

## CHAPTER 206

### LIMITATION (PUBLIC AUTHORITIES) 1955-4

This Act came into operation on 23rd February, 1955.

#### **Amended by:**

*1967/168*

*1979-32*

*1997-11*

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1998

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#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



## **CHAPTER 206**

### **LIMITATION (PUBLIC AUTHORITIES) 1955-4**

#### *Arrangement of Sections*

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**BARBADOS**

## LIMITATION (PUBLIC AUTHORITIES)

1955-4

*An Act to generalise and amend the law relating to the limitation of actions in respect of persons acting in execution of statutory and other public duties and for matters connected therewith.*

[Commencement: 23rd February, 1955]

**Short title**

1. This Act may cited as the *Limitation (Public Authorities) Act*.

**Interpretation**

2.(1) For the purposes of this Act, the expression

“action” includes any proceedings in a court of law other than criminal proceedings;

“child” includes son and daughter, grandson and granddaughter, and stepson and stepdaughter;

“parent” includes father and mother and grandfather and grandmother and stepfather and stepmother;

“personal estate” and “personal property” do not include chattels real.

(2) For the purposes of this Act, a person shall be deemed to be under a disability while he is an infant or of unsound mind or is serving a sentence of imprisonment, in whose case no administrator or curator has been appointed.

(3) For the purposes of subsection (2), but without prejudice to the generality thereof, a person shall be conclusively presumed to be of unsound mind

(a) while he is detained in pursuance of any enactment authorising the detention of persons of unsound mind or is receiving treatment as a voluntary patient under the *Mental Health Act*, Cap. 46; and

(b) while he is detained under any provision of the *Mental Health Act*.

(4) A person shall be deemed to be claiming through another person, if he became entitled by, through, under, or by the act of, that other person to the right claimed:

Provided that a person becoming entitled to any estate or interest by virtue of a special power of appointment shall not be deemed to claim through the appointor.

(5) References to a right of action shall include references to a cause of action; and references to the date of the accrual of a right of action shall

(a) in the case of an action of account, be construed as references to the date on which the matter arose in respect of which an account is claimed;

(b) in the case of an action upon a judgment, be construed as references to the date on which the judgment became enforceable;

(c) in the case of an action to receive arrears of rent or interest or damages in respect thereof, be construed as references to the date on which the rent or interest became due.

### **Limitation of action against public authorities**

**3.(1)** No action or other proceeding shall be brought against any person for any act done in pursuance or execution or intended execution of any Act or of

any public duty or authority or in respect of any neglect or default in the execution of any such Act, duty or authority, unless it is commenced before the expiration of 3 years from the date on which the cause of action accrued.

(2) For the purposes of subsection (1), no cause of action in respect of any act, neglect or default which is a continuing one shall be deemed to have accrued until the act, neglect or default has ceased.

(3) In any of the cases mentioned in subsection (1), criminal proceedings shall not lie or be instituted unless such proceedings are commenced before the expiration of six months from the date on which the same arose.

(4) (a) Where the proceeding is an action for damages, tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded, but where the action was commenced after the tender or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after the tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of the tender or payment, but this provision shall not affect costs on any injunction in the action;

(b) Where, in the opinion of the court, the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding, the court may award to the defendant costs to be taxed as between solicitor and client.

(5) This section shall not affect any proceedings by the Crown or any public officer or any department of the Government against any local authority or officer of a local authority.

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[1997-11]

**Extension of period of limitation in case of disability**

4.(1) Where, on the date when any right of action accrued for which a period of limitation is prescribed by this Act, the person to whom it accrued was under a disability, the action may be brought, subject to this section, at any time before the expiration of one year from the date when the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired.

(2) This section shall not affect any case where a right of action first accrued to some person (not under a disability) through whom the person under a disability claims.

(3) When a right of action which has accrued to a person under a disability accrues, on the death of that person while still under a disability, to another person under a disability, no further extension of time shall be allowed by reason of the disability of the second person.

(4) No action to recover land or money charged on land shall be brought by virtue of this section by any person after the expiration of thirty years from the date on which the right of action accrued to that person or some person through whom he claims.

(5) This section, so far as it relates to the disability of infancy or unsoundness of mind, shall not apply to any action to which this Act applies, unless the plaintiff proves that the person under a disability was not, at the time when the right of action accrued to him, in the custody of a parent.

(6) This section shall not apply to any action to recover a penalty or forfeiture, or sum by way thereof, by virtue of any enactment, except where the action is brought by an aggrieved party.

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[1967/168]



**First accrual of action on acknowledgment or partpayment**

5.(1) Where any right of action for which a period of limitation as prescribed by this Act has accrued to recover any debt or other liquidated pecuniary claim or any claim to the personal estate of a deceased person or to any share or interest therein, and the person liable or accountable therefor acknowledges the claim or makes any payment in respect thereof, the right shall be deemed to have accrued on and not before the date of the acknowledgment for the last payment:

Provided that a payment of a part of the rent or interest due at any time shall not extend the period for claiming the remainder then due but any payment of interest shall be treated as a payment in respect of the principal debt.

(2) Every such acknowledgment shall be in writing and signed by the person making the acknowledgment.

(3) Any such acknowledgment or payment may be made by the agent of the person by whom it is required to be made under subsection (2) and shall be made to the person, or to an agent of the person, whose claim is being acknowledged or in respect of whose claim the payment is being made.

**Effect of acknowledgment or partpayment on persons other than the maker or recipient**

6.(1) For the purposes of this Act, an acknowledgment of the title to any land or mortgaged personalty by any person in possession thereof shall bind all other persons in possession during the ensuing period of limitation.

(2) For the purposes of this Act, an acknowledgment of any debt or other liquidated pecuniary claim shall bind the acknowledger and his successors but not any other person:

Provided that an acknowledgment made after the expiration of the period of limitation prescribed for bringing of an action to recover the debt or other claim shall not bind any successor on whom the liability devolves on the determination

of a preceding estate or interest in a property under a settlement taking effect before the date of the acknowledgment.

(3) For the purposes of this Act, a payment made in respect of any debt or other liquidated pecuniary claim shall bind all persons liable in respect thereof:

Provided that a payment made after the expiration of the period of limitation prescribed for the bringing of an action to recover the debt or other claim shall not bind any person other than the person making the payment and his successors, and shall not bind any successor on whom the liability devolves on the determination of a preceding estate or interest in a property under a settlement taking effect before the date of the payment.

(4) For the purposes of this Act, an acknowledgment by one of several personal representatives of any claim to the personal estate of a deceased person or to any share or interest therein or a payment by one of several personal representatives in respect of any such claim shall bind the estate of the deceased person.

(5) For the purposes of this section, the expression “successor”, in relation to any mortgagee or person liable in respect of any debt or claim, means his personal representatives and any other person on whom the rights under the mortgage or, as the case may be, the liability in respect of the debt or claim devolved, whether on death or bankruptcy or the disposition of property or the determination of a limited estate or interest in settled property or otherwise.

### **Postponement of limitation period in case of fraud or mistake**

7.(1) Where, in the case of any action or other proceeding for which a period of limitation is prescribed by this Act, either—

- (a) the action or other proceeding is based upon the fraud of the defendant or his agent or of any person through whom he claims or his agent; or
- (b) the right of action is concealed by the fraud of any such person; or
- (c) the action or other proceeding is for relief from the consequences of a mistake,

the period of limitation shall not begin to run until the plaintiff had discovered the fraud or the mistake, as the case may be, or could with reasonable diligence have discovered it.

(2) Nothing in this section shall enable any action to be brought to recover, or to enforce any charge against, or to set aside any transaction affecting, any property which—

- (i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of purchase know or have reason to believe that any fraud had been committed; or
- (ii) in the case of mistake, has been purchased for valuable consideration, subsequently to the transaction in which the mistake was made, by a person who did not know or have reason to believe that the mistake had been made.

#### **Provisions as to set-off and counter-claims**

8. For the purposes of this Act, any claim by way of set-off or counter-claim shall be deemed to be a separate action and to have been commenced on the same date as the action in which the set-off or counter-claim is pleaded.

#### **Acquiescence**

9. Nothing in this Act shall affect any equitable jurisdiction to refuse relief on the ground of acquiescence or otherwise.

#### **Provisions as to action already barred**

10. Nothing in this Act shall—

- (a) enable any action to be brought which was barred before the 23rd February, 1955\* by an enactment repealed by this Act\*, except in so far as the cause of action or right of action may be revived by

acknowledgment or part-payment made in accordance with this Act;  
or

*\*[Being the date of commencement of this Act.]*

*\*[See section 11 and Schedule to Limitation (Public Authorities) Act, 1955, 1955-4 (not reprinted).]*

- (b) the title to any property which was the subject of any action commenced before 23rd February, 1955.\*

*\*[Being the date of commencement of this Act.]*

### **Repeal**

**11.** There shall be repealed so much of any Act as enacts that in any proceeding to which this Act applies—

- (a) the proceeding is to be commenced in any particular place; or
- (b) the proceeding is to be commenced within any particular time; or
- (c) notice of action is to be given; or
- (d) the defendant may plead the general issue.