



SAMOA

LIMITATION ACT 1975

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1975, No.24

AN ACT to consolidate and make provision for the limitation of actions and arbitrations and for related matters.

[Assent and commencement date: 23 December 1975]

**PART 1
PRELIMINARY**

- 1. Short title** – This Act may be cited as the Limitation Act 1975.

2. Interpretation –(1) In this Act, unless the context otherwise requires:

“action” means any proceeding in a Court of law other than a criminal proceeding;

“land” includes corporeal hereditaments and rent-charges, 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 hereditament;

“land of the Government” has the same meaning as “public land” which is provided for in Article 101(4) of the Constitution, and includes land acquired by the Government by reparation;

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

“registered owner”:

(a) includes a person who has a registrable interest in land, including a statutory trustee, an administrator appointed by statute, an executor, a trustee, a liquidator, and a trustee in bankruptcy; but

(b) does not include a person adversely possessing the property or a person who receives the property from an adverse possessor.

“ship” includes every description of vessel used in navigation not propelled by oars.

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

(3) A person is taken to claim through another person if the person 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 is deemed not to claim through the appointor.

(4) Reference in this Act to a right of action to recover land includes reference to a right to enter into possession of the land or, in the case of rent-charges, to distrain for arrears of rent; and references to the bringing of such an action shall include references to the making of such an entry or distress.

(5) References in this Act to the possession of land are, in the case of rent-charges, to be construed as references to the receipt

of rent; and references to the date of dispossession or discontinuance of possession of land are, in the case of rent-charges, to be construed as references to the date of the last receipt of rent.

(6) In Part 2, references to a right of action include references 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 references to the date of the accrual of a right of action are:

- (a) for an action for an account, to be construed as references to the date on which the matter arose in respect of which an account is claimed;
- (b) for an action upon a judgment, to be construed as references to the date on which the judgment became enforceable;
- (b) for an action to recover arrears of rent or interest, or damages in respect thereof, to be construed as references to the date on which the rent or interest became due.

3. Application to the Government – Save as in this Act otherwise expressly provided, this Act applies to proceedings by or against the Government in like manner as it applies to proceedings between subjects:

PROVIDED THAT this Act does not apply to any proceedings by the Government for the recovery of any tax or duty or interest or penalty thereon, or to any forfeiture proceedings under any Customs legislation for the time being in force, or to any proceedings in respect of the forfeiture of a ship.

4. Act not to apply to customary land or titles – Nothing in this Act applies to any customary land or titles.

PART 1A PERIODS OF LIMITATION FOR DIFFERENT CLASSES OF ACTION

5. Part 1A to be subject to provisions of Part 2 relating to disability, acknowledgment, fraud, etc. – This Part has effect, subject to the provisions of Part 2, which provide for the

extension of the periods of limitation in the case of disability, acknowledgment, part payment, fraud, and mistake.

*Division 1 – Actions of Contract and Tort And
Certain Other Actions*

6. Limitation of actions of contract and tort, and certain other actions –(1)Except as otherwise provided in this Act, the following actions are not to be brought after the expiration of 6 years from the date on which the cause of action accrued, that is to say:

- (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 a deed;
- (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 is not to be brought in respect of any matter which arose more than 6 years before the commencement of the action.

(3) An action upon a deed is not to be brought after the expiration of 12 years from the date on which the cause of action accrued:

PROVIDED THAT this subsection does not affect any action for which a shorter period of limitation is prescribed by any other provision of this Act.

(4) An action is not to be brought upon any judgment which has been obtained subsequent to the commencement of this Act after the expiration of 12 years from the date on which the judgment became enforceable or on any judgment which has been obtained before the commencement of this Act after the expiration of 20 years from the date on which the judgment became enforceable; and no arrears of interest in respect of any judgment debt are to 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.

In this subsection, “penalty” does not include a fine to which any

person is liable on conviction of a criminal offence.

(6) An action to have any will of which probate has been granted, or in respect of which letters of administration with the will annexed have been granted, declared or adjudicated to be invalid on the ground of want of testamentary capacity in the testator or on the ground of undue influence shall not be brought after the expiration of 12 years from the date of the granting of the probate or letters of administration.

(7) An action in respect of the bodily injury to any person is not to be brought after the expiration of 2 years from the date on which the cause of action accrued:

PROVIDED THAT application may be made to the Court, after notice to the intended defendant, for leave to bring such an action at any time within 6 years after the date on which the cause of action accrued; and the Court may, if it thinks it is just to do so, grant leave accordingly, subject to such conditions (if any) as it thinks it is just to impose, where it considers that the delay in bringing the action was occasioned by mistake or by any other reasonable cause or that the intended defendant was not materially prejudiced in his or her defence or otherwise by the delay.

(8) This section does not apply to any claim for specific performance of a contract or for an injunction or for other equitable relief.

7. Limitation in case of successive conversions, and extinction of title of owner of converted goods –(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 or she recovers possession of the chattel, a further conversion or wrongful detention takes place, no action is to 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 any such 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 expires without the person having commenced action to recover possession of the chattel, the title of that person to the chattel shall be extinguished.

(3) Nothing in this section alters the provisions of any enactment relating to the re-vesting of the property in stolen goods on the conviction of an offender.

Division 2 – Actions to recover land and Rent, and Accrual of Rights and Causes of Action

8. Application of Act to land of the Government –(1) This Act is subject to the Lands, Surveys and Environment Act 1989, the Land Titles Registration Act 2008, and to any enactment relating to the registration of title to any land, so far as this Act is not inconsistent with any provision of those Acts or enactment.

(2) Nothing in this Act affects the right of the Government to any minerals including petroleum.

9. Actions to recover land or register title – (1) Subject to section 3(1) of the Limitation Amendment Act 2012 and to this Part, from 26 January 2012:

- (a) no right, title or interest in or to land adverse to or in derogation of the title of the registered owner shall be acquired by any length of possession by virtue of any adverse possession relating to real property; and
- (b) no right, title or interest in or to land adverse to or in derogation of the title of the registered owner shall be registered by virtue of a claim to title by adverse possession; and
- (c) no title of any such registered owner shall be extinguished by the operation of any statute of limitation.

(2) Subject to section 3(1) of the Limitation Amendment Act 2012 and to this Part, from 26 January 2012:

- (a) no right, title or interest in or to land shall be acquired by adverse possession; and
- (b) no right, title or interest in or to land shall be registered by virtue of a claim to title by adverse possession; and
- (c) no party shall raise adverse possession to defend or resist any claim by a registered owner to—
 - (i) recover land; or
 - (ii) evict a party; or

(iii) redefine boundaries of land.

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

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

(2) Where a 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 or her death in possession of the land or, in the case of a rent-charge created by will or taking effect upon his or her 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 or her death.

(3) Where a person brings an action to recover land, being an estate or interest in possession assured otherwise than by will to him or her, or to some person through whom the person 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 rent-charge 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.

11. Accrual of right of action in case of future interest

(1) Subject to other provisions of this section, 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 or otherwise.

(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:

- (a) after the expiration of 60 years from the date on which the right of action accrued to the Government where the Government is entitled to the succeeding estate or interest; or
 - (b) in any other case, 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.
- (3) Subsections (1) and (2) do not apply where the preceding estate or interest is:
- (a) a defence raised by a party to—
 - (i) resist a claim by the registered owner to recover the land because the party holds the property by way of adverse possession; or
 - (ii) evict the party adversely possessing property; or
 - (iii) redefine boundaries of land because the party argues that he or she holds the property by way of adverse possession; or
 - (b) a leasehold interest other than 1 which is determinable with life or lives or with the cesser of a determinable life interest.

12. Provisions in case of land held on trust—(1) Subject to section 19(1), this Act applies 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 or her interest were a legal estate in the land.

(2) Where any land is held by any trustee (including a trustee who is also tenant for life) upon trust, including a trust for sale, and the period prescribed by this Act for the bringing of an action to recover the land by the trustee has expired, the estate of the trustee is not 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 trustee is extinguished.

13. Accrual of right of action in case of certain tenancies

–(1) A tenancy at will or a tenancy determinable at the will of either of the parties by 1 month's notice in writing is, for the purposes of this Act, taken 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 taken to have accrued on the date on which it is determined or taken to be determined as aforesaid:

PROVIDED THAT, where any rent has subsequently been received in respect of the tenancy, the right of action is taken to have accrued on the date of the last receipt of rent.

(2) A tenancy from year to year or other period without a lease in writing (but not a tenancy to which subsection (1) applies) is, for the purposes of this Act, taken 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 taken to have accrued at the date of such determination:

PROVIDED THAT, where any rent has subsequently been received in respect of the tenancy, the right of action is taken to have accrued on the date of the last receipt of rent.

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

–(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 taken not 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 taken to have accrued and no fresh right of action is deemed to accrue unless the land is again taken into adverse possession.

(3) For the purposes of this section, possession of any land subject to a rent-charge by a person (other than the person entitled to the rent-charge) who does not pay the rent is taken to be adverse possession of the rent-charge.

(4) This section applies only to the following types of actions that were filed with the Supreme Court, served upon the other party or parties and defended or resisted by the defendant party on the grounds of adverse possession before or on 26 January 2012:

- (a) actions to recover land;
- (b) actions to evict a party from the land;
- (c) actions to redefine boundaries of land.

15. Accrual of cause of action on claim for contribution or indemnity – For the purposes of any claim for a sum of money by way of contribution or indemnity, however the right to contribution or indemnity arises, the cause of action in respect of the claim is deemed to have accrued at the first point of time when everything has happened which would have to be proved to enable judgment to be obtained for a sum of money in respect of the claim.

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

17. Limitation of actions to recover rent – 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.

Division 3 – Actions to Recover Money Secured by a Mortgage or Charge or to Recover Proceeds of the Sale of Land

18. Limitation of actions to recover money secured by a mortgage or charge or to recover proceeds of the sale of land
–(1) No action is to 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 (not being the proceeds of the sale of land held upon trust for sale), 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 is to be brought after the expiration of 12 years from the date on which the right to foreclose accrued:

PROVIDED THAT, if after that date the mortgagee was in possession of the mortgaged property, the right to foreclose on the property which was in his or her possession is, for the purposes of this subsection, taken not to have accrued until the date on which his or her 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 any personal property subject to the mortgage or charge is taken not to accrue so long as the property subject to the mortgage or charge comprises any future interest or any life insurance policy which has not matured or been determined.

(4) 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, is to be brought after the expiration of 6 years from the date on which the interest became due:

PROVIDED THAT:

- (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 that possession by the subsequent encumbrancer, he or she may recover by that action all the arrears of interest which fell due during the period of possession by the prior encumbrancer or damages in respect thereof, despite that the period exceeded 6 years;
- (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 deemed not to become due before the right to receive the

principal sum of money has accrued or is deemed to have accrued.

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

Division 4 – Actions In Respect of Trust Property or the Personal Estate of Deceased Persons

19. Limitation of actions in respect of trust property –(1)

No period of limitation prescribed by this Act applies to an action by a beneficiary under a trust, being an action:

- (a) for any fraud or fraudulent breach of trust to which the trustee was a party or privy; or
- (b) to recover from the trustee trust property or the proceeds thereof in the possession of the trustee, or previously received by the trustee and converted to his or her use.

(2) Subject to subsection (1), an action by a beneficiary to recover trust property or in respect of any breach of trust, not being an action for which a period of limitation is prescribed by any other provision of this Act, is not to be brought after the expiration of 6 years from the date on which the right of action accrued:

PROVIDED THAT the right of action is taken not to have accrued to any beneficiary entitled to a future interest in the trust property until the interest fell into possession.

(3) No beneficiary as against whom there would be a good defence under this Act derives any greater or other benefit from a judgment or order obtained by any other beneficiary than he or she could have obtained if he or she had brought the action and this Act had been pleaded in defence.

20. Limitation of actions claiming personal estate of a deceased person – Subject to section 19(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, is to 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, is to be brought after the expiration of 6 years from the date on which the interest became due.

*Division 5 – Actions against the Government and
Public Authorities, etc.*

21. Protection of persons acting in execution of statutory or other public duty –(1) No action is to be brought against any person (including the Government) for any act done in pursuance or execution or intended execution of any Act of Parliament, 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:

- (a) notice in writing giving reasonable information of the circumstances upon which the proposed action will be based and the name and address of the prospective plaintiff and of his or her solicitor or agent (if any) in the matter is given by the prospective plaintiff to the prospective defendant as soon as practicable after the accrual of the cause of action; and
- (b) the action is commenced before the expiration of 1 year from the date on which the cause of action accrued:

PROVIDED THAT, where the act, neglect, or default is a continuing one, no cause of action in respect thereof is deemed to have accrued, for the purposes of this section, until the act, neglect, or default has ceased:

PROVIDED ALSO THAT the notice required by paragraph (a) may be given, and an action may thereafter be brought, while the act, neglect, or default continues:

PROVIDED FURTHER THAT any such person may consent to the bringing of such an action at any time before the expiration of 6 years from the date on which the cause of action accrued, whether or not notice has been given to the prospective defendant as aforesaid.

(2) Despite subsection (1), application may be made to the Court, after notice to the intended defendant, for leave to bring such an action at any time before the expiration of 6 years from the date on which the cause of action accrued, whether or not notice has been given to the intended defendant under subsection (1); and the Court may, if it thinks it is just to do so, grant leave accordingly, subject to such conditions (if any) as it thinks it is

just to impose where it considers that the failure to give the notice or the delay in bringing the action, as the case may be, was occasioned by mistake or by any other reasonable cause or that the intended defendant was not materially prejudiced in his defence or otherwise by the failure or delay.

(2A) No leave may be granted by a Court where an action has been commenced and no notice of the action was served under subsection (1)(a) before the commencement of the action.

(3) Where notice has to be given to the Government under this section, it is to be given to the Attorney General, and may be so given by leaving it at the Attorney General's office in Apia or by sending it by post in a registered letter addressed to the Attorney General at the office.

(4) Except as provided in subsection (3), where any notice has to be given under this section, it may be given either:

- (a) by delivering it to the person to whom it has to be given; or
- (b) by leaving it at the usual or last known place of abode in Samoa of that person; or
- (c) by sending it by post in a registered letter addressed to that person at his or her usual or last known place of abode in Samoa of that person; or

(5) Where a notice is sent by post in manner prescribed by subsection (3) or (4)(c), it is taken to have been given at the time at which the letter would have been delivered in the ordinary course of post.

(6) This section does not apply to any criminal proceeding, or to any action commenced by the Controller and Auditor General under any Act.

PART 2
EXTENSIONS OF LIMITATION PERIODS
IN CASE OF DISABILITY, ACKNOWLEDGMENT,
PART PAYMENT, FRAUD, AND MISTAKE

Division 1 – Disability

22. Extension of limitation period in case of disability – If on the date when any right of action accrued for which a period of limitation is prescribed by or may be prescribed under this Act, the person to whom it accrued was under a disability:

- (a) for any action to which section 21 applies, or of any other action in respect of the death of or bodily injury to any person, or of any action to recover a penalty or forfeiture or sum by way thereof by virtue of any enactment where the action is brought by an aggrieved party, the right of action is deemed to have accrued on the date when the person ceased to be under a disability or died, whichever event first occurred; or
- (b) for any other case, the action may be brought before the expiration of 6 years from the date when the person ceased to be under a disability or died, whichever event first occurred,—

Despite that, in any case to which either of the foregoing paragraphs of this section applies, the period of limitation has expired:

PROVIDED THAT:

- (c) this section does 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;
- (d) 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;
- (e) 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 or she claims.

Division 2 – Acknowledgment and Part Payment

23. Fresh accrual of action on acknowledgment or part payment –(1) Where there has accrued any right of 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) for 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 taken to have accrued on and not before the date of the acknowledgment or the last payment.

(2) 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 or her equity of redemption, an action to redeem the land in his or her possession may be brought at any time before the expiration of 12 years from the date of the payment or acknowledgment.

(3) 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 taken to have accrued on and not before the date of the acknowledgment or 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 is treated as a payment in respect of the principal debt.

24. Formal provisions as to acknowledgments and part payments—(1)An acknowledgment under section 23 is to be in writing and signed by the person making the acknowledgment.

(2) An acknowledgment or payment under section 23 may be made by the agent of the person by whom it is required to be made under section 23, 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.

25. Effect of acknowledgment or part payment on persons other than the maker or recipient—(1)An acknowledgment of

the title to any land or mortgaged personality 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, so far as any right of the mortgagee to foreclose or otherwise to recover the property is concerned, binds 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 or her equity of redemption by 1 of the mortgagees binds only him or her and his or her successors and does not bind any other mortgagee or his or her 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 is entitled to redeem that part of the land on payment, with interest, of the part of the mortgage debt which 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 1 of the mortgagors is acknowledged as aforesaid, the acknowledgment is taken to have been made to all the mortgagors.

(5) An acknowledgment of any debt or other liquidated pecuniary claim shall bind the acknowledged and his or her successors but not any other person:

PROVIDED THAT 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 does 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:

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 does not bind any person other than the person making the payment and his or her 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 1 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 1 of several personal representatives in respect of any such claim shall bind the estate of the deceased person.

(8) In this section, “successor”, in relation to any mortgagee or person liable in respect of any debt or claim, means his or her 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.

Division 3 – Fraud and Mistake

26. Postponement of limitation period in case of fraud or mistake – Where, in the case of any action for which a period of limitation is prescribed by this Act, either:

- (a) the action is based upon the fraud of the defendant or the defendant’s agent or of any person through whom he or she claims or his or her agent; or
- (b) the right of action is concealed by the fraud of any such person as aforesaid; or
- (c) the action is for relief from the consequences of a mistake, –

the period of limitation does 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:

PROVIDED THAT nothing in this section enables any action to be brought to recover, or enforce any charge against, or set aside any transaction affecting, any property which:

- (d) for 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) for 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

27. Application of Act and other limitation enactments to arbitrations – (1) This Act and any other enactment relating to the limitation of actions apply to arbitrations as they apply to actions.

(2) Despite any term in a submission to the effect that no cause of action accrues in respect of any matter required by the submission to be referred until an award is made under the submission, the cause of action is, for the purposes of this Act and of any other such enactment (whether in their applications 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 submission.

(3) For the purposes of this Act and of any such other enactment, an arbitration is deemed to commence when 1 party thereto serves on the other party or parties a notice requiring him or her or them to appoint an arbitrator or, where the submission provides that the reference shall be to a person named in the submission, requiring him, her or them to submit the dispute to the person so named.

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

29. Acquiescence – Nothing in this Act affects any equitable jurisdiction to refuse relief on the ground of acquiescence or otherwise.

30. Savings for other limitation enactments – This Act does not apply to any action or arbitration for which a period of limitation is prescribed by any other enactment.

31. Provisions as to actions already barred and pending actions – Nothing in this Act:

- (a) enables any action to be brought which was barred before the commencement of this Act by an enactment repealed or amended by this Act or ceasing to have effect by virtue of this Act, except in so far as the cause of action or right of action may be revived by an acknowledgment or part payment made in accordance with the provisions of this Act; or
- (b) affects any action or arbitration commenced before the commencement of this Act or the title to any property which is the subject of any such action or arbitration.

32. Repeal – (1) The Limitation Act 1950 (NZ) is repealed.

(2) The Reprint of Statutes Act 1972 is consequentially amended by repealing from the Schedule, under the heading “New Zealand Acts”, the item “The Limitation Act 1950.”

REVISION NOTES 2008 – 2023

This is the official version of this Act as at 31 December 2023.

This Act has been revised by the Legislative Drafting Division from 2008 to 2023 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “Every” and “any” changed to “a”
 - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
 - (iii) “shall have” changed to “has”
 - (iv) “shall be guilty” changed to “commits”
 - (v) “notwithstanding” changed to “despite”
 - (vi) “pursuant to” changed to “under”
 - (vii) “it shall be lawful” changed to “may”
 - (viii) “it shall be the duty” changed to “shall”

Limitation Act 1975

- (ix) Numbers in words changed to figures
- (x) “hereby” and “from time to time” (or “at any time” or “at all times”) removed
- (xi) “under the hand of” changed to “signed by”
- (xii) Part numbering changed to decimal

This Act was amended by:

The Limitation Amendment Act 2012 Act, No.4 (commenced 26 January 2012):

- section 2 - new definitions of “land of the Government” and “registered owner” inserted
- section 8 amended
- section 9 substituted. The section 3(1) references in the new section 9 is as follows:
“3. Application of this Act-(1) This Act does not apply to the following types of actions that were filed with the Supreme Court, served upon the other party or parties and defended or resisted by the defendant party on the grounds of adverse possession before or on the day this Act commenced:
 - (a) actions to recover land;
 - (b) actions to evict a party from the land;
 - (c) actions to redefine boundaries of land.” ;
- sections 14(3) and 11(3) substituted

The Audit Act 2013, No.22 (commenced on 27 January 2014)

- section 21(6) – reference to the “Audit Office” substitute with “Controller and Auditor General”.

*This Act is administered by
The Office of the Attorney General.*