



THE LIMITATION ACT, 1908



CONTENTS

SECTIONS:

PART I PRELIMINARY

- 1 Short title, extent and commencement.
- 2 Definitions.

PART II LIMITATION OF SUITS, APPEALS AND APPLICATIONS

- 3 Dismissal of suits, etc., instituted, etc., after period of limitation.
- 4 Where Court is closed when period expires.
- 5 Extension of period in certain cases.
- 6 Legal disability.
- 7 Disability of one of several plaintiffs or applicants.
- 8 Special exceptions.
- 9 Continuous running of time.
- 10 Suits against express trustees and their representatives.
- 11 Suits on foreign contracts.

PART III COMPUTATION OF PERIOD OF LIMITATION

- 12 Exclusion of time in legal proceedings.
- 13 Exclusion of time of defendants, absence from Pakistan and certain other territories.
- 14 Exclusion of time of proceeding *bona fide* in Court without jurisdiction.
- 15 Exclusion of time during which proceedings are suspended.
- 16 Exclusion of time during which proceedings to set aside execution-sale are pending.
- 17 Effect of death before right to sue accrues.
- 18 Effect of fraud.
- 19 Effect of acknowledgment in writing.
- 20 Effect of payment on account of debt or of interest on legacy.
Effect of receipt of produce of mortgaged land.
- 21 Agent of person under disability.
Acknowledgement or payment by one of several joint contractors, etc.

- 22 Effect of substituting or adding new plaintiff or defendant.
- 23 Continuing breaches and wrongs.
- 24 Suit for compensation for act not actionable without special damage.
- 25 Computation of time mentioned in instruments.

PART IV
ACQUISITION OF OWNERSHIP BY POSSESSION

- 26 Acquisition of right to easements.
- 27 Exclusion in favour of reversioner of servient tenement.
- 28 [Omitted.]

Part V
SAVING AND REPEALS

- 29 Savings.
- 30 to 32 [Repealed.]

THE FIRST SCHEDULE
LIMITATION
THE SECOND AND THIRD SCHEDULES
[Repealed.]

THE LIMITATION ACT, 1908

¹ACT NO. IX OF 1908

[7th August, 1908]

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

1. Short title, extent and commencement.—(1) This Act may be called the ²*Limitation Act, 1908.

³[(2) It extends to the whole of Pakistan.]

(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.

¹ For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. V, p. 22 ; for Report of the Select Committee, see *ibid.*, 1908, Pt. V, p. 223 ; and for Proceedings in Council, see *ibid.*, 1908, Pt. VI, pp. 2, 13, 37 and 145.

The Act has been declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3.

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950), and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has also been extended to the Excluded Area of Upper Tanawal other than Phulera by the N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area with effect from the 1st June, 1951, see N.W.F.P. Gazette, Ext., dated the 1st June, 1951.

The Act, as in force in the North-West Frontier Province immediately before the commencement of N.W.F.P. Regulation No. II of 1974, has been applied to the Provincially Administered Tribal Areas of Chitral, Dir, Kalam, Swat, and Malakand Protected Area, by N.W.F.P. Regulation No. II of 1974, s. 3.

²The word "Indian" omitted by A. O., 1949.

³Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3. and 2nd Sch. (with effect from the 14th October 1955), for the original sub-section (2) as amended by A. O., 1949.

2. Definitions. 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:

¹[(2) “bill of exchange” has the same meaning as in section 5 of the Negotiable Instruments Act, 1881 ([XXVI of 1881](#).) and 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 ²[Pakistan ³* * *]:

(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 :

⁴[(9)] “promissory note” has the same meaning as in the Negotiable Instruments Act, 1881 ([XXVI of 1881](#).);]

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

(11) “trustee” does not include a benamidar, 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

3. Dismissal of suits, etc., instituted, etc., after period of limitation. 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 therefore by the

¹ Subs. by the Limitation (Amdt.) Ordinance, 1980 (62 of 1980), s. 2, for the original clause (2).

² Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for “British India”.

³ The comma and words “but includes an Acceding state” omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 2 and Second Sch.

⁴ Subs. by Ordinance 62 of 1980, s.2, for the original clause (9).

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.

4. Where Court is closed when period expires. 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.

5. Extension of period in certain cases. Any appeal or application for ¹[a revision or] a review of judgment or for leave to appeal or any other application to which this section may be made applicable ²[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 in ascertaining or computing the prescribed period of limitation may be sufficient cause within the meaning of this section.

$$3* \quad * \quad * \quad * \quad * \quad * \quad *$$

6. Legal disability.— (1) Where a person entitled to institute a suit ⁴[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 ⁴[or proceeding] or make the application within the same period after the disability has ceased, as would otherwise have been allowed

¹Ins. by the Limitation (Amdt.) Ordinance, 1962 (43 of 1962), s. 2.

²Subs. by the Indian Limitation (Amdt.) Act, 1922 (10 of 1922), s. 2, for “by any enactment or rule”.

³ A section 5A was temporarily ins. here for a period of six months with effect from the 13th February 1948, see the Negotiable Instruments. Act (Temporary Amdt.) Ordinance, 1948 (6 of 1948), s. 3 and the Ministry of Finance Notification No. D. 2702-F/48, dated the 11th May, 1948, Gazette of Pakistan, 1948, Pt. I. p. 258.

⁴Ins. by Ord. 43 of 1962, s. 3.