



THG PLC V ZEDRA TRUST COMPANY (JERSEY) LTD [2026] UKSC 6

KEY TAKEAWAYS:

1. No limitation period applies to claims under section 994 Companies Act 2006 (CA 2006).
2. A claim under section 994 CA 2006 is neither an "action upon a specialty" under section 8 Limitation Act 1980 (LA 1980) nor, as regards any claim for monetary relief, an "action to recover any sum recoverable by virtue of any enactment" under section 9 LA 1980.

ISSUE

Whether there is a statutory limitation period which bars a member of a company from petitioning the court for a remedy under sections 994 and 996 CA 2006.

FACTUAL BACKGROUND

Zedra Trust Company (Jersey) Ltd (the Appellant) is a minority shareholder in THG plc (the Company). The Appellant acquired a 13.2% stake in the Company in 2013 and presented a petition under section 994 CA 2006 in 2019. The Appellant claimed various forms of relief against the Company and its former and current directors (the Respondents) for having conducted the affairs of the Company in a manner alleged to be unfairly prejudicial to the Appellant's interests. The Appellant applied to amend its petition in 2022 to include an allegation that it was unfairly prejudiced by being excluded from a bonus issue of shares made more than six years earlier to some shareholders, claiming compensation for the alleged resulting loss. The Company opposed the amendment, arguing that it was time-barred by section 9 LA 1980.

COMPANIES ACT 2006 Section 994

(1) A member of a company may apply to the court by petition for an order under this Part on the ground -

(a) that the company's affairs are being or have been conducted in a manner that is unfairly prejudicial to the interests of members generally or of some part of its members (including at least himself), or

(b) that an actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be prejudicial.

COMPANIES ACT 2006
Section 996

(1) If the court is satisfied that a petition under this Part is well founded, it may make such order as it thinks fit for giving relief in respect of the matters complained of.

(2) Without prejudice to the generality of subsection (1), the court's order may -

(a) regulate the conduct of the company's affairs in the future;

(b) require the company -

(i) to refrain from doing or continuing an act complained of, or

(ii) to do an act that the petitioner has complained it has omitted to do;

(c) authorise civil proceedings to be brought in the name and on behalf of the company's affairs by such person or persons and on such terms as the court may direct;

(d) require the company not to make any, or any specified, alterations in its articles without the leave of the court;

(e) provide for the purchase of the shares of any members of the company by other members or by the company itself and, in the case of a purchase by the company itself, the reduction of the company's capital accordingly.

LIMITATION ACT 1980

Section 8

(1) An action upon a speciality shall not be brought after the expiration of twelve years from the date on which the cause of action accrued...

Section 9

(1) An action to recover any sum recoverable by virtue of any enactment shall not be brought after the expiration of six years from the date on which the cause of action accrued...

FIRST INSTANCE

[2023] EWHC 65 (Ch)

Fancourt J

The Respondent's argument that the complaint was time-barred was **rejected**.

Fancourt J held that the Appellant's complaint could only be brought as a petition under section 994 CA 2006 and that the Appellant by doing so was not avoiding the six-year limitation period that would apply to a claim by the Company against its directors for equitable compensation for breach of fiduciary duty.

The judge relied on the judgment of the Court of Appeal in **In re Cherry Skip Hire Ltd, Bailey v Cherry Hill Skip Hire [2022] EWCA Civ 531; [2023] Bus LR 14** (Cherry Hill Skip Hire) to hold that LA 1980 does not have a limitation period that applies to petitions under section 994.

The Respondents did not argue on the application for permission to amend that the complaint should have been barred on the grounds of delay or acquiescence by the Appellant.

COURT OF APPEAL

[2024] EWCA Civ 158

Lewison, Arnold and Snowden LJ

The Court of Appeal **allowed the appeal**, with Lewison LJ stating in the opening paragraph of his judgment that the issue on appeal was an **issue of principle: whether there is a limitation period applicable to a petition under section 994 CA 2006**.

On appeal, the court held that the **complaint was time-barred** because the limitation period of six years under section 9 LA 1980 applied and permission for the amendment had not been granted within that period.

Lewison LJ stated that it was undoubtedly received wisdom that no limitation applied to section 994 petitions and that the court had to **consider the question afresh** as the Court of Appeal in **Cherry Hill Skip Hire** had proceeded on what was common ground between parties and had not made a free-standing decision on the point.

From his analysis of the relevant cases, Lewison LJ concluded that **where (i) the right to go to court is purely statutory and (ii) the only relief sought is the payment of money the action falls within section 9 LA 1980**.

SUPREME COURT

By a **MAJORITY** of four to one, the Supreme Court **ALLOWED THE APPEAL**.

Three principal issues were raised on appeal:

(i) Is a claim under section 994 CA 2006 an "action upon a specialty" falling within section 8(1) LA 1980 to which a 12-year limitation period is applicable unless under s8(2) a shorter period applies?

(ii) Is the claim under section 994 CA 2006 in which the only relief sought is the payment of money an "action to recover any sum recoverable by virtue of any enactment" falling within section 9(1) LA 1980 to which a six-year limitation period is applicable?

(iii) Is the monetary relief claimed in the petition "equitable relief" within the meaning of section 36(1) LA 1980 and are the limitation periods in sections 8 and 9 LA 1980 therefore disappplied if otherwise applicable?

MAJORITY

Lord Hodge and Lord Richards, with whom Lord Briggs and Lord Lloyd-Jones agreed

The majority held that a claim under section 994 CA 2006 is **neither an "action upon a specialty"** under section 8 LA 1980 **nor**, as regards any claim for monetary relief, **an "action to recover any sum recoverable by virtue of any enactment"** under section 9 LA 1980.

The majority concluded that an "action upon a specialty" is an action to enforce an obligation create by a deed or statute and that, as section 994 does not create any obligations, a section 994 claim is not an "action upon a specialty".

The majority disagreed on the Court of Appeal's decision in *Collin v Duke of Westminster* [1985] 1 QB 581 and whether an "action upon a specialty" was confined to claims to enforce monetary obligations. However, they felt that it was not appropriate to reach a concluded view given that it did not affect the outcome in the present appeal.

The majority also concluded that a section 994 claim seeking compensation is not an "action to recover any sum recoverable by virtue of any enactment" under section 9 LA 1980 as, given the very wide discretion given to the court by section 996 CA 2006, it would be unprincipled and impracticable to apply a six-year limitation period to a claim in a petition for monetary relief only as and when the court decides to make an order for the payment of money.

Therefore, **NO LIMITATION PERIOD APPLIES TO CLAIMS UNDER SECTION 994 CA 2006**.

MINORITY

Lord Burrows dissenting

Lord Burrows concluded that the Court of Appeal's approach was correct and that he would, therefore, have dismissed the appeal.

His Lordship **considered that a claim under section 994 CA 2006 is an "action upon a specialty"** as a statute is a specialty according to the authorities. Such claims are therefore **subject to a 12-year limitation period under section 8 LA 1980 unless a shorter period is prescribed by section 9 LA 1980**.

Despite agreeing with the majority that it is unusual for limitation periods to vary depending on the which remedy is sought, Lord Burrows saw section 9 LA 1980 as an exception due to it being explicitly confined to the recovery of sums by statute.

His Lordship concluded that, as the section 994 claim sought monetary compensation, in line with the general approach taken to limitation periods in respect of statutory discretions, it should be subject to the six-year limitation periods laid down in section 9 LA 1980.

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