

SCHEDULES

SCHEDULE 1

LIMITATION OF ACTIONS UNDER PART I

PART I

ENGLAND AND WALES

- 1 After section 11 of the Limitation Act 1980 (actions in respect of personal injuries) there shall be inserted the following section—

“11A Actions in respect of defective products.

- (1) This section shall apply to an action for damages by virtue of any provision of Part I of the Consumer Protection Act 1987.
- (2) None of the time limits given in the preceding provisions of this Act shall apply to an action to which this section applies.
- (3) An action to which this section applies shall not be brought after the expiration of the period of ten years from the relevant time, within the meaning of section 4 of the said Act of 1987; and this subsection shall operate to extinguish a right of action and shall do so whether or not that right of action had accrued, or time under the following provisions of this Act had begun to run, at the end of the said period of ten years.
- (4) Subject to subsection (5) below, an action to which this section applies in which the damages claimed by the plaintiff consist of or include damages in respect of personal injuries to the plaintiff or any other person or loss of or damage to any property, shall not be brought after the expiration of the period of three years from whichever is the later of—
 - (a) the date on which the cause of action accrued; and
 - (b) the date of knowledge of the injured person or, in the case of loss of or damage to property, the date of knowledge of the plaintiff or (if earlier) of any person in whom his cause of action was previously vested.
- (5) If in a case where the damages claimed by the plaintiff consist of or include damages in respect of personal injuries to the plaintiff or any other person the injured person died before the expiration of the period mentioned in subsection (4) above, that subsection shall have effect as respects the cause of action surviving for the benefit of his estate by virtue of section 1 of the Law Reform (Miscellaneous Provisions) Act 1934 as if for the reference to that period there were substituted a reference to the period of three years from whichever is the later of—
 - (a) the date of death; and

Status: This is the original version (as it was originally enacted).

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

- (6) 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.
- (7) 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.
- (8) Expressions used in this section or section 14 of this Act and in Part I of the Consumer Protection Act 1987 have the same meanings in this section or that section as in that Part; and section 1(1) of that Act (Part I to be construed as enacted for the purpose of complying with the product liability Directive) shall apply for the purpose of construing this section and the following provisions of this Act so far as they relate to an action by virtue of any provision of that Part as it applies for the purpose of construing that Part.”

2 In section 12(1) of the said Act of 1980 (actions under the Fatal Accidents Act 1976), after the words "section 11" there shall be inserted the words "or 11A".

3 In section 14 of the said Act of 1980 (definition of date of knowledge), in subsection (1) at the beginning there shall be inserted the words "Subject to subsection (1A) below," and after that subsection there shall be inserted the following subsection—

“(1A) In section 11A of this Act and in section 12 of this Act so far as that section applies to an action by virtue of section 6(1)(a) of the Consumer Protection Act 1987 (death caused by defective product) references to a person's date of knowledge are references to the date on which he first had knowledge of the following facts—

- (a) such facts about the damage caused by the defect as would lead a reasonable person who had suffered such damage to consider 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; and
- (b) that the damage was wholly or partly attributable to the facts and circumstances alleged to constitute the defect; and
- (c) the identity of the defendant;

but, in determining the date on which a person first had such knowledge there shall be disregarded both the extent (if any) of that person's knowledge on any date of whether particular facts or circumstances would or would not, as a matter of law, constitute a defect and, in a case relating to loss of or damage to property, any knowledge which that person had on a date on which he had no right of action by virtue of Part I of that Act in respect of the loss or damage.”

4 In section 28 of the said Act of 1980 (extension of limitation period in case of disability), after subsection (6) there shall be inserted the following subsection—

Status: This is the original version (as it was originally enacted).

- “(7) If the action is one to which section 11A of this Act applies or one by virtue of section 6(1)(a) of the Consumer Protection Act 1987 (death caused by defective product), subsection (1) above—
- (a) shall not apply to the time limit prescribed by subsection (3) of the said section 11A or to that time limit as applied by virtue of section 12(1) of this Act; and
 - (b) in relation to any other time limit prescribed by this Act shall have effect as if for the words 'six years' there were substituted the words 'three years'.”
- 5 In section 32 of the said Act of 1980 (postponement of limitation period in case of fraud, concealment or mistake)—
- (a) in subsection (1), for the words "subsection (3)" there shall be substituted the words "subsections (3) and (4A)"; and
 - (b) after subsection (4) there shall be inserted the following subsection—
- “(4A) Subsection (1) above shall not apply in relation to the time limit prescribed by section 11 A(3) of this Act or in relation to that time limit as applied by virtue of section 12(1) of this Act.”
- 6 In section 33 of the said Act of 1980 (discretionary exclusion of time limit)—
- (a) in subsection (1). after the words "section 11" there shall be inserted the words "or 11A";
 - (b) after the said subsection (1) there shall be inserted the following subsection—
- “(1A) The court shall not under this section disapply—
- (a) subsection (3) of section 11A; 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 I of the Consumer Protection Act 1987.”:
- (c) in subsections (2) and (4), after the words "section 11" there shall be inserted the words "or subsection (4) of section 11A";
 - (d) in subsection (3)(b) after the words "section 11" there shall be inserted the words ", by section 11A": and
 - (e) in subsection (8) after the words "section 11" there shall be inserted the words "or 11A".