

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL
CONCERNING LIMITATION IN RESPECT OF PERSONAL INJURY AND
FATAL ACCIDENT CLAIMS IN CROSS-BORDER LITIGATION**

Chapter I – Scope and interpretation

Article 1 – Material scope and application.

(1) This Council Regulation applies to:

- (a) any claim for damages arising from or suffered as a result of personal injury,
- (b) any claim in which, following the death of any person (“the primary victim”), damages are claimed by the heirs or the estate of the deceased in respect of personal injury (including fatal injury), loss or damage suffered by the primary victim irrespective of whether the death of the primary victim has been caused by the defendant’s conduct,
- (c) any claim in which, following the death of any person (“the primary victim”), damages are claimed by another person (“the secondary victim”) in respect of personal injury, loss or damage connected with or arising as a result of the death of the primary victim, suffered by the secondary victim,
- (d) any claim in which, following personal injury sustained by any person (“the primary victim”), damages are claimed by another person (“the secondary victim”) in respect of personal injury, loss or damage connected with or arising as a result of the injury to the primary victim suffered by the secondary victim,

where the proceedings involve

- (i) parties residing or domiciled in different Member States, or
- (ii) a party residing or domiciled in a non-Community State, or
- (iii) a choice between the laws of different countries.

(2) This Regulation does not apply to or affect any claim for damages made in criminal proceedings, which claims are subject to the applicable law of the Member State in which criminal proceedings take place.

(3) Any choice of law specified by this Regulation shall be applicable irrespective of whether such law is a law of a Member State.

Article 2 – Interpretation.

(1) In this Regulation:

- “claimant” includes any person claiming damages under the present Regulation; for these purposes a claimant may be either a primary victim or a secondary victim or an heir or an estate, or any person entitled to pursue a claim on behalf or as a representative of the claimant or as the claimant’s heir or estate;
- “competent court” is any court which is required to apply this Regulation;
- “damages” includes all kinds of damages recoverable under the law applicable to the claim;
- “damaging event” includes any event giving rise to a claim which falls within the material scope of the present Regulation;
- “defendant” includes any person, whether sued in a private or public capacity, against whom a claim is made for damages for personal injury including fatal injury;
- “extra-judicial proceedings” and “legal proceedings” includes arbitration, alternative dispute resolution, and any proceedings other than judicial proceedings enabling the parties to settle the dispute;

- “judicial proceedings” includes any proceedings in a court of law enabling the claimant to claim damages and including criminal investigation or criminal proceedings; this expression also includes preliminary proceedings necessary in order to start a judicial action;
- “personal injury” includes any disease and any impairment, whether temporary or permanent, of a person’s physical or mental condition, and “injury” and cognate expressions shall be construed accordingly;
- “primary victim” includes any person injured or killed as a result of an accident or a disease;
- “secondary victim” includes any person other than the primary victim injured or killed by an accident or disease who is entitled to claim damages by virtue of the law applicable to the case.

(2) For the purposes of this Regulation, a “limitation period” is the period of time after the expiry of which a defendant may present a complete defence to the claim by reason that a claim for damages has not been made within the limitation period.

Chapter II – Uniform rules

Section One Limitation periods

Article 3 – General limitation period.

Except in cases where Articles 4, 5, or 6 apply, the general limitation period in respect of any claim falling within Article 1 shall be four years irrespective of the nature of the obligation, the cause of action, or the identity of the defendant.

Article 4 – Longer limitation period.

(1) Where the proper law applicable to the claim provides for a limitation period which is longer than four years, such longer limitation period shall apply.

(2) Where the expiry of the limitation period is relied upon by the defendant as a defence to the claim, the burden shall be upon the claimant to prove by proper evidence the existence of a longer limitation period in accordance with subparagraph 1.

Article 5 – Limitation period for a claim established by judicial proceedings or other legal proceedings.

(1) The limitation period for the enforcement of a claim for damages established by a final judgment shall be ten years.

(2) The same limitation period shall apply to the enforcement of a claim for damages established by an arbitral award or other instrument which is enforceable as if it were a final judgment.

Article 6 – Claims for damages not subject to limitation time.

Any claim for damages for personal injury or death caused by any of the following acts shall not be the subject of any limitation defence:

- (a) acts committed by terrorists;
- (b) torture;
- (c) slavery.

Article 7 – Computation of limitation periods.

- (1) In all cases within the scope of this Regulation the expiry of the limitation period shall occur on the last day of the limitation period.
- (2) The relevant limitation period shall be computed in accordance with the regular calendar of the Member State in which the claimant issues proceedings.
- (3) The day on which the cause of action arises is not counted for the purposes of the computation of the limitation period. The expiry of the limitation period occurs upon the expiry of the last moment of the final day of the limitation period.
- (4) Where the final day of the limitation period falls on a recognised public holiday, the final day shall be postponed to the following business day.
- (5) In the case of the extension of a limitation period, the new limitation period shall be computed from the date of the expiry of the preceding limitation period.

Section Two
Commencement: the starting date

Article 8 – Beginning of the limitation period in personal injury cases.

- (1) Except where Articles 9 and 10A(1) and (2) apply, the commencement of the applicable period provided in Articles 3 and 4 above shall start from:
 - (a) the date on which the cause of action for personal injury accrued; or
 - (b) the date of knowledge (if later) of the person injured.
- (2) The date of knowledge is the date on which the person injured first had knowledge of the following facts:
 - (a) that the injury, loss or damage in question was significant; and
 - (b) that the injury, loss or damage in question was attributable in whole or in part to the act or omission which is alleged to give rise to the liability of the defendant; and
 - (c) the identity of the defendant; and
 - (d) if it is alleged that the act or omission was that of a person other than the defendant, the additional facts supporting the bringing of proceedings in respect of the liability of the defendant.
- (3) For the purposes of this Article, a person shall be regarded as having knowledge of the fact that the injury, loss or damage is significant:
 - (a) if he has knowledge of the full extent of the injury, loss or damage, or
 - (b) if a reasonable person with the knowledge of the extent of the injury or damage of the injured person would consider it sufficiently serious to justify instituting proceedings in respect of the injury, loss or damage.

Article 9 – Beginning of the limitation period in the case of death of the primary victim: claims by the heirs or the estate.

- (1) Where the primary victim dies before the expiry of the applicable limitation period provided for in Articles 3, 4 or 8 above, and irrespective of whether the death was caused by the defendant's conduct, the commencement of the applicable limitation period in respect of any claim for damages which survives for the benefit of the heirs or the estate of the primary victim shall start from:
 - (a) the date of death; or
 - (b) the date of knowledge (if later) of the heirs or the estate.
- (2) The date of knowledge is the date on which the heirs or the estate first had knowledge of:

- (a) the facts which give rise to the claim, including the fact that the injury, loss or damage, or death in question is attributable in whole or in part to the act or omission which is alleged to give rise to the liability of the defendant; and
 - (b) the identity of the defendant; and
 - (c) if it is alleged that the act or omission was that of a person other than the defendant, the additional facts supporting the liability of the defendant.
- (3) Where there are two or more persons for whose benefit a claim is made, the applicable limitation period shall apply separately in relation to each of them.

Article 10 A – Beginning of the limitation period in claims by secondary victims: fatal accidents.

- (1) In the case of the death of the primary victim, the applicable limitation period provided for in Articles 3 and 4 above shall run from:
- (a) the date of death; or
 - (b) the date of knowledge (if later) of the secondary victim.
- (2) For the purposes of subparagraph (1) the date of knowledge is the date on which the secondary victim first had knowledge of:
- (a) the facts which gave rise to the claim, including the fact that the death is attributable in whole or in part to the act or omission which is alleged to give rise to the liability of the defendant;
 - (b) the identity of the defendant;
 - (c) if it is alleged that the act or omission was that of a person other than the defendant, the additional facts supporting the liability of the defendant.

Article 10 B – Beginning of the limitation period in claims by secondary victims: survival of the primary victim.

- (1) In the case of any other claim of a secondary victim other than as provided for in Article 10A the applicable limitation period provided in Articles 3 and 4 above shall run from:
- (a) the date on which the cause of action accrued; or
 - (b) the date of knowledge (if later) of the person injured; or
 - (c) in respect of the secondary victim's injury only, the date (if later) on which the secondary victim first had knowledge of the following facts:
 - (i) that his injury was significant;
 - (ii) that the injury in question was, in whole or in part, a consequence of the damaging event giving rise to the claim of the primary victim.

Article 11 – Constructive knowledge.

- (1) For the purposes of this Regulation, 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) where he has acted reasonably in seeking appropriate expert advice, from facts ascertainable by him with the support of such advice.
- (2) In determining for the purposes of this Article
- (a) the knowledge which a person might reasonably have been expected to acquire, or
 - (b) whether a person has acted unreasonably in not seeking appropriate advice,
- his circumstances and abilities (so far as relevant) shall be taken into account.

(3) Unless the claimant has acted unreasonably in not seeking advice from an expert, the claimant shall not be treated as having constructive knowledge of any fact which an expert might have acquired.

(4) Where an expert has been consulted, the claimant shall not be deemed to have constructive knowledge of any fact or matter which the expert acquired but failed to communicate to the claimant, or any fact or matter which the expert failed to acquire.

(5) Unless the claimant has acted unreasonably in not taking all reasonable steps to obtain legal advice, the claimant shall not be deemed to have constructive knowledge of whether particular facts or circumstances would, as a matter of law, give rise to a valid claim for damages.

Article 12 – Commencement of the limitation period for a claim established by judicial proceedings or other legal proceedings.

The limitation period provided in Article 5 begins to run from the date on which the judgment or arbitral award becomes final, or the other instrument becomes enforceable, but not before such time as the debtor is required to effect payment of the damages awarded or ordered to be paid.

Section three Suspension

Article 13 – Suspension due to the conduct of the defendant.

(1) The running of the limitation period shall be suspended in any case where the defendant or any other person for whose acts or omissions the defendant is liable has deliberately or dishonestly or unreasonably or as a result of a mistake concealed the existence of facts or matters giving rise to the liability of the defendant, until such time as the concealment or mistake has been discovered or (if earlier) the claimant first had knowledge of the concealed facts or matters or the mistake (as the case may be).

(2) Where the defendant has deliberately or violently caused personal injury to

(a) his spouse, or

(b) his unmarried partner, or

(c) a minor living in the same household as the defendant

the running of the limitation period shall be suspended during any period of cohabitation between the primary victim and the defendant.

Article 14 – Suspension due to the pending of criminal proceedings.

(1) Whenever there are criminal investigations or proceedings pending in respect of the damaging event that gave rise to the injury, loss or damage, irrespective of whether the claimant has been informed of such investigations or proceedings, no limitation period under this Regulation shall run against the claimant until:

(a) a binding decision has been issued, or

(b) the investigations or proceedings have otherwise been terminated and the termination of such investigations or proceedings has been notified to the claimant, or

(c) such date as the claimant might reasonably have been expected to acquire knowledge of such termination.

(2) For the purposes of permitting a foreign claimant to acquire the knowledge of current criminal investigations or proceedings, each Member State shall

- (a) establish or approve a national information centre responsible:
 - (i) for keeping a register of all criminal investigations or pending proceedings involving a foreign primary victim;
 - (ii) for providing written answers to reasoned requests for information made by or on behalf of a foreign primary victim or secondary victim or the information centre of another Member State within three months from the receipt of such a request.
- (b) establish an obligation on national criminal investigating authorities to provide a written answer to any reasoned request for information made by or on behalf of a foreign primary victim or secondary victim or the information centre of another Member State within three months from the receipt of such a request.

Article 15 – Suspension due to the pending proceedings provided for in the Fourth Motor Insurance Directive.

No limitation period under this Regulation shall run against the claimant during any period of time in which there is outstanding a request or claim made by or on behalf of the claimant pursuant to the procedures provided for under Articles 5 and 6 of Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (the Fourth Motor Insurance Directive).

Section four Interruption

Article 16 – Interruption of the running of the limitation period.

- (1) The running of the limitation period provide for in Articles 3 and 4 shall be interrupted by any of the following:
 - (a) the commencement of judicial proceedings; interruption is effective from the date of issue of the proceedings even where the court in which the claim has been started lacks competence or jurisdiction;
 - (b) any act of the claimant notified to the defendant having the purpose of commencing extra-judicial proceedings with the aim of obtaining an instrument which is enforceable as if it were a judgment; interruption is effective from the date on which a request that the claim should be adjudicated upon is received by the defendant, even where such extra-judicial proceedings do not in fact take place;
 - (c) any act of the claimant notified to the defendant having the purpose of initiating negotiations; interruption is effective even where negotiations do not in fact lead to settlement of the claim;
 - (d) any other act of the claimant notified to the defendant informing the defendant of the fact of the claimant’s claim for damages.
- (2) For the purposes of subparagraph (1)(d) it is sufficient that a letter or any other similar written notification is sent to the defendant in which the claimant unequivocally claims compensation specifying, within the limit of his knowledge, the relevant circumstances of the case, the basis upon which the claimant holds the defendant liable and identifying the damage sustained.
- (3) The letter or any other similar written notification provided for in subparagraph (2) shall be written in the language of the Member State where the defendant has his residence or domicile or place of business.

- (4) The running of the limitation period shall also be interrupted by the acknowledgment of the claimant's right to claim compensation by the person against whom such right can be enforced.
- (5) For the purposes of subparagraph (4) the defendant acknowledges the claimant's claim:
 - (a) by making part payment, or
 - (b) by the payment of interest, or
 - (c) by a written acknowledgment of liability, even where there is a dispute, whether as to part or the whole of the claim, by the defendant as to the extent of any loss or the quantification of any damages suffered.

Article 17 – Interruption of the limitation period in claims established by judicial proceedings or other legal proceedings.

The running of the limitation period provided for in Article 5 shall be interrupted by any act of execution or any other attempt to enforce a claim established by judicial proceedings or other legal proceedings.

Article 18 - Effect and duration of interruption.

- (1) Except where subparagraphs (2), (4) and (11) below apply, a new limitation period of three years begins to run as a result of interruption.
- (2) Where interruption has occurred by reason of Article 16 (1)(a), the limitation period provided for in Article 5 (1) does not begin to run until the judgment in the proceedings becomes final.
- (3) Where interruption has occurred by reason of Article 16 (1)(a) and such judicial proceedings have been terminated prior to judgment, the new limitation period provided for in subparagraph (1) begins to run from the date on which the claimant knew or reasonably ought to have known of the termination of the judicial proceedings.
- (4) Where interruption has occurred by reason of Article 16(1)(b), the new limitation period provided for in subparagraph (1) does not begin to run until the date on which the extra-judicial proceedings were terminated prior to the obtaining of an instrument enforceable as if it were a judgment.
- (5) Where interruption has occurred by reason of Article 16 (1)(b) and an instrument enforceable as if it were a judgment has been obtained, the limitation period provided for in Article 5(2) does not begin to run until such instrument becomes enforceable.
- (6) In any case where the interruption has occurred by reason of Article 16(1)(a) or (b), the new limitation period begins from the date on which proceedings have been terminated.
- (7) Where interruption has occurred by reason of Article 16(1)(c), the new limitation period provided for in subparagraph (1) begins to run one month from the date the defendant notified the claimant in writing of the termination of negotiations.
- (8) Where interruption has occurred by reason of Article 16(1)(d), the new limitation period provided for in subparagraph (1) begins to run from the date on which the defendant received the claimant's letter of claim or any other similar written notification made by the claimant.
- (9) For the purposes of subparagraph (8) the burden of proof that the letter of claim or any other written notification has been sent shall be on the claimant; the defendant shall be deemed to have received the claimant's communication within two weeks from the sending of the letter of claim or notification, unless the claimant proves that the defendant in fact received the letter or other notification within a shorter period of time or the defendant disproves the presumption of receipt.
- (10) Where interruption has occurred by reason of Article 16(4) and the claimant has knowledge of the defendant's acknowledgment prior to initiating any of the actions specified in Article 16 (1), the new limitation period provided for in subparagraph (1) begins to run from the date on which the claimant knew of the defendant's acknowledgment.

(11) Where interruption has occurred by reason of Article 16(4) and the claimant has knowledge of the defendant's acknowledgment after initiating any of the actions specified in Article 16(1), the effect and duration of the interruption shall be assessed in accordance with subparagraphs (2), (3), (4), (5), (6) and (7).

(12) Where interruption has occurred by reason of Article 17, the limitation period provided for in Article 5 applies and begins to run again as a result of each act initiating execution or each reasonable attempt at execution undertaken by the claimant.

(13) Where there is more than one defendant, for the purposes of Article 16(4) the defendant's acknowledgment interrupts the running of limitation only against that particular defendant.

(14) Where the claimant is entitled to bring proceedings by way of direct action against an insurance company, the interruption of the running of limitation against the person liable or the person insured also has effect against the insurance company.

Article 19 – Interruption of the new limitation period.

The new limitation period provided for in Article 18(1) can only be further interrupted by the commencement of judicial proceedings.

Section five Minors and Persons under disability

Article 20 – Minors.

(1) Where the claimant is under the age of 18 at the date when the damaging event occurred, any limitation period under this Regulation, shall be treated as expiring no earlier than the period of four years from the date on which the claimant attains the age of 18, unless the claimant lacks the necessary knowledge as defined in Section two.

(2) Where the claimant ("the relevant person") is under a disability on the date on which he attains the age of 18, the limitation period shall run from this date in all cases where the knowledge of the person who has responsibility for the affairs and supervision of the relevant person ("the responsible person") may be imputed to the knowledge of the claimant, except in cases where the claim is brought against the responsible person.

(3) Where the date of knowledge of the responsible person is determined before the relevant person attains the age of 18, for the purposes of this subsection the date of knowledge shall be determined as at the date immediately following the date on which the relevant person attains the age of 18.

(4) For the purposes of this Article a person has responsibility for the affairs and supervision of the relevant person where:

- (a) he is a member of the relevant person's family who has attained the age of 18 and is responsible for the day to day care of the relevant person; or
- (b) he is a person appointed or entitled under the law applicable to the claim to conduct proceedings in the name of the relevant person.

Article 21 – Persons under a disability other than minors.

(1) Except where subparagraph (2) below applies, where the claimant ("the relevant person") was under a disability on the date when the damaging event occurred, any limitation period under this Regulation shall be treated as starting from the date on which the relevant person ceased to be under a disability.

- (2) Subparagraph (1) above shall not apply where the relevant person is still under a disability at the expiry of a period of ten years from the date of the damaging event, where
- (a) there is a person (“the responsible person”) who has responsibility for the relevant person; and
 - (b) the responsible person is not a defendant to the claim.
- (3) For the purposes of subparagraph (2) any limitation period under this Regulation shall run from the earlier of the following dates:
- (a) the date of knowledge of the responsible person, or
 - (b) the date of knowledge of any person who subsequently acts in the capacity of the responsible person for the relevant person, or
 - (c) where the relevant person ceases to be under disability after the expiry of the ten year period, the date of knowledge of the relevant person,
- but where any such date of knowledge is determined before the expiry of the ten year period, it shall be treated for the purposes of this subparagraph as falling on the date immediately following the end of the ten year period.
- (4) A person is under a disability for the purposes of this Article where:
- (a) he is unable by reason of mental disability to make decisions on matters relating to the cause of the claim concerned, or
 - (b) he is unable to communicate such decisions because of mental disability or physical impairment.
- (5) In subsection (4) “mental disability” means a disability or disorder of the mind or brain, whether permanent or temporary, which results in an impairment or disturbance of mental functioning.
- (6) For the purposes of this Article a person has responsibility for the relevant person where:
- (a) he is a member of the relevant person’s family who has attained the age of 18 and is responsible for the day to day care of the relevant person; or
 - (b) he is a person appointed or entitled under the law of the Member State where the claim is brought or of the domicile of the Member State of the disabled person to conduct proceedings in the name of the relevant person.

Section six

Pleading the defence based on the expiry of the limitation period

Article 22 – Pleading the defence.

- (1) For the expiry of the limitation period to have effect, the defendant must plead that fact as a defence.
- (2) For the purposes of subparagraph (1) the defendant must plead the date when the defendant alleges the limitation period expired, and all facts and matters relevant to the determination of the applicable limitation period.
- (3) Where the expiry of the limitation period is not pleaded as a defence or lacks sufficient particularity as specified in subparagraph (2), the court is not entitled of its own motion to consider the defence.

Article 23 – Renunciation of the defence.

- (1) The defendant is not entitled to rely upon the limitation defence where he has previously renounced the limitation defence.
- (2) For the purposes of subparagraph (1) renunciation occurs in any case where the defendant has acted in a manner that is incompatible with an intention to take advantage of the expiry of the limitation period.

Article 24 – Nullity of agreement limiting limitation period.

Any agreement limiting the ability of the claimant to benefit from the rules provided in this Regulation or modifying or disapplying any of the provisions of this Regulation is void, unenforceable and cannot be pleaded to support any defence based on the expiry of the limitation period.

Article 25 – Evidence and Burden of proof.

(1) The defendant shall adduce in support of the defence provided for in Article 22 appropriate evidence within the limits of the defendant's knowledge taking into account all the circumstances of the case.

(2) Where it is alleged that the defendant or any other person for whom the defendant is liable has withheld information permitting the claimant to acquire the requisite knowledge provided for in Section 2 in circumstances where there was a duty to disclose such information to the claimant, irrespective of whether the duty existed by virtue of a contract or of a provision made by or under a statute or independently of any contract or any such provision or whether the claimant had made a request for such information, the burden shall be on the defendant to prove that he had properly discharged his obligations to provide such information or that the claimant had not taken all reasonable steps to obtain the relevant information.

(3) All facts and matters falling exclusively within the subjective or objective knowledge of the claimant shall be proved by the claimant.

(4) In any case, whether in the course of judicial or extrajudicial proceedings, where the defendant pleads the limitation defence, the claimant shall be allowed a reasonable opportunity to adduce appropriate evidence and to rebut any new evidence relied upon by the defendant in order to challenge the limitation defence raised by the defendant under Article 22.

Section seven
Discretionary power of the court

Article 26 – Court's discretionary power.

(1) The competent court may direct that the defence provided for in Section six of this Regulation shall not apply in relation to the claim where it is satisfied, equitably having regard to -

- (a) any prejudice which would be caused to the defendant if such direction were given, and
- (b) any prejudice which would be caused to the claimant if such direction were not given,

that it would be unjust and unfair not to give such a direction.

(2) In acting under this Article the court must take into account:

- (a) the length of, and reasons for, the delay on the part of the claimant;
- (b) the effect of the passage of time on the ability of the defendant to defend the claim;
- (c) the effect of the passage of time on the cogency of any evidence adduced or likely to be adduced by the claimant or the defendant;
- (d) the conduct of the defendant after the damaging event, including the extent (if any) to which he responded to requests reasonably made by the claimant for information or inspection for the purpose of discovering facts which were or might be relevant to the claim;
- (e) the extent to which the claimant acted promptly and reasonably once he knew that he might be entitled to make the claim;
- (f) the steps, if any, taken by the claimant to obtain medical, legal or other expert advice and the nature, extent and quality of any expert advice he may have received;

- (g) the steps, if any, taken by the defendant to obtain medical, legal or other expert advice and the nature, extent and quality of any expert advice he may have received;
 - (h) any alternative remedy or compensation effectively available to the claimant;
 - (i) the strength of the claimant's case, and
 - (j) any other relevant circumstances.
- (3) The application of this Article must be pleaded by the claimant at the first hearing or within the first statement following reliance on the defence provided for in Article 22.
- (4) For the purposes of subparagraph (3) the claimant shall be allowed to complete his evidence or adduce new evidence in order to support any application under this Article.

Section eight

Effects of a successful limitation defence

Article 27 – Effects.

- (1) The defendant who successfully relies upon the defence based on the expiry of the limitation period shall not be liable to compensate the claimant for the damages claimed.
- (2) The expiry of the limitation period does not extinguish any rights or actions connected with the claimant's claim, but only bars the enforcement of such a claim for damages.

Article 28 – Payment of damages in the case of the expiry of limitation period.

No recovery is allowed of any sums paid in fulfilment of a claim barred by the expiry of the relevant limitation period.

Section nine

Multiple claimants and multiple defendants

Article 29 – Multiple claimants.

- (1) Whenever there is more than one claimant, the expiry of the limitation period shall be assessed separately in relation to each claimant.
- (2) Where the defence under Section six is available against one or more of the claimants but not all the claimants, the defence shall not apply against those remaining claimants whose claims are not barred by Article 22.

Article 30 – Multiple defendants.

Whenever there is more than one defendant and where the defence under Section six is available against the claimant, Article 27 (1) above applies to each defendant in cases where each defendant is liable jointly or jointly and severally for the damages claimed by the claimant.

Chapter III
Miscellaneous provisions & Final clauses

Article 31 – Entry into force and application in time.

- (1) This Regulation shall enter into force six months after its publication in the *Official Journal of the European Communities*.
- (2) This Council Regulation shall be binding in its entirety and directly applicable in all the Member States in accordance with the Treaty establishing the European Community.
- (3) It shall apply to claims for damages arising out of any damaging event occurring after its entry into force.

Article 32 – Relationship with existing EC laws.

The provisions of this Regulation shall prevail over all previous provisions contained in any Council Regulation or Directive whenever any claim falls within the material scope of this Regulation.

Done at Brussels, [...].

For the European Parliament
The President

For the Council
The President