

The Limitation Act, 1908

(ACT NO. IX OF 1908)

¹[An Act to consolidate and amend the law for the Limitation of Suits, and for other purposes.

WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; and whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows:-

PART I

PRELIMINARY

**Short title,
extent and
commencement**

1. (1) This Act may be called the Limitation Act, 1908.

(2) It extends to the whole of Bangladesh.

(3) This section and section 31 shall come into force at once. The rest of this Act shall come into force on the first day of January, 1909.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

(1) “applicant” includes any person from or through whom an applicant derives his right to apply:

(2) “bill of exchange” includes a hundi and a cheque:

(3) “bond” includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be:

(4) “defendant” includes any person from or through whom a defendant derives his liability to be sued:

(5) “easement” includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of

the soil belonging to another or anything growing in, or attached to or subsisting upon, the land of another:

(6) “foreign country” means any country other than Bangladesh ²[* * *]:

(7) “good faith”: nothing shall be deemed to be done in good faith which is not done with due care and attention:

(8) “plaintiff” includes any person from or through whom a plaintiff derives his right to sue:

(9) “promissory note” means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight:

(10) “suit” does not include an appeal or application: and

(11) “trustee” does not include a benamider, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title.

PART II

LIMITATION OF SUITS, APPEALS AND APPLICATIONS

**Dismissal
of suits,
etc.,
instituted,
etc., after
period of
limitation**

3. Subject to the provisions contained in sections 4 to 25 (inclusive), every suit instituted, appeal preferred, and application made, after the period of limitation prescribed therefor by the first schedule shall be dismissed, although limitation has not been set up as a defence.

Explanation.-A suit is instituted, in ordinary cases, when the plaint is presented to the proper officer; in the case of a pauper, when his application for leave to sue as a pauper is made; and, in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

**Where
Court is
closed
when
period
expires**

4. Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.

**Extension
of period in
certain
cases**

5. Any appeal or application for a revision or a review of judgment or for leave to appeal or any other application to which this section may be made applicable by or under any enactment for the time being in force may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation - The fact that the appellant or applicant was misled by any order, practice or judgment of the High Court Division in ascertaining or computing the prescribed period of limitation may be sufficient cause within the meaning of this section.

**Legal
disability**

6. (1) Where a person entitled to institute a suit or proceeding or make an application for the execution of a decree is, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit or proceeding or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefore in the third column of the first schedule or in section 48 of the Code of Civil Procedure, 1908.

(2) Where such person is, at the time from which the period of limitation is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period, after both disabilities have ceased, as would otherwise have been allowed from the time so prescribed.

(3) Where the disability continues up to the death of such person, his legal representative may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so prescribed.

(4) Where such representative is at the date of the death affected by any such disability, the rules contained in sub-sections (1) and (2) shall apply.

Illustrations

- (a) The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accrual. He may institute his suit at any time within the years from the date of his attaining majority.
- (b) A right to sue accrues to Z during his minority. After the accrual, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity and minority cease.
- (c) A right to sue accrues to X during his minority. X dies before attaining majority, and is succeeded by Y, his minor son. Time runs against Y from the date of his attaining majority.

Disability of one of several plaintiffs or applicants

7. Where one of several persons jointly entitled to institute a suit or proceeding or make an application for the execution of a decree is under any such disability, and discharge can be given without the concurrence of such person, time will run against them all: but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

Illustrations

- (a) A incurs a debt to a firm of which B, C and D are partners. B is insane, and C is a minor. D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.
- (b) A incurs a debt to a firm of which E, F and G are partners. E and F are insane, and G is a minor. Time will not run against any of them until either E or F becomes sane, or G attains majority.

Special exceptions

8. Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which any suit must be instituted or application made.

Illustrations

- (a) A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accrual. A has, under the ordinary

law, only one year remaining within which to sue. But under section 6 and this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority, within which he may bring his suit.

(b) A right to sue for an hereditary office accrues to A who at the time is insane. Six years after the accruer A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under section 6 read with this section.

(c) A right to sue as landlord to recover possession from a tenant accrues to A, who is an idiot. A dies three years after the accruer, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. Section 6 read with this section does not extend that time, except where the representative is himself under disability when the representation devolves upon him.

Continuous running of time

9. Where once time has begun to run, no subsequent disability or inability to sue stops it:

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against express trustees and their representatives

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time.

For the purposes of this section any property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment shall be deemed to