a period during which he was liable to be detained or subject to guardianship under the <sup>M4</sup>Mental Health Act 1959, or the said Act of 1983 (otherwise than by virtue of section 35 or 89) or by virtue of any enactment repealed or excluded by the Mental Health Act 1959].
- (5) Subject to subsection (6) below, a person shall 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, and any person whose estate or interest might have been barred by a person entitled to an entailed interest in possession shall be treated as claiming through the person so entitled.
- (6) A person becoming entitled to any estate or interest by virtue of a special power of appointment shall not be treated as claiming through the appointor.
- (7) References in this Act to a right of action to recover land shall include references to a right to enter into possession of the land or, in the case of rentcharges and tithes, to distrain for arrears of rent or tithe, and references to the bringing of such an action shall include references to the making of such an entry or distress.
- (8) References in this Act to the possession of land shall, in the case of tithes and rentcharges, be construed as references to the receipt of the tithe or rent, and references to the date of dispossession or discontinuance of possession of land shall, in the case of rent charges, be construed as references to the date of the last receipt of rent.
- (9) References in Part II of this Act to a right of action shall include references to—
- (a) a cause of action;
  - (b) a right to receive money secured by a mortgage or charge on any property;
  - (c) a right to recover proceeds of the sale of land; and
  - (d) a right to receive a share or interest in the personal estate of a deceased person.
- (10) References in Part II to the date of the accrual of a right of action shall be construed—
- (a) in the case of an action upon a judgment, as references to the date on which the judgment became enforceable; and
  - (b) in the case of an action to recover arrears of rent or interest, or damages in respect of arrears of rent or interest, as references to the date on which the rent or interest became due.

#### **Textual Amendments**

**F1** Words in the definition of "land" repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

**F2** Definition of "trust for sale" repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

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- F3** Words in s. 38(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 8(a)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provisions in art. 4 and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **arts. 2, 3** (with transitional provisions in **Schs. 1-3** and savings in art. 3(4)-(10))
- F4** Words substituted by virtue of **Mental Health Act 1983 (c. 20, SIF 85)**, s. 148, **Sch. 4 para. 55(b)(i)**
- F5** S. 38(4)(b) substituted by **Mental Health Act 1983 (c. 20, SIF 85)**, s. 148, **Sch. 4 para. 55(b)(ii)**
- F6** Words in s. 38(4)(b) inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 8(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provisions in art. 4 and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **arts. 2, 3** (with transitional provisions in **Schs. 1-3** and savings in art. 3(4)-(10))
- F7** Words in s. 38(4)(b) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 8(b)**; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provisions in art. 4 and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **arts. 2, 3** (with transitional provisions in **Schs. 1-3** and savings in art. 3(4)-(10))

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#### **Marginal Citations**

- M1** 1925 c. 18(**98:3**)
- M2** 1925 c. 19(**98:4**)
- M3** 1980 c. 20.
- M4** 1959 c. 72(**85**)

**Status:**

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**Changes to legislation:**

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