



Limitation Periods That Everyone Should Know

A Limitation Period is a period prescribed by law or contract during which a person's rights may be enforced, but after which the right can no longer be pursued. Most types of rights have a time-limit for enforcement, and that time could be running whether the person entitled to enforce the right knows it or not. Here are but a few of the limitation periods that everyone ought to be aware of.

Land

In general, an action to recover possession of land, other than Government land, must be brought within 12 years of the date that the

person without permission or consent to occupy the land last paid rent or otherwise acknowledged the rights of the true owner. After the 12-year period has elapsed, the person in possession may be entitled to be registered as the owner of the land. In the case of land owned by the Government, the limitation period is 60 years.

The situation of the boundary between neighbouring tenants is a special one. If a person encroaches on the land of his neighbour, most often by erecting a fence or wall over the boundary line, and the neighbour acquiesces for 7 years, then the registered boundary is no more, and the boundary as it exists on land becomes recognized as the new dividing boundary. Each time that the neighbour who suffers the encroachment protests to the offending neighbour, the 7-year period restarts.

Tax

The Taxman can go back and assess unpaid taxes for up to 6 years. Once an assessment is properly raised, however, time stops running against the Government and it may prosecute to recover the amount so assessed at any time.

Debts

In general, actions to recover debts must be brought within 6 years of the date of the demand for payment. If the debtor acknowledges the debt in writing, the 6-year period starts afresh. If the debt is secured by a mortgage, the limitation period for bringing an action to recover the debt is 12 years from the date of the demand, written acknowledgement or last payment.

Personal Injury & Fatal Accidents

Claims for damages from personal injury must be filed within 6 years of the incident giving rise to the cause of action. If the victim of the personal injury succumbs to those injuries and dies, then a civil action may be brought by the personal representatives or near relations of the deceased but only within 3 years of the death, unless the limitation period is extended by the Court.

Latent Damage

One of the most important points to note about limitation periods is that they can expire before the person with a right of action even knows that he or she has suffered any loss or damage at all. Take the following examples: a surgeon is negligent during an operation and causes damage to the patient, but the damage is not discovered until a decade later. A contractor constructs a building with a faulty foundation, and the defects are only revealed when the building is being

sold after 8 years. If an action was not started within 6 years of the surgery or the construction, then the action becomes statute-barred even though there was no way that anyone could have known of the damage before the limitation period expired.

The harshness of the statute of limitations in relation to latent damage was first highlighted by our Courts more than 20 years ago, but Parliament has yet to respond to pass legislation similar to that which exists in other countries to preserve victims' rights whilst they are unaware of the damage caused or the loss they have suffered.

Limitation periods are supposed to further the cause of justice by ensuring that rights are pursued in a timely manner. A defendant should not be prejudiced by a lengthy delay in bringing an action. As important as knowing what one's rights are, is knowing how long those rights may be enforced.

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