



Isle of Man

Ellan Vannin

AT 8 of 2020

**LIMITATION (CHILDHOOD ABUSE) ACT
2020**



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Index

Section	Page
PART 1 – INTRODUCTORY	5
1 Short title.....	5
2 Commencement.....	5
PART 2 – AMENDMENT OF THE LIMITATION ACT 1984	5
3 Removal of time limits for certain actions.....	5
4 Consequential amendments.....	7
ENDNOTES	9
TABLE OF ENDNOTE REFERENCES	9

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LIMITATION (CHILDHOOD ABUSE) ACT 2020

Signed in Tynwald: 21 July 2020
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AN ACT to remove the limitation period for actions for damages in respect of personal injuries resulting from childhood abuse; and for connected purposes

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Limitation (Childhood Abuse) Act 2020.

2 Commencement

- (1) This Act (apart from section 1 and this section) comes into operation on such day or days as the Council of Ministers may by order appoint and different days may be appointed for different provisions and for different purposes.
- (2) An order under subsection (1) may include such consequential, incidental, supplemental, transitional, transitory or saving provisions as the Council of Ministers considers necessary or expedient in connection with the coming into operation of any provision of this Act.

PART 2 – AMENDMENT OF THE LIMITATION ACT 1984

3 Removal of time limits for certain actions

After section 11 of the *Limitation Act 1984* insert —

11ZA Actions in respect of personal injuries resulting from childhood abuse

P1973/52/17A and drafting

- (1) This section applies to an action for damages if —
 - (a) the damages claimed consist of damages in respect of personal injuries;
 - (b) the person who sustained the injuries was a minor on the date the act or omission to which the injuries were attributable occurred, or, where the act or omission was a continuing one, the date the act or omission began;
 - (c) the act or omission to which the injuries were attributable constitutes abuse of the person who sustained the injuries; and
 - (d) the action is brought by the person who sustained the injuries.
- (2) None of the time limits given in the preceding provisions of this Act apply to an action to which this section applies.
- (3) In this section, “abuse” includes sexual abuse, physical abuse, emotional abuse and abuse which takes the form of neglect.

11ZB Childhood abuse actions: previously accrued rights of action

P1973/52/17B

Section 11ZA has effect as regards a right of action accruing before the commencement of section 11ZA.

11ZC Childhood abuse actions: previously litigated rights of action

P1973/52/17C and drafting

- (1) This section applies where a right of action in respect of relevant personal injuries has been disposed of in the circumstances described in subsection (2).
- (2) The circumstances are that —
 - (a) prior to the commencement of section 11ZA, an action for damages was brought in respect of the right of action (“the initial action”); and
 - (b) the initial action was disposed of by the court —
 - (i) by reason of section 11; or
 - (ii) in accordance with a relevant settlement.
- (3) A person may bring an action for damages under section 11ZA in respect of the right of action despite the initial action previously having been disposed of.

- (4) In this section —
- (a) personal injuries are “relevant personal injuries” if they were sustained in the circumstances described in paragraphs (b) and (c) of section 11ZA(1); and
 - (b) a settlement is a “relevant settlement” if —
 - (i) it was agreed by the parties to the initial action;
 - (ii) the plaintiff entered into it under the reasonable belief that the initial action was likely to be disposed by the court by reason of section 11; and
 - (iii) any sum of money which it required the defendant to pay to the plaintiff, or to a person nominated by the plaintiff, did not exceed the plaintiff’s costs in connection with bringing and settling the initial action.
- (5) The condition in subsection (4)(b)(iii) is not met if the terms of settlement indicate that the sum payable under it is or includes something other than reimbursement of the plaintiff’s costs in connection with bringing and settling the initial action.

11ZD Childhood abuse actions: circumstances in which an action may not proceed

P1973/52/17D

- (1) The court must not allow an action which is brought by virtue of section 11ZA to proceed if either of subsections (2) or (3) apply.
- (2) This subsection applies where the defendant satisfies the court that it is not possible for a fair hearing to take place.
- (3) This subsection applies where —
 - (a) the defendant satisfies the court that, as a result of the operation of section 11ZB or (as the case may be) 11ZC, the defendant would be substantially prejudiced were the action to proceed; and
 - (b) having had regard to the plaintiff’s interest in the action proceeding, the court is satisfied that the prejudice is such that the action should not proceed. **22**.

4 Consequential amendments

- (1) For section 14(1)(a) of the *Limitation Act 1984* (special time limit for certain other actions) substitute —
 - 23** (a) an action to which section 11, 11ZA, 11ZC or 11A applies; or **22**.

- (2) Paragraph 6 of Schedule 2 to the *Limitation Act 1984* is amended as follows –
- (a) in sub-paragraph (1), for “sub-paragraph (2)” substitute **“**sub-paragraphs (2) and (3)**”**; and
 - (b) after sub-paragraph (2) insert –
 - “**(3) Sub-paragraph (1) does not apply to an action to which sections 11ZA to 11ZD applies.**”**

ENDNOTES

Table of Endnote References