

Limitation Act, 1963

[36 OF 1963]

An Act to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Limitation Act, 1963.*
- (2) It extends to the whole of India '[***]’.
- (3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

COMMENTS

SECTION NOTES

1.1 Territorial Extent

- ◆ This Act extends to the entire territory of India.
- ◆ See Section 11 for applicability of this Act to contracts entered outside India

1.2 Suits, applications and appeals to which this Act applies

- ◆ All suits and applications must be filed within the limitation periods specified respectively for them in the Schedule to this Act [See First Division (Articles 1 to 113), and Third Division (Articles 118 to 137), of the Schedule]
- ◆ Appeals specified in the Schedule must be filed within the limitation periods specified respectively for them. [See Second Division of the Schedule (Articles 114 to 117)]

*Dated 5-10-1963.

1. Words “except the State of Jammu and Kashmir” omitted by the Jammu and Kashmir Reorganisation Act, 2019, w.e.f. 31-10-2019.
2. With effect from 1-1-1964.

- ◆ Every suit instituted, application made and specified appeal preferred after the prescribed period shall be mandatorily dismissed [Section 3]. This is so even if limitation is not pleaded as a defence by defendant/respondent.

1.3 Applicability of this Act to suits, applications & appeals under special law/local law

- ◆ Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, such suit, appeal or application must be filed within the limitation prescribed by the special or local law. If not so filed, same will be liable for mandatory dismissal as time-barred under section 3 [Section 29(2)]
- ◆ However, for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law. [Section 29(2)]

1.4 Non-applicability of this Act to any suit or other proceeding under any marriage or divorce law

- ◆ Nothing in this Act shall apply to any suit or other proceeding under any law for the time being in force with respect to marriage and divorce. [Section 29(3)]
- ◆ The above provision applies save as otherwise provided in any such law. In other words, this Act shall apply to suits or proceedings under such law if and to the extent such law provides so. [Section 29(3)]

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “applicant” includes—
 - (i) a petitioner;
 - (ii) any person from or through whom an applicant derives his right to apply;
 - (iii) any person whose estate is represented by the applicant as executor, administrator or other representative;
- (b) “application” includes a petition;
- (c) “bill of exchange” includes a hundi and a cheque;
- (d) “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;
- (e) “defendant” includes—
 - (i) any person from or through whom a defendant derives his liability to be sued;
 - (ii) any person whose estate is represented by the defendant as executor, administrator or other representative;
- (f) “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;

- (g) “foreign country” means any country other than India;
- (h) “good faith”— nothing shall be deemed to be done in good faith which is not done with due care and attention;
- (i) “plaintiff” includes—
 - (i) any person from or through whom a plaintiff derives his right to sue;
 - (ii) any person whose estate is represented by the plaintiff as executor, administrator or other representative;
- (j) “period of limitation” means the period of limitation prescribed for any suit, appeal or application by the Schedule, and “prescribed period” means the period of limitation computed in accordance with the provisions of this Act;
- (k) “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;
- (l) “suit” does not include an appeal or an application;
- (m) “tort” means a civil wrong which is not exclusively the breach of a contract or the breach of a trust;
- (n) “trustee” does not include a *benamidar*, a mortgagee remaining in possession after the mortgage has been satisfied or a person in wrongful possession without title.

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| COMMENTS |
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SECTION NOTES

2.1 Application [Section 2(b)]

- ◆ This term includes petitions.
- ◆ This term covers applications for leave to appeal, applications for review, applications for revision also.
- ◆ However, this term does not cover suits and is to be distinguished from suits. [See Section 2(e)]
- ◆ See Third Division of the Schedule to this Act (Articles 114 and 117)

2.2 ‘Period of Limitation’ and ‘Prescribed Period’ [Section 2(j)]

- ◆ The term ‘period of limitation’ refers to the time frame specified in the Schedule of the Act for filing suits, appeals, or applications.
- ◆ The “prescribed period” refers to this timeframe calculated according to the Act’s guidelines, ensuring standardized timing for the initiation of legal actions. [See Sections 4 to 24]

2.3 Suit [Section 2(e)]

- ◆ This term is defined exclude appeals or applications.
- ◆ This term would cover set-off claims & counter claims also [See Section 3(2)]
- ◆ See Division A of the Schedule to this Act [Articles 1 to 113]

PART II**LIMITATION OF SUITS, APPEALS AND APPLICATIONS****Bar of limitation.**

3. (1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence.

(2) For the purposes of this Act,—

- (a) a suit is instituted,—
 - (i) in an ordinary case, when the plaint is presented to the proper officer;
 - (ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and
 - (iii) 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;
- (b) any claim by way of a set off or a counter claim, shall be treated as a separate suit and shall be deemed to have been instituted—
 - (i) in the case of a set off, on the same date as the suit in which the set off is pleaded;
 - (ii) in the case of a counter claim, on the date on which the counter claim is made in court;
- (c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court.

COMMENTS**SECTION NOTES****3.1 Compulsory Dismissal for Actions Outside the Limitation Period [Sub-section (1)]**

- ◆ Any suit, appeal, or application submitted after the specified limitation period [See the Schedule to this Act] is subject to mandatory dismissal.
- ◆ The court is required to dismiss such cases even if the defendant does not raise the issue of limitation as a defense.
- ◆ See also sub-sections (2) and (3) of section 29

3.2 Exceptions Through Sections 4 to 24 [Sub-section (1)]

- ◆ The operation of this provision is explicitly subject to Sections 4 to 24, which outline specific conditions under which limitation periods may be extended, such as in cases involving fraud, acknowledgement of debt, or legal disability.
- ◆ These exceptions allow for just consideration under extraordinary circumstances, providing claimants the possibility to pursue claims otherwise barred by limitation.
- ◆ See also sub-sections (2) and (3) of section 29

3.3 Institution of a Suit for Limitation Purposes [Sub-section (2)(a)]

- ◆ For clarity on when the limitation clock starts, sub-section (2)(a) specifies when different types of suits are considered “instituted”:

- **Ordinary cases:** When the plaint is presented to the relevant court official.
- **Cases involving paupers:** When a pauper submits an application seeking permission to sue as a pauper.
- **Claims against a company under winding up:** When the claimant files a claim with the official liquidator.

3.4 Treatment of Set-off and Counterclaim as Separate Suits [Sub-section (2)(b)]

- ◆ Sub-section (2)(b) treats claims by way of set-off and counterclaim as separate suits, each with its own limitation period:
 - **Set-off claims:** Considered instituted on the same date as the main suit in which the set-off is raised.
 - **Counterclaims:** Deemed instituted on the date they are formally made in court.

3.5 High Court Applications by Notice of Motion [Sub-section 2(c)]

- ◆ Sub-section (2)(c) establishes that an application submitted by notice of motion in a High Court is deemed made when it is presented to the appropriate court official.

Expiry of prescribed period when court is closed.

4. Where the prescribed period 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 when the court re-opens.

Explanation.—A court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day.

COMMENTS

SECTION NOTES

4.1 Extension of Limitation Period Due to Court Closure

- ◆ This section provides relief if the limitation period for a suit, appeal, or application expires on a day when the court is closed.
- ◆ In such cases, the suit, appeal, or application can be filed on the next day when the court re-opens, thereby avoiding prejudice due to court closure.

4.2 Application Across All Types of Legal Proceedings

- ◆ This provision applies universally to suits, appeals, and applications.

4.3 Explanation of Court Closure

- ◆ The explanation clarifies that a court will be considered “closed” under this section if it is not open for any part of its usual working hours on that day.
- ◆ This interpretation ensures that partial closures also warrant an extension of the filing deadline.

CASE LAWS

- ◆ **Non-Applicability in Arbitral Award Challenges - Limitation Period Calculation**
- The appellants filed a petition to set aside an arbitral award under section 34 of the Arbitration and Conciliation Act, 1996. The award was received on 30th June 2022, and the three-month limitation period ended on 30th September 2022. The High Court was closed for pooja vacation from 1st October 2022 to 30th October 2022. The petition was

filed on 31st October 2022, after the court reopened. The appellants claimed benefit under section 4 of the Limitation Act, which allows filing on the day the court reopens if the limitation period expires when the court is closed. The Supreme Court held that Section 4 does not apply as the “prescribed period” of three months expired before the vacation began. The additional 30-day extension under the proviso to Section 34(3) also expired on 30th October 2022, making the petition time-barred. The appeal was dismissed. - *State of West Bengal v. Rajpath Contractors and Engineers Ltd.* AIR 2024 SC 444.

Extension of prescribed period in certain cases.

5. Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the 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 the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

COMMENTS

SECTION NOTES

5.1 Discretionary Power of Court to condone delay and admit belated appeals/ applications

- ◆ This section grants the court discretion to admit an appeal or application even after the expiration of the prescribed period, provided the appellant or applicant demonstrates “sufficient cause” for the delay.
- ◆ This discretionary relief applies only to appeals and applications, not to suits.

5.2 Exclusion of Applications Under Order XXI of the CPC

- ◆ Applications related to Order XXI of the Code of Civil Procedure, 1908, (execution proceedings) which deals with execution proceedings, are explicitly excluded from the scope of this section.

5.3 Explanation: Misleading Orders or Judgments

- ◆ The Explanation clarifies that if an applicant was misled by an order, practice, or judgment of the High Court in determining or calculating the limitation period, this may qualify as “sufficient cause.”

CASE LAWS

- ◆ **Non-Applicability to Institution of Civil Suits - Error by Consumer Forum** - The appellant filed a complaint against the bank for depositing money in a wrong account due to an error by the bank officer. The National Consumer Disputes Redressal Commission set aside the findings of the District and State Forums, directing the appellant to seek remedy in a civil court and incorrectly suggesting that the appellant could apply for condonation of delay under section 5 of the Limitation Act. The Supreme Court held that Section 5, which allows condonation of delay, does not apply to the filing of civil suits but only to appeals and applications. The National Commission had acted beyond its revisional jurisdiction by relying on a *suo motu* report from the respondent bank, without following proper legal procedures for additional evidence. The appeal was allowed, and the State Commission’s order was restored. - *Sunil Kumar Maity v. State Bank of India* AIR 2022 SC 52.