
STATUTORY INSTRUMENTS

1989 No. 1339

The Limitation (Northern Ireland) Order 1989

PART III

**ACTIONS TO RECOVER LAND, ACTIONS IN RESPECT OF
MORTGAGES OR CHARGES AND CERTAIN OTHER ACTIONS**

Actions in respect of mortgages and charges

Time limit: incumbrancers claiming sale of land

32.—(1) Subject to paragraph (2), no action may be brought by any person (other than the Crown) claiming the sale of land which is subject to a mortgage or charge after the expiration of twelve years from the date on which the right of action accrued—

- (a) to the person bringing it; or
- (b) if it first accrued to some person through whom he claims, to that person.

(2) Where—

- (a) the right of action first accrued to the Crown; and
- (b) the person bringing the action claims through the Crown,

the action may be brought at any time before the expiration of—

- (i) the period during which the action could have been brought by the Crown; or
- (ii) twelve years from the date on which the right of action accrued to some person other than the Crown,

whichever period first expires.

(3) No action may be brought by the Crown claiming the sale of land which is subject to a mortgage or charge after the expiration of thirty years from the date on which the right of action accrued—

- (a) to the Crown, or
- (b) if it first accrued to some person through whom the Crown claims, to that person.

Extinction of title of mortgagee to mortgaged land at expiration of time limit

33. At the expiration of the time limit fixed by this Order for a mortgagee to bring an action claiming sale of the mortgaged land, the title of the mortgagee to the land is extinguished.

Time limit: redemption of land

34.—(1) Where a mortgagee of land has been in possession of any of the mortgaged land for twelve years, no action to redeem the land of which the mortgagee has been so in possession may thereafter be brought by the mortgagor or any person claiming through him.

(2) Paragraph (1) does not apply to a Welsh mortgage.

(3) Where a mortgagee of land under a Welsh mortgage which provides that the rents and profits are to be applied in reduction of the principal moneys and interest has been in possession of the land for twelve years commencing on the date on which all the principal moneys and interest have to the knowledge of the mortgagor been satisfied, no action to redeem the land may thereafter be brought by the mortgagor or any person claiming through him.

Extinction of mortgagor's title at expiration of time limit

35. Subject to section 53 of the Land Registration Act (Northern Ireland) 1970^{F1}, at the expiration of the time limit fixed by this Order for a mortgagor to bring an action to redeem land subject to a mortgage, the title of the mortgagor to the land is extinguished.

F1 1970 c. 18 (NI)

Time limit: principal money secured by a charge on land or personal property

36.—(1) No action may be brought to recover any principal sum of money secured by a mortgage or charge on land or personal property after the expiration of twelve years from the date when the right to receive the money accrued.

(2) In its application to a mortgage which was apportioned to the Government of Northern Ireland by section 31 of the Government of Ireland Act 1920^{F2} (Church Temporalities Fund), in paragraph (1) for “twelve years” substitute “ thirty years ”.

(3) For the purposes of this Article, the right to receive any principal sum of money secured by a mortgage or other charge does not accrue so long as the property subject to the mortgage or charge comprises any future interest or any life insurance policy which has not matured or been determined.

F2 1920 c. 67

Time limit: interest on mortgage etc.

37.—(1) No action may be brought to recover arrears of interest payable in respect of any principal sum of money secured by a mortgage or charge on land or personal property to recover damages in respect of such arrears after the expiration of six years from the date on which the interest became due.

(2) Where—

- (a) a prior mortgagee or other incumbrancer has been in possession of the property charged; and
- (b) an action is brought within one year of a discontinuance of such possession by a subsequent incumbrancer,

he may recover by that action all the arrears of interest which fell due during the period of possession by the prior incumbrancer or damages in respect thereof, notwithstanding that the period exceeded six years.

(3) Where—

- (a) the property subject to a mortgage or charge comprises any future interest or life insurance policy; and
- (b) it is a term of the mortgage or charge that arrears of interest is to be treated as part of the principal sum secured by the mortgage or charge,

interest is not to be treated as becoming due before the right to receive the principal sum of money has accrued or is treated as having accrued.

Extinction of right of mortgagee etc. to debt at expiration of time limit for action to recover land etc.

38. At the expiration of the time limit fixed by this Order for—

- (a) a mortgagee of land to bring an action to recover the land; or
- (b) a person claiming as mortgagee or chargeant to bring an action claiming sale of the land,

the right of the mortgagee or such person to the principal sum and interest secured by the mortgage or charge is extinguished.

Extinction of right of mortgagee etc. to debt secured by mortgage or charge on personal property at expiration of time limit

39. At the expiration of the time limit fixed by this Order for a mortgagee or chargeant to bring an action to recover a principal sum of money secured by a mortgage or charge on personal property, the right of the mortgagee or chargeant to the principal sum and interest is extinguished.

Time limit: certain personal rights in or over land

40. An action in respect of a right in the nature of a lien for money's worth in or over land for a limited period not exceeding life, such as a right of support or a right of residence, not being an exclusive right of residence in or on a specified part of the land, may not be brought after the expiration of twelve years from the date on which the right of action accrued.

Extinction of personal right in or over land at expiration of time limit

41. At the expiration of the time limit fixed by this Order for any person to bring an action in respect of a right in the nature of a lien for money's worth in or over land for a limited period not exceeding life, such as a right of support or a right of residence, not being an exclusive right of residence in or on a specified part of the land, the right is extinguished.

Changes to legislation:

There are currently no known outstanding effects for the The Limitation (Northern Ireland) Order 1989, Cross Heading: Actions in respect of mortgages and charges.