STATUTORY INSTRUMENTS

1985 No. 754 (N.I. 5)

The Foreign Limitation Periods (Northern Ireland) Order 1985

- - - - - - *15th May 1985*

Title and commencement

1.—(1) This Order may be cited as the Foreign Limitation Periods (Northern Ireland) Order 1985.

(2) This Order shall come into operation on the expiration of three months from the date on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "the Statute of Limitations" means**[**F1 the Limitation (Northern Ireland) Order 1989**]**

(3) Subject to paragraph (5), references in this Order to the law of any country (including Northern Ireland) relating to limitation shall, in relation to any matter, be construed as references to so much of the relevant law of that country as (in any manner) makes provision with respect to a limitation period applicable to the brining of proceedings in respect of that matter in the courts of that country and shall include—

(a) references to so much of that law as relates to, and to the effect of, the application, extension, reduction or interruption of that period; and

(b) a reference, where under that law there is no limitation period which is so applicable, to the rule that such proceedings may be brought within an indefinite period.

(4) In paragraph (3) "relevant law", in relation to any country, means the procedural and substantive law applicable, apart from any rules of private international law, by the courts of that country.

(5) References in this Order to the law of Northern Ireland relating to limitation shall not include the rules by virtue of which a court may, in the exercise of any discretion, refuse equitable relief on the grounds of acquiescence or otherwise; but, in applying those rules to a case in relation to which the law of any country outside Northern Ireland is applicable by virtue of Article (3)(1)(a) (not being a law that provides for a limitation period that has expired), a court in Northern Ireland shall have regard, in particular, to the provisions of the law that is so applicable.

(6) References in this Order to the Crown shall be construed in accordance with section 4(2) of the Statute of Limitations (which provides, amongst other things, for references to the Crown to include references to government departments and their officers).

F1 1989 NI 11

Application of foreign limitation law

3.—(1) Subject to the following provisions of this Order, where in any action or proceedings in a court in Northern Ireland the law of any other country falls (in accordance with rules of private international law applicable by any such court) to be taken into account in the determination of any matter—

(a) the law of that other country relating to limitation shall apply in respect of that matter for the purposes of the action or proceedings **[**F2, subject to Article 3A**]** ; and

(b) except where that matter falls within paragraph (2), the law of Northern Ireland relating to limitation shall not so apply.

(2) A matter falls within this paragraph if it is a matter in the determination of which both the law of Northern Ireland and the law of some other country fall to be taken into account.

(3) The law of Northern Ireland shall determine for the purposes of any law applicable by virtue of paragraph (1)(a) whether, and the time at which, proceedings have been commenced in respect of any matter; and accordingly**[**F3 Article 73**]** of**[**F3 the Limitation (Northern Ireland) Order 1989**]** (new claims in pending proceedings) shall apply in relation to time limits applicable by virtue of paragraph (1)(a) as it applies in relation to time limits under**[**F3 the Limitation (Northern Ireland) Order 1989**]**.

(4) A court in Northern Ireland, in exercising in pursuance of paragraph (1)(a) any discretion conferred by the law of any other country, shall so far as practicable exercise that discretion in the manner in which it is exercised in comparable cases by the courts of that other country.

(5) In this Article "law", in relation to any country, shall not include rules of private international law applicable by the courts of that country, or in the case of Northern Ireland, this Order.

F2 Words in art. 3(1)(a) inserted (30.6.2021) by Overseas Operations (Service Personnel and Veterans) Act 2021 (c. 23), s. 14(2), **Sch. 4 para. 2(2)**; S.I. 2021/678, reg. 2
F3 1989 NI 11

[F4Overseas armed forces actions: restriction of foreign limitation law

3A.—(1) Paragraph (3) applies where—

(a) the law of another country relating to limitation applies by reason of Article 3(1)(a) in respect of a matter for the purposes of an overseas armed forces tort action, and

(b) the commencement condition applies in relation to that action,

and in this Article the law relating to limitation that applies for the purposes of that action is referred to as "the relevant foreign limitation law".

(2) The commencement condition applies in relation to an overseas armed forces tort action if the action commenced on a date which is after the end of the period of 6 years beginning with—

(a) the date on which any limitation period specified in the relevant foreign limitation law began to run, or

(b) where the relevant foreign limitation law has the effect that the action may be commenced within an indefinite period, the first date on which the action could have been commenced.

(3) The relevant foreign limitation law is to be treated as providing the defendant with a complete defence to the action so far as relating to the matter (where that would not otherwise be the case).

(4) An "overseas armed forces tort action" means an action—

(a) which is an overseas armed forces action as defined in Article 50(1B) of the Limitation (Northern Ireland) Order 1989, and

(b) which (under the law of the other country that falls to be taken into account) corresponds to—

(i) an action to which Article 7 of that Order applies (personal injuries),

(ii) an action in respect of false imprisonment, or

(iii) an action under the Fatal Accidents (Northern Ireland) Order 1977 (death).

(5) In the application of paragraph (2) to an action in respect of which—

(a) in accordance with the relevant foreign limitation law, a limitation period specified in that law has been suspended or interrupted for a period by reason of a person's lacking legal capacity or being under a disability, or

(b) in accordance with the relevant foreign limitation law, a period during which a person lacks legal capacity or is under a disability has been disregarded in computing a limitation period specified in that law,

the reference to the period of 6 years is to be treated as a reference to the period of 6 years plus the period of suspension or interruption or (as the case may be) the period that was so disregarded.

(6) In the application of paragraph (2) to an action in respect of which a limitation period specified in the relevant foreign limitation law has been suspended in accordance with section 1(1) of the Limitation (Enemies and War Prisoners) Act 1945, the reference to the period of 6 years is to be treated as a reference to the period of 6 years plus—

(a) the period during which the limitation period was suspended, and

(b) any extra period after the suspension ended during which the action could have been brought only because of an extension provided for by section 1(1) of that Act.**]**

F4 Art. 3A inserted (30.6.2021) by Overseas Operations (Service Personnel and Veterans) Act 2021 (c. 23), s. 14(2), **Sch. 4 para. 2(3)**; S.I. 2021/678, reg. 2

Exceptions to Article 3

4.—(1) In any case in which the application of Article 3 would to any extent conflict (whether under paragraph (2) or otherwise) with public policy, that Article shall not apply to the extent that its application would so conflict.

(2) The application of Article 3 in relation to any action or proceedings shall conflict with public policy to the extent that its application would cause undue hardship to a person who is, or might be made, a party to the action or proceedings.

(3) Where, under a law applicable by virtue of Article 3(1)(a) for the purposes of any action or proceedings, a limitation period is or may be extended or interrupted in respect of the absence of a party to the action or proceedings from any specified jurisdiction or country, so much of that law as provides for the extension or interruption shall be disregarded for those purposes.

(4) In the Limitation (Enemies and War Prisoners) Act 1945 (which in relation to cases involving enemy aliens and war prisoners extends certain limitation periods), in section 5 (meaning of expression "statute of limitation" in the application of the Act to Northern Ireland), after the word "means" there shall be inserted " (a) " and after the words "required to be brought" there shall be added the words

"and—