

Latent Damage Act 1986

Chapter 37

Accrual of cause of action to successive owners in respect of latent damage to property

3 Accrual of cause of action to successive owners in respect of latent damage to property

(1) Subject to the following provisions of this section, where—

- (a) a cause of action (“the original cause of action”) has accrued to any person in respect of any negligence to which damage to any property in which he has an interest is attributable (in whole or in part); and
- (b) another person acquires an interest in that property after the date on which the original cause of action accrued but before the material facts about the damage have become known to any person who, at the time when he first has knowledge of those facts, has any interest in the property,

a fresh cause of action in respect of that negligence shall accrue to that other person on the date on which he acquires his interest in the property.

(2) A cause of action accruing to any person by virtue of subsection (1) above—

- (a) shall be treated as if based on breach of a duty of care at common law owed to the person to whom it accrues; and
- (b) shall be treated for the purposes of section 14A of the 1980 Act (special time limit for negligence actions where facts relevant to cause of action are not known at date of accrual) as having accrued on the date on which the original cause of action accrued.

(3) Section 28 of the 1980 Act (extension of limitation period in case of disability) shall not apply in relation to any such cause of action.

(4) Subsection (1) above shall not apply in any case where the person acquiring an interest in the damaged property is either—

- (a) a person in whom the original cause of action vests by operation of law; or
- (b) a person in whom the interest in that property vests by virtue of any order made by a court under Section 215(4) of the Insolvency Regulations 2015.

(5) For the purposes of subsection (1)(b) above, the material facts about the damage are such facts about the damage as would lead a reasonable person who has an interest in the damaged property at the time when those facts become known to him 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.

- (6) For the purposes of this section 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 appropriate expert advice which it is reasonable for him to seek,

but a person shall not be taken by virtue of this subsection to have knowledge of a fact ascertainable by him 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.

5 Citation, interpretation, commencement and extent

- (1) This Act may be cited as the Latent Damage Act 1986.
- (2) In this Act—

“the 1980 Act” means the Limitation Act 1980; and

“action” includes any proceeding in a court of law, an arbitration and any new claim within the meaning of section 35 of the 1980 Act (new claims in pending actions).