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LIMITATION ACT

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LIMITATION ACT

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LIMITATION ACT

PART 1

Interpretation

1. (1) In this Act—

"action" includes any proceeding in a court of law;

"duty" includes any debt due to Her Majesty;

"foreshore" means the shore and bed of the sea and of any tidal water, below the line of the median high tide between the spring tide and the neap tides;

"land" includes corporeal hereditaments and rentcharges, and any legal or equitable estate or interest therein, including an interest in the proceeds of the sale of land held upon trust for sale, but save as aforesaid does not include any incorporeal hereditaments;

"parent" has the same meaning as in the Fatal Accidents Act;

"personal estate" and "personal property" do not include chattels real;

"rent" includes a rentcharge and a rent service;

"rentcharge" means any annuity or periodical sum of money charged upon or payable out of land, or a rent service or interest on a mortgage on land;

"settled land" and "tenant for life" have the same meanings respectively as in the Settled Estates Act;

"ship" includes every description of vessel used in navigation not propelled by oars;

"trust" and "trustee" have the same meanings respectively as in the Trusts Act;

"trust for sale", in relation to land, means an immediate binding trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without power at discretion to postpone the sale.

(2) For the purposes of this Act, a person is deemed to be under a disability while he is an infant, or of unsound mind.

(3) For the purposes of subsection (2), but without prejudice to the generality thereof, a person is conclusively presumed to be of unsound mind while he is detained in pursuance of any enactment authorising the detention of persons of unsound mind or criminal lunatics.

(4) A person is deemed to claim through another person, if he became entitled by, through, under, or by the act of that other person to the right claimed, and any person whose estate or interest might have been barred by a person entitled to an entailed interest in possession is deemed to claim

through the person so entitled, but a person becoming entitled to any estate or interest by virtue of a special power of appointment is not deemed to claim through the appointor.

(5) A reference in this Act to a right of action to recover land shall include a reference to a right to enter into possession of the land or, in the case of rentcharges, to distrain for arrears of rent, and a reference to the bringing of such an action shall include a reference to the making of such an entry or distress.

(6) A reference in this Act to the possession of land shall, in the case of rentcharges, be construed as a reference to the receipt of the rent, and a reference to the date of dispossession or discontinuance of possession of land shall be construed as a reference to the date of the last receipt of rent.

(7) In Part 2 a reference to a right of action includes a reference to a cause of action and to a right to receive money secured by a mortgage or charge on any property or to recover proceeds of the sale of land, and to a right to receive a share or interest in the personal estate of a deceased person, and a reference to the date of the accrual of a right of action shall—

(a) in the case of an action for an account, be construed as a reference 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 a reference to the date on which the judgment became enforceable; and

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

PERIODS OF LIMITATION FOR DIFFERENT CLASSES OF ACTION

Part 1 to be subject to provisions of Part 2

2. The provisions of this Part shall have effect subject to the provisions of Part 2 that provide for the extension of the periods of limitation in the case of disability, acknowledgment, part payment, fraud and mistake.

Actions of Contract, Tort and certain other Actions

Limitation of actions of contract, tort and certain other actions

3. (1) The following actions shall not be brought after the expiration of 6 years from the date on which the cause of action accrued—

(a) actions founded on simple contract or on tort;

(b) actions to enforce a recognisance;

(c) actions to enforce an award, where the submission is not by an instrument under seal;

(d) actions to recover any sum recoverable by virtue of any enactment, other than a penalty or forfeiture or sum by way of penalty or forfeiture.

(2) An action for an account shall not be brought in respect of any matter which arose more than 6 years before the commencement of the action.

(3) An action upon a specialty shall not be brought after the expiration of 12 years from the date on which the cause of action accrued, but this subsection shall not affect any action for which a shorter period of limitation is prescribed by any other provision of this Act.

(4) An action shall not be brought upon any judgment after the expiration of 12 years from the date on which judgment became enforceable, and no arrears of interest in respect of any judgment debt shall be recovered after the expiration of 6 years from the date on which the interest became due.

(5) An action to recover any penalty or forfeiture, or sum by way of penalty or forfeiture, recoverable by virtue of any enactment shall not be brought after the expiration of 2 years from the date on which the cause of action accrued, but for the purposes of this subsection the expression "penalty" shall not include a fine to which any person is liable on conviction of a criminal offence.

(6) Subsection (1) applies to an action to recover seamen's wages, but save as aforesaid this section shall not apply to any cause of action within the Admiralty jurisdiction of the High Court that is enforceable *in rem.*

(7) This section does not apply to any claim for specific performance of a contract or for an injunction or for other equitable relief, except insofar as any provision thereof may be applied by the Court by analogy in like manner as the corresponding enactment repealed by this Act has heretofore been applied.

Limitation in case of successive conversions and extinction of title of owner of converted goods

4. (1) Where any cause of action in respect of the conversion or wrongful detention of a chattel has accrued to any person and, before he recovers possession of the chattel, a further conversion or wrongful detention takes place, no action shall be brought in respect of the further conversion or detention after the expiration of 6 years from the accrual of the cause of action in respect of the original conversion or detention.

(2) Where such a cause of action has accrued to any person and the period prescribed for bringing that action and for bringing any action in respect of such a further conversion or wrongful detention as aforesaid has expired, and he has not during that period recovered possession of the chattel, the title of that person to the chattel shall be extinguished.

Actions to Recover Land and Rent

Limitation of actions to recover land

5. (1) No action shall be brought by the Crown to recover any land after the expiration of 30 years from the date on which the right of action accrued to the Crown or, if it first accrued to some person through whom the Crown claims, to that person but, an action to recover foreshore may be brought by the Crown at any time before the expiration of 60 years from that date, and where any right of action to recover land that has ceased to be foreshore but remains in the ownership of the

Crown, accrued when the land was foreshore, the action may be brought at any time before the expiration of 60 years from the date of the accrual of the right of action, or of 30 years from the date when the land ceased to be foreshore, whichever period first expires.

(2) No action shall be brought by any spiritual or eleemosynary corporation sole to recover any land after the expiration of 30 years from the date on which the right of action accrued to the corporation sole or, if it first accrued to some person through whom the corporation sole claims, to that person.

(3) No action shall be brought by any other person to recover any land after the expiration of 12 years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person but, if the right of action first accrued to the Crown or a spiritual or eleemosynary corporation sole through whom the person bringing the action claims, the action may be brought at any time before the expiration of the period during which the action could have been brought by the Crown or the corporation sole, or of 12 years from the date on which the right of action accrued to some person other than the Crown or the corporation sole, whichever period first expires.

Accrual of right of action in case of present interests in land

6. (1) Where the person bringing an action to recover land, or some person through whom he claims, has been in possession thereof, and has while entitled thereto been dispossessed or discontinued his possession, the right of action is deemed to have accrued on the date of the dispossession or discontinuance.

(2) Where any person brings an action to recover any land of a deceased person, whether under a will or on intestacy, and the deceased person was on the date of his death in possession of the land or, in the case of a rentcharge created by will or taking effect upon his death, in possession of the land charged, and was the last person entitled to the land to be in possession thereof, the right of action is deemed to have accrued on the date of his death.

(3) Where any person brings an action to recover land, being an estate or interest in possession assured otherwise than by will to him, or to some person through whom he claims, by a person who, at the date when the assurance took effect, was in possession of the land or, in the case of a rentcharge created by the assurance, in possession of the land charged, and no person has been in possession of the land by virtue of the assurance, the right of action is deemed to have accrued on the date when the assurance took effect.

Accrual of right of action in case of future interests

7. (1) Subject as hereafter in this section provided, the right of action to recover any land is, in a case where the estate or interest claimed was an estate or interest in reversion or remainder or any other future estate or interest and no person has taken possession of the land by virtue of the estate or interest claimed, deemed to have accrued on the date on which the estate or interest fell into possession by the determination of the preceding estate or interest.

(2) If the person entitled to the preceding estate or interest was not in possession of the land on the date of the determination thereof, no action shall be brought by the person entitled to the succeeding estate or interest after the expiration of 12 years from the date on which the right of action accrued to the person entitled to the preceding estate or interest, or 6 years from the date on which the right of action accrued to the person entitled to the succeeding estate or interest, whichever period last expires, but, where the Crown or a spiritual or eleemosynary corporation sole is entitled to the

succeeding estate or interest, the foregoing provisions of this subsection shall have effect with the substitution for the reference to 12 years of a reference to 30 years, and for the reference to 6 years of a reference to 12 years.

(3) The foregoing provisions of this section shall not apply to any estate or interest that falls into possession on the determination of an entailed interest and that might have been barred by the person entitled to the entailed interest.

(4) No person shall bring an action to recover any estate or interest in land under an assurance taking effect after the right of action to recover the land had accrued to the person by whom the assurance was made or some person through whom he claimed or some person entitled to a preceding estate or interest, unless the action is brought within the period during which the person by whom the assurance was made could have brought such an action.

(5) Where any person is entitled to any estate or interest in land in possession and, while so entitled, is also entitled to any future estate or interest in that land, and his right to recover the estate or interest in possession is barred under this Act, no action shall be brought by that person, or by any person claiming through him, in respect of the future estate or interest, unless in the meantime possession of the land has been recovered by a person entitled to an intermediate estate or interest.

Provisions in case of settled land and land held on trust

8. (1) Subject to the provisions of section 17(1), the provisions of this Act apply to equitable interests in land, including interests in the proceeds of the sale of land held upon trust for sale, in like manner as they apply to legal estates, and accordingly a right of action to recover the land shall, for the purposes of this Act but not otherwise, be deemed to accrue to a person entitled in possession to such an equitable interest in the like manner and circumstances and on the same date as it would accrue if his interest were a legal estate in the land.

(2) Where the period prescribed by this Act has expired for the bringing of an action to recover land by a tenant for life of settled land, his legal estate shall not be extinguished, if and so long as the right of action to recover the land of any person entitled to a beneficial interest in the land either has not accrued or has not been barred by this Act, and the legal estate shall accordingly remain vested in the tenant for life and shall devolve in accordance with the Settled Estates Act, but, if and when every such right of action has been barred by this Act, the legal estate shall be extinguished.

(3) Where any land is held upon trust, including a trust for sale, and the period prescribed by this Act has expired for the bringing of an action to recover the land by the trustees, the estate of the trustees shall not be extinguished if and so long as the right of action to recover the land of any person entitled to a beneficial interest in the land or in the proceeds of sale either has not accrued or has not been barred by this Act, but if and when every such right of action has been so barred the estate of the trustees shall be extinguished.

(4) Where any land is held upon trust, including a trust for sale, an action to recover the land may be brought by the trustees on behalf of any person entitled to a beneficial interest in possession in the land or in the proceeds of sale whose right of action has not been barred by this Act, notwithstanding that the right of action of the trustees would apart from this provision have been barred by this Act.

(5) Where any settled land or any land held on trust for sale is in the possession of a person entitled to a beneficial interest in the land or in the proceeds of sale, not being a person solely and

absolutely entitled thereto, no right of action to recover the land shall be deemed for the purposes of this Act to accrue during such possession to any person in whom the land is vested as tenant for life or trustee, or to any other person entitled to a beneficial interest in the land or the proceeds of sale.

Accrual of right of action in case of forfeiture or breach of condition

9. A right of action to recover land by virtue of a forfeiture or breach of condition shall be deemed to have accrued on the date on which the forfeiture was incurred or the condition broken, but, if such a right has accrued to a person entitled to an estate or interest in reversion or remainder and the land was not recovered by virtue thereof, the right of action to recover the land is not deemed to have accrued to that person until his estate or interest fell into possession, as if no such forfeiture or breach of condition had occurred.

Accrual of right of action in case of certain tenancies

10. (1) A tenancy at will is, for the purposes of this Act, deemed to be determined at the expiration of a period of 1 year from the commencement thereof, unless it has previously been determined, and accordingly the right of action of the person entitled to the land subject to the tenancy is deemed to have accrued on the date of such determination.

(2) A tenancy from year to year or other period, without a lease in writing shall, for the purposes of this Act, be deemed to be determined at the expiration of the first year or other period, and accordingly the right of action of the person entitled to the land subject to the tenancy is deemed to have accrued at the date of such determination, but, where any rent has subsequently been received in respect of the tenancy, the right of action is deemed to have accrued on the date of the last receipt of rent.

(3) Where any person is in possession of land by virtue of a lease in writing by which a rent of not less than $5 is reserved, and the rent is received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease, and no rent is subsequently received by the person rightfully so entitled, the right of action of the last-named person to recover the land is deemed to have accrued at the date when the rent was first received by the person wrongfully claiming and not at the date of the determination of the lease.

(4) Subsections (1) and (3) shall not apply to any tenancy at will or lease granted by the Crown.

Right of action not to accrue or continue unless there is adverse possession

11. (1) No right of action to recover land is deemed to accrue unless the land is in the possession of some person in whose favour the period of limitation can run (hereafter in this section referred to as "adverse possession") and where under the foregoing provisions of this Act any such right of action is deemed to accrue on a certain date and no person is in adverse possession on that date, the right of action is not deemed to accrue unless and until adverse possession is taken of the land.

(2) Where a right of action to recover land has accrued and thereafter, before the right is barred, the land ceases to be in adverse possession, the right of action is no longer deemed to have accrued and no fresh right of action is deemed to accrue unless and until the land is again taken into adverse possession.

(3) For the purposes of this section—

(a) possession of any land subject to a rentcharge by a person (other than the person entitled to the rentcharge) who does not pay the rent is deemed to be adverse possession of the rentcharge; and

(b) receipt of rent under a lease by a person wrongfully claiming, in accordance with section 10(3), the land in reversion is deemed to be adverse possession of the land.

Cure of defective disentailing assurance

12. Where a person entitled in remainder to an entailed interest in any land has made an assurance thereof which fails to bar the issue in tail or the estates and interests taking effect on the determination of the entailed interest, or fails to bar the last-mentioned estates and interests only, and any person takes possession of the land by virtue of the assurance, and that person or any other person whatsoever (other than a person entitled to possession by virtue of the settlement) is in possession of the land for a period of 12 years from the commencement of the time at which the assurance, if it had then been executed by the person entitled to the entailed interest, would have operated, without the consent of any other person, to bar the issue in tail and such estates and interests as aforesaid, then, at the expiration of that period, the assurance shall operate, and be deemed always to have operated, to bar the issue in tail and those estates and interests.

Limitation of redemption actions

13. When a mortgagee of land has been in possession of any of the mortgaged land for a period of 12 years, no action to redeem the land of which the mortgagee has been so in possession shall thereafter be brought by the mortgagor or any person claiming through him.

No right of action to be preserved by formal entry or continual claim

14. For the purposes of this Act, no person is deemed to have been in possession of any land by reason only of having made a formal entry thereon, and no continual or other claim upon or near any land shall preserve any right of action to recover the land.

Administration to date back to death

15. For the purposes of the provisions of this Act relating to actions for the recovery of land, an administrator of the estate of a deceased person is deemed to claim as if there had been no interval of time between the death of the deceased person and the grant of the letters of administration.

Limitation of actions to recover rent

16. No action shall be brought, or distress made, to recover arrears of rent, or damages in respect thereof, after the expiration of 6 years from the date on which the arrears became due.

Actions to Recover Money Secured by a Mortgage or Charge or to Recover Proceeds of the Sale of Land

Limitation of actions to recover money secured by a mortgage or charge or to recover proceeds of the sale of land

17. (1) No action shall be brought to recover any principal sum of money secured by a mortgage or other charge on property, whether real or personal, or to recover proceeds of the sale of land, after the expiration of 12 years from the date when the right to receive the money accrued.

(2) No foreclosure action in respect of mortgaged personal property shall be brought after the expiration of 12 years from the date on which the right to foreclose accrued but if, after that date the mortgagee was in possession of the mortgaged property, the right to foreclose on the property that was in his possession is not, for the purposes of this subsection, deemed to have accrued until the date on which his possession discontinued.

(3) The right to receive any principal sum of money secured by a mortgage or other charge and the right to foreclose on the property subject to the mortgage or charge is not deemed to accrue so long as that property comprises any future interest or any life insurance policy that has not matured or been determined.

(4) Nothing in this section shall apply to a foreclosure action in respect of mortgaged land, but the provisions of this Act relating to actions to recover land shall apply to such an action.

(5) No action to recover arrears of interest payable in respect of any sum of money secured by a mortgage or other charge or payable in respect of proceeds of the sale of land, or to recover damages in respect of such arrears shall be brought after the expiration of 6 years from the date on which the interest became due but—

(a) where a prior mortgagee or other encumbrancer has been in possession of the property charged, and an action is brought within 1 year of the discontinuance of such possession by the subsequent encumbrancer, he may recover by that action all the arrears of interest that fell due during the period of possession by the prior encumbrancer or damages in respect thereof, notwithstanding that the period exceeded 6 years; and

(b) where the property subject to the mortgage or charge comprises any future interest or life insurance policy and it is a term of the mortgage or charge that arrears of interest shall be treated as part of the principal sum of money secured by the mortgage or charge, interest is not deemed to become due before the right to receive the principal sum of money has accrued or is deemed to have accrued.

(6) This section does not apply to any mortgage or charge on a ship.

Actions in respect of Trust Property or the Personal Estate of Deceased Persons

Actions against trustees

18. (1) No period of limitation or prescription applies to an action brought against a trustee—

(a) in respect of any fraud to which the trustee was a party or was privy; or

(b) to recover from the trustee trust property or the proceeds thereof—

(i) held by or vested in him or otherwise in his possession or under his control, or

(ii) previously received by him and converted to his use.

(2) Subject to subsection (1), the period within which an action founded on breach of trust may be brought against a trustee is—

(a) 3 years from delivery of the final accounts of the trust; or

(b) 3 years from the date on which the plaintiff has knowledge of the breach of trust;

whichever period first begins to run.

(3) Where the plaintiff is a minor or a person under legal disability, the period referred to in subsection (2) does not begin to run until his minority or disability, as the case may be, ceases.

Limitation of actions claiming personal estate of a deceased person

19. Subject to section 18(1), no action in respect of any claim to the personal estate of a deceased person or to any share or interest in such estate, whether under a will or on intestacy, shall be brought after the expiration of 12 years from the date when the right to receive the share or interest accrued, and no action to recover arrears of interest in respect of any legacy, or damages in respect of such arrears, shall be brought after the expiration of 6 years from the date on which the interest became due.

PART 2

EXTENSION OF LIMITATION PERIODS IN CASE OF DISABILITY, ACKNOWLEDGMENT, PART PAYMENT, FRAUD AND MISTAKE

Disability

Extension of limitation period in case of disability

20. If 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 at any time before the expiration of 6 years, or in the case of actions to which the Public Authorities Protection Act applies, 6 months 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 but—

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

(b) when a right of action that 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;

(c) 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 30 years from the date on which the right of action accrued to that person or some person through whom he claims;

(d) this section, so far as it relates to the disability of infancy or unsoundness of mind, shall not apply to any actions to which the Public Authorities Protection 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; and

(e) 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.

Acknowledgment or Part Payment

Fresh accrual of action on acknowledgment or part payment

21. (1) Where there has accrued any right of action (including a foreclosure action) to recover land or any right of a mortgagee of personal property to bring a foreclosure action in respect of the property, and—

(a) the person in possession of the land or personal property acknowledges the title of the person to whom the right of action has accrued; or

(b) in the case of a foreclosure or other action by a mortgagee, the person in possession as aforesaid or the person liable for the mortgage debt makes any payment in respect thereof, whether of principal or interest;

the right is deemed to have accrued on and not before the date of the acknowledgment or payment.

(2) The foregoing subsection applies to a right of action to recover land accrued to a person entitled to an estate or interest taking effect on the determination of an entailed interest against whom time is running under section 12, and on the making of the acknowledgment that section shall cease to apply to the land.

(3) Where a mortgagee is by virtue of the mortgage in possession of any mortgaged land and either receives any sum in respect of the principal or interest of the mortgage debt or acknowledges the title of the mortgagor, or his equity of redemption, an action to redeem the land in his possession may be brought at any time before the expiration of 12 years from the date of the payment or acknowledgment.

(4) Where any right of action 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 is deemed to have accrued on and not before the date of the acknowledgment or the last payment, but 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.

Formal provisions as to acknowledgments and part payments

22. (1) Every such acknowledgment as aforesaid shall be in writing and signed by the person making the acknowledgment.

(2) Any such acknowledgment or payment as aforesaid may be made by the agent of the person by whom it is required to be made under section 21, and shall be made to the person, or to an

agent of the person, whose title or claim is being acknowledged or, as the case may be, in respect of whose claim the payment is being made.

Effect of acknowledgment or part payment on persons other than the maker or recipient

23. (1) 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) A payment in respect of a mortgage debt by the mortgagor or any person in possession of the mortgaged property shall, so far as any right of the mortgagee to foreclose or otherwise to recover the property is concerned, bind all other persons in possession of the mortgaged property during the ensuing period of limitation.

(3) Where 2 or more mortgagees are by virtue of the mortgage in possession of the mortgaged land, an acknowledgment of the mortgagor's title or of his equity of redemption by one of the mortgagees shall only bind him and his successors and shall not bind any other mortgagee or his successors, and where the mortgagee by whom the acknowledgment is given is entitled to a part of the mortgaged land and not to any ascertained part of the mortgage debt, the mortgagor shall be entitled to redeem that part of the land on payment, with interest, of the part of the mortgage debt that bears the same proportion to the whole of the debt as the value of the part of the land bears to the whole of the mortgaged land.

(4) Where there are 2 or more mortgagors, and the title or right to redemption of one of the mortgagors is acknowledged as aforesaid, the acknowledgment is deemed to have been made to all the mortgagors.

(5) An acknowledgment of any debt or other liquidated pecuniary claim shall bind the acknowledgor and his successors but not any other person, but an acknowledgment 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 successor on whom the liability devolves on the determination of a preceding estate or interest in property under a settlement taking effect before the date of the acknowledgment.

(6) A payment made in respect of any debt or other liquidated pecuniary claim shall bind all persons liable in respect thereof, but 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 property under a settlement taking effect before the date of the payment.

(7) 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.

(8) In 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 devolve, whether on death or bankruptcy or the disposition of property or the determination of a limited estate or interest in settled property or otherwise.

Fraud and Mistake

Postponement of limitation period in case of fraud or mistake

24. Where, in the case of any action for which a period of limitation is prescribed by this Act—

(a) the action is based upon the fraud of the defendant or his agent or of any person through whom he claims or his agent;

(b) the right of action is concealed by the fraud of such a person; or

(c) the action is for relief from the consequences of a mistake;

the period of limitation shall not begin to run until the plaintiff has discovered the fraud or the mistake, as the case may be, or could with reasonable diligence have discovered it, but nothing in this section shall enable any action to be brought to recover or enforce any charge against, or set aside any transaction affecting, any property which—

(d) 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 the purchase know or have reason to believe that any fraud had been committed; or

(e) 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.

PART 3

GENERAL

Application of Act and other limitation enactments to arbitrations

25. (1) This Act and any other enactment relating to the limitation of actions shall apply to arbitrations as they apply to actions in the High Court.

(2) Notwithstanding any term in an arbitration agreement to the effect that no cause of action shall accrue in respect of any matter required by the agreement to be referred until an award is made under the agreement, the cause of action is, for the purpose of this Act and of any other such enactment (whether in their application to arbitrations or to other proceedings), deemed to have accrued in respect of any such matter at the time when it would have accrued but for that term in the agreement.

(3) For the purpose of this Act and of any such enactment as aforesaid, an arbitration is deemed to be commenced when one party to the arbitration serves on the other party or parties a notice requiring him or them to appoint an arbitrator or to agree to the appointment of an arbitrator, or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated.

(4) Such a notice as aforesaid may be served either—

(a) by delivering it to the person on whom it is to be served;

(b) by leaving it at the usual or last known place of abode in Anguilla of that person; or

(c) by sending it by post in a registered letter addressed to that person at his usual or last known place of abode in Anguilla;

as well as in any other manner provided in the arbitration agreement and, where a notice is sent by post in manner prescribed by paragraph (c), service thereof is, unless the contrary is proved, be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

(5) Where the High Court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration shall cease to have effect with respect to the dispute referred, the court may further order that the period between the commencement of the arbitration and the date of the order of the court shall be excluded in computing the time prescribed by this Act or any such enactment as aforesaid for the commencement of proceedings (including arbitration) with respect to the dispute referred.

(6) This section shall apply to an arbitration under the Arbitration Act as well as to an arbitration pursuant to an arbitration agreement, and subsections (3) and (4) shall have effect, in relation to an arbitration under the Arbitration Act, as if for the references to the arbitration agreement there were substituted references to such of the provisions of the said Act or of any order, scheme, rules, regulations, or by-laws made thereunder as relate to the arbitration.

(7) In this section the expressions "arbitration", and "award" have the same meanings as in the Arbitration Act and the expression "arbitration agreement" has the same meaning as the expression "submission" in that Act.

Provisions as to set off or counterclaim

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

Acquiescence

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

Application to the Crown

28. (1) Except as otherwise expressly provided in this Act and without prejudice to the provisions of section 29, this Act applies to proceedings by or against the Crown in like manner as it applies to proceedings between subjects, but this Act does not apply to any proceedings by the Crown for the recovery of any tax or duty or interest thereon or to any forfeiture proceedings under any Act relating to duties of excise or to any proceedings in respect of the forfeiture of a ship.

(2) For the purposes of this section, proceedings by or against the Crown shall include proceedings by or against any Government Department or any officer of the Crown as such or any person acting on behalf of the Crown.

(3) Nothing in this Act shall affect the prerogative right of Her Majesty to any gold or silver mine or the rights of the Crown under the Minerals (Vesting) Act.

Saving for other limitation enactments

29. This Act shall not apply to any action or arbitration for which a period of limitation is prescribed by any other enactment, or to any action or arbitration to which the Crown is a party and for which, if it were between subjects, a period of limitation would be prescribed by any other enactment.

Provisions as to actions already barred and pending actions

30. Nothing in this Act shall enable any action to be brought that was barred before 18th August, 1961 by an enactment repealed by this Act, except insofar as the cause of action or right of action may be revived by an acknowledgment or part payment made in accordance with provisions of this Act.

Citation

31. This Act may be cited as the Limitation Act, Revised Statutes of Anguilla, Chapter L60.

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