

REPUBLIC OF NAURU
LIMITATION BILL 2017
EXPLANATORY MEMORANDUM

The *Limitation Bill* is a Bill for the *Limitation Act 2017*.

This memorandum provides an explanation of the Bill and is only intended to indicate the general effect.

EXPLANATION OF CLAUSES

PART 1- PRELIMINARY

Clause 1 provides that, once enacted the short title of the Bill will be the *Limitation Bill 2017*.

Clause 2 sets out when the Bill's provisions will commence which is upon certification by the Speaker.

Clause 3 is the definitional section which defines the key terms used in the Bill. Some of the terms;

"after the lapse" means the day commencing after the last day of the limitation period;

"cause of action" means the facts that enable a person in law to bring an action against another person;

"claim" means a proceeding:

- (a) that may be made in a court or tribunal (other than a criminal or disciplinary proceeding); or
- (b) the dispute relating to which may be referred to arbitration to which the relief is sought; and
- (c) a primary or ancillary relief is sought.

"commence, commenced or commencement of proceeding" means the filing of a proceeding by way of a writ of summons, Originating summons, Origination Motion or Petition or any other mode of instituting proceeding in accordance with the rules of the Court or any other applicable laws, applicable to the claim;

"limitation period" in relation to a claim, means the period after which a court proceeding must not be brought with respect to the claim;

"Proceedings" means-

- (a) that is based on an act or omission that took place before the effective date; and

(b) with respect to which no court proceeding has been commenced before the effective date.

“the day the cause of action accrued” means the date on which an event in law or fact occurred giving rise to a claim for primary or ancillary relief;

Clause 4 provides for the purpose and object of the Act which is to:

- provide limitation periods for various difference causes and classes of claims;
- encourage claims to be made without any undue delay;
- provide opportunity for persons against whom claims are made to defend a proceeding on the grounds of the claim being stale or statute barred;
- encourage resolution of disputes between parties at the earliest possible time to avoid greater complications caused due to late prosecution of civil claims;
- resolve dispute when the evidence is still fresh and be preserved for trial.

PART 2- LIMITATION PERIODS

Clause 5 requires that no proceedings on any cause of action shall commence after a lapse of 6 years from the time the cause of action accrued, subject to the limitation period provided under the Act or any other law.

Clause 6 provides that any proceeding to enforce, rescind, and vary or claim damages founded on a simple contract shall not commence after a lapse of 6 years from the time the cause of action accrued.

Clause 7 provides that subject to Clause 8, no proceedings for damages for cause of action for negligence, nuisance or breach of duty by virtue of a contract or under any Act, after a lapse of 6 years from the day the cause of action accrued.

This clause does not apply to a cause of action against the Republic under Clause 18.

Clause 8 provides subject to Part 4 of this Act, a proceeding to claim damages relating to a personal injury or fatal accident shall not commence after a lapse of 3 years from the time the cause of action accrued.

Clause 9 provides that a proceeding in relation to the following actions listed below shall not commence after a lapse of 3 years from the time of the cause of action accrued, to claim damages for:

- Trespass to the person;
- Assault;
- Battery; or
- Unlawful confinement or imprisonment.

Clause 10 provides that a proceeding to claim contribution between tortfeasors (a person who commits a tort (civil wrong)) shall not commence after a lapse of 2 years from the time of the cause of action accrued.

The date in which a cause of action accrues against a contributing tortfeasor shall be:

- where the tortfeasor sued is held liable in respect of that claim for damages by a judgment given in any civil proceedings or award of arbitration, the relevant date shall be the date on which the judgment is delivered or the date of the award;
- where the tortfeasor admits liability in favour of one or more claimants in respect of a claim for damages, the relevant date shall be the date the tortfeasor admits the liability.

Clause 11 provides that in the case of a proceeding to seek a declaration or claim for damages relating to cause of action in defamation shall not be commenced after a lapse of 1 year from the time the cause of action accrued. A proceeding to claim for damages for defamation will not commence or continue against a deceased person or personal representatives.

The cause of action in defamation accrues on the day it is published or where the claim is based on any subsequent publication or similar publication, having the same or similar innuendo on the day the subsequent publication is published.

For the purpose of this clause, **publication or published** includes anything made known to a third person or public at large by communicating in writing, broadcasting, telecasting, electronic or digital form in a newspaper, magazine, pamphlet, letter, telegram, computer modem or program, brochure, pamphlet, facebook, blog sites, texts, images, sound or any of the combination of these.

Clause 12 provides that a proceeding for cause of action founded on a deed shall not be commenced after a lapse of 6 years from the time the cause of action accrued.

Clause 13 provides that a proceeding to recover land shall not commence after a lapse of 20 years from the time of the cause of action accrued. However, a proceeding to recover land may be commenced at any time if the action is brought by:

- the Republic or a person claiming through the Republic; and
- a cause of action which accrues to the Republic.

For the purposes of the Act, no person is deemed to have possession of land by reason only of having a formal entry on that land, and no continual or other claim upon or near land preserves a claim to recover that land. A person's claim to a title to land is extinguished if the period ends before the person makes such claim to recover the land.

A Court shall not grant a relief in any proceedings, including appeals from the decision of the Nauru Lands Committee, which would result in a claim being barred due to the time limitation specified under this Clause.

Clause 14 provides that a proceeding to recover the principal sum secured under a security instrument on real or personal property shall not commence after the lapse of 6 years from the time of the cause of action accrued:

- (a) to a principal, guarantor or assignee of secured debt;
- (b) to a receiver of a secured property and the income or profits of the secured property;
- (c) by way of the sale, lease or other disposition or realisation of the mortgaged property; or
- (d) by way of any other remedy affecting the mortgaged property.

A cause of action accrues from the day the security instrument deems a demand have been made or no demand made, on the day of default irrespective of whether payments are made after.

A proceeding for claim of interest payable under a security instrument on real or personal property shall not be commenced or continued:

- after a lapse of 3 years from the time of the cause of action accrued if no notice of default or claim is made and creditor makes no attempt to enforce the security;
- in the case where the creditor was in possession of all or any of the property comprised in the security instrument securing the interest when the cause of action accrued, at the lapse of 12 months from the discontinuance of possession;
- if the limitation period provided for under this Clause for an action between the same parties on the cause of action to recover the principal money bearing the interest has expired.

Clause 15 requires that a proceeding for foreclosure on the equity of redemption of real or personal property secured by a mortgage shall not commence after a lapse of 10 years from the time of the cause of action accrued.

Clause 16 provides that a proceeding to redeem a secured property real or personal in the possession of a secured creditor cannot commence after a lapse of 10 years from:

- the most recent possession by the secured creditor of the property in respect of which the action is brought;
- the receipt by the secured creditor of the most recent payment of principal money or interest secured by the mortgage from the person wishing to redeem the property.

Clause 17 provides that a proceeding for an account shall not commence if the limitation period of the cause of action that is the basis of the duty to account has expired 6 years from the date of the account is deemed to have been made available.

Clause 18 provides that a proceeding seeking equitable relief shall not commence after the lapse of 6 years from the day the cause of action accrued or if the cause of action was not known to the claimant, after a lapse of 2 years from the day the person seeking relief in equity had actual or constructive knowledge of the cause of action.

The term ***equitable action*** means an action:

- relief is sought is in equity; and
- for which a limitation period not been provided for above or the limitation period would not be determined in equity by likeness to the limitation period for any other kind of action.

Apart from the limitation period stated above, no proceedings shall be commenced after seeking equitable relief after a lapse of 12 years from the time the actual event or cause of action accrued.

Nothing in this Act affects any equitable jurisdiction of any court to refuse relief on the ground of laches (unreasonable delay in asserting a claim which may result in dismissal) acquiescence (the reluctant acceptance of something with protest) or otherwise.

Clause 19 provides that a proceeding for cause of action to claim or recover title of or damages for conversion of property shall not be commenced after a lapse of 6 years from the day the cause of action accrued.

A proceeding for a cause of action for:

- conversion or wrongful detention of a chattel has accrued to a person; and
- before the person recovers possession of the chattel, a further conversion takes place –

shall not be brought in respect of the further conversion or detention after a lapse of 6 years from the time when the cause of action accrued in respect of the original conversion or detention.

If the cause of action under this Clause:

- has accrued to a person prescribed by bringing an action and for bringing any action in respect of such further conversion or wrongful detention has expired; and
- the person has not during that period recovered possession of the property -

the title of that person to the property shall be extinguished.

Clause 20 provides that proceedings for a cause of action to claim a debt payable on demand shall not commence after a lapse of 6 years from the time the cause of action accrued.

For the purpose of this Clause, the cause of action accrues from the time of the earlier of the following:

- demand for payment becomes effective irrespective of whether the demand was made or not;
- where there is no provision for a demand, from the time the debt was payable or default made.

In a proceeding for claim of interest payable as part of or as penalty in default for claim of debt shall not commence or continue:

- after a lapse of 3 years from the time the cause of action accrued and the creditor took no steps to secure the payment of the debt;
- if the limitation period provided under this Clause for a proceeding between the same parties on the cause of action to recover the debt bearing interest has expired.

Clause 21 provides that a proceeding to recover or in relation to the recovery of money by tax or claimed tax under a mistake of either law or fact shall not commence after the lapse of 2 years from the day of the payment or the last partial payments. This limitation period does not apply if another Act provides for a longer limitation period for commencing the actions.

Despite the above and anything to the contrary of another Act, if money paid by way of tax or claimed to be tax is recoverable because of the invalidity of the Act or the provisions in the Act, an action to recover, or in relation to the recovery of, that money shall not commence after a lapse of 3 years from the day of the payment or the last partial payments. This clause will not apply if the other Act that imposes or claims to impose tax had been valid and would nonetheless represent an overpayment of tax, if the Act provides for refund or recovery of money within a period longer than 3 years from the payment.

An order cannot be made under the Act that allows or permits an action that commences after the expiry of the 3 years from the day the cause of action accrues.

Clause 22 provides that a proceeding to enforce a judgment shall not commence after a lapse of 6 years from the day on which the judgment is enforceable. Subject to a Court order, a proceeding to enforce the recovery of arrears of interest in respect of judgment debt shall not be recovered after a lapse of 6 years from the day on which the judgment is enforceable.

A proceeding to register or enforce a foreign judgment shall not commence after the expiration of 2 years from the date on which the judgment was delivered by the Court in a foreign jurisdiction.

For the purpose of this Clause, **judgment** includes any decision of the Arbitration, Mediation or Tribunal.

Clause 23 provides that a proceeding for a cause of action to recover arrears of rent, *profit a prendre*, damages or interest for the arrears of rent shall not commence after a lapse of 6 years from the date of default.

Clause 24 provides that a proceeding for arbitration cannot be commenced if the limitation period for bringing a civil proceeding in a court for resolution or determination has expired.

Clause 25 provides that a proceeding for a cause of action against the Republic, its servants and agents for any act done in pursuance or 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:

- notice in writing of the cause or causes of action is given;
- where applicable, for prior leave of Cabinet is obtained under the provisions of the Republic Proceedings Act 1972; and
- the action is commenced before the expiration of 3 years from the date on which the cause of action accrued.

An application may be made to the Supreme Court on notice to the Republic 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 under subsection (1); and
- the Court may, if it thinks it is just to do so, grant leave accordingly, subject to such conditions it may deem just.

No leave shall be granted by a Court where an action has been commenced and no notice of the action was served in writing before the commencement of the action.

If notice has to be given to the Republic under this section, it shall be given to the Secretary for Cabinet and Secretary for Justice.

Clause 26 provides that no period of limitation prescribed by the provisions of this Act shall apply to an action by a beneficiary under a trust, being an action:

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

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, shall not be brought after the expiration of 12 years from the date on which the right of action accrued.

A right of action shall not be deemed to have accrued to any beneficiary entitled to a future interest in the trust property, until the interest fell into possession.

No beneficiary, as against whom there would be a good defence under the provisions of this Act, shall derive any greater or other benefit from a judgment or order obtained by any other beneficiary than the beneficiary could have obtained if the beneficiary had brought the action and this Act had been pleaded in defence.

Clause 27 provides that 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 there is a will or on intestacy (no will), shall be brought after the expiration of 6 years from the date when the right to receive the share or interest accrued.

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 3 – POSTPONEMENT OF LIMITATION PERIOD

Division 1 – Fraud or Mistake

Clause 28 provides that if the period of limitation for a cause of action is prescribed by an Act and the cause of action:

- is based upon fraud; or
- is relief from the consequences of a mistake, -

the period of limitation shall not begin until the person seeking relief has actual or constructive knowledge of the fraud or the mistake or could with reasonable diligence have discovered to be a fraud or mistake.

Nothing in this section shall allow any proceeding to be brought to recover or enforce any charge against or set aside any transaction affecting any property which:

- 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
- in the case of mistake, has been purchased for valuable consideration, afterward 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.

Division 2 – Mental disability

Clause 29 provides that if a person who suffered from mental disability at any time after the cause of action accrues to the person or a person is considered a mentally disable person under the Mentally Disordered Persons Act 1963 and during that time the person is without a guardian, those time does not count in the calculation of a limitation period for starting a proceeding on any cause of action under the Act or any other Act.

The proceeding on a cause of action by or on behalf of a person with mental disability shall not commence after a lapse of 12 years from the day the cause of action accrued under this Act or under any other Act.

Division 3 – Minors

Clause 30 provides that where a person is under the age of 15 years when a cause of action accrues, the proceeding for the cause of action shall not commence after a lapse of 6 years.

This clause does not apply if Part 2 Division 3 provides for a longer limitation period for commencing an action.

Clause 31 provides that where a person is between the ages of 15 years old and 18 years old when a cause of action accrues, a proceeding for that cause of action shall not commence if the person reach the age of 21 years of age and has not commenced the cause of action after attaining the age of 21 years of age.

Clause 32 provides that subject to Clause 33 if a person is under the age of 18 years when a cause of action accrues to the person and during any time after the cause of action accrues but before the person reaches the age of 18 years is without a guardian, the time does not count in the calculation of the limitation period for commencing a proceeding on the cause of action.

Despite subsection (1), a proceeding on the cause of action shall not be commenced:

- if the person has reached 21 years of age; or
- where a longer limitation period for commencing the action has expired.

Clause 33 provides that if a cause of action accrues to a minor and during that the time before the person reaches the age of 18 years the person has a close relationship with a minor, proceedings to a cause of action shall not commence if the minor has reached the age of 25.

The term ***against the person*** includes a person whom the defendant is vicariously liable and person in a close relationship with a minor means a:

- (a) a person who at law has responsibility for:

- (i) the long term care, welfare and development of the minor before he or she attains the age of 18 years; or
 - (ii) the day to day care, welfare and development of the minor before he or she attains the age of 18 years.
- (b) a third person whose relationship with a person has the care and welfare of the minor and the relationship is such that the circumstances reasonable:
- (i) for the minor or the person in whose care and welfare the minor is not to commence an action against the third person; or
 - (ii) for the person who has the care and welfare of the minor not to divulge the conduct or events in respect of which an action against the third person would be founded.

PART 4 - EXTENSION OF TIME BY THE COURT

Division 1 - When Court may extend time

Clause 34 provides that if the limitation period under this Act has expired, a person may apply to the Supreme Court for leave to start proceedings for damages relating to personal injury or death. The Supreme Court may extend the time for the expired limitation period, if the court is satisfied that the person whom the cause of action was:

- (a) not aware of the physical cause of the injury or death; or
- (b) aware of the physical cause of the death or injury but was not:
 - (i) aware that the injury or death was attributable to the conduct to the person; or
 - (ii) after reasonable enquiry had not been able to establish that person's identity.

The Supreme Court may extend the time to start a proceeding for personal injury or death up to 2 years when the person to whom the cause of action accrues becomes aware or ought to have been aware:

- (a) of the physical cause of death or injury;
- (b) that the death or injury was attributable to the conduct of a person and the identity of such person; and
- (c) after reasonable inquiry was able to ascertain a cause of action in law.

The term "***person to whom the cause of action accrues***" means:

- person who is under 18 years of age means either that person or guardian of that person;
- person with a mental disability either that person or a guardian of that person;
- an action for the death of the person means the personal representative or beneficiaries.

In this clause, 'ascertain a cause of action' requires a person to:

- (a) know the material facts relating to the cause of action;
- (b) know the facts must be of decisive character; and
- (c) to seek appropriate legal advice.

Clause 35 provides for the meaning of “*material facts relating to a cause of action*” means in relation to this Part any references to material facts relating to cause of action means a reference to any one or more of the following:

- the fact that personal injuries resulted from negligence, nuisance or breach of duty;
- the nature or extent of the personal injuries resulting from that negligence, nuisance or breach of duty;
- the fact that the persons injuries so resulting was attributable to that negligence, nuisance or breach of duty, or the extent to which any of those personal injuries were so attributable.

Clause 36 provides for the meaning of “*facts of a decisive character*” which means for the purpose of this Part material facts relating to a cause of action shall be taken, at any particular time, to have been facts of a decisive character if they were facts which a reasonable person, knowing those facts and having obtained appropriate advice within the meaning of Clause 37, would have regarded an action would have been reasonable prospect of succeeding and of resulting in the award of damages sufficient to justify the bringing of an action.

Clause 37 provides that for the purpose of this Part meaning of *appropriate advice*, in relation to the fact or circumstances, means the advice of competent persons, qualified in their respective areas to advise on the medical, legal or other aspects of that fact or those circumstances as the case may be.

Clause 38 provides that the Court may extend the time to commence action by a person under the age of 18 years when the cause of action accrues with guardian. If a person who is under the age of 18 years who had a guardian when the cause of action accrues, he or she may apply to the Court to start proceedings after the expiration of the limitation period under the Act.

The Court may extend the time provided that the person makes an application before he or she reaches the age of 25 years. However, the Court shall not extend the time unless satisfied that:

- it was unreasonable for a guardian that person to start an action within the limitation period; or
- guardian wilfully failed to start the action within the limitation period for the action.

Clause 39 provides that the Court may extend the time to commence action by a person with a mental disability when cause of action accrues. If a person who is mentality disabled

had a guardian when a cause of action accrued, the person may apply to the Court for leave to to c to commence proceedings after the limitation period under the Act has expired.

The Court may extend the time provided that the application is made on or 12 years from the date of accrual of the cause of action. However, the Court shall not extend the time unless satisfied that:

- it was unreasonable for a guardian of that person to start the action within the limitation period of the action; or
- the guardian wilfully failed to start the action within the limitation period for the action.

Clause 40 provides that if a person who is under the age of 18 years or person who suffering from a mental disability when a cause of action accrued and the different limitation periods for starting an action is provided under Clauses 38 and 39, the limitation period for starting an action will be the longer of the limitation periods.

Clause 41 provides that the Court shall grant leave to start a proceeding for defamation after the expiry of the limitation period under this Act or any other Act.

Division 2 – Procedure for extension of time by Court

Clause 42 provides that an application to the Court for leave to start proceedings if the limitation period under the Act has expired shall be made:

- (a) ex parte;
- (b) by Originating Motion; and
- (c) supported by affidavits necessary to establish the cause of action.

The Court may grant leave to start a proceeding ex parte or require the applicant to serve the application to the person or persons against whom the claim was made.

If the proceeding has already started, an application under this Clause shall:

- (a) not be made any time after the pleadings are deemed to be closed between the plaintiff and defendant; and
- (b) be made inter-partes.

If the Court grants leave to start a proceeding ex parte, the plaintiff has to serve a copy of the originating motion, affidavits and Order of the Court on each person against whom the action is commenced or proposed to be commenced in person or by way of substituted service within 21 days of the granting of the leave, unless time for service is extended by the court before the expiry of 21 days. If the person fails to comply, the action shall end.

Clause 43 provides for an application to set aside leave to start proceedings where the limitation period has expired. A person against whom leave to commence a proceeding

after the expiry of the limitation period under the Act may make an application to set aside the order granted within 21 days of the service of the document under Clause 42.

If no application is made, the person against whom the proceeding started shall not plead or rely on the defence of limitation.

Clause 44 provides that in deciding an application under this Part the Court shall have regard to:

- length and reasons for delay in commencing the proceedings;
- whether the delay in commencing the proposed action, whatever the merit of the reasons for delay, would be unacceptably lessen the prospects of a fair trial of the action;
- whether the extending the time would significantly prejudice the person against whom the claim is made other than by reason only of the commencement of the proposed action;
- the person against whom the claim is made on and after the date of act or omission on the claim is based, including the extent to which the defendant responded to requests for information or inspection that were reasonably made by or behalf of the person against whom the claim is made in order to discover the facts that were or might be relevant to claim;
- the extent to which prompt and reasonable steps were taken by or on behalf of the person against whom the claim was made to make the claim after the person against whom the claim is made became aware that the person against whom the claim is made was entitled to do so;
- any steps taken by or on behalf of the person against whom the claim is made to obtain the relevant medical, legal or other expert advice, and the nature of any relevant expert advice received by or on behalf of the persons against whom the claim is made; and
- any other matters it considers relevant.

Clause 45 provides that the Court has jurisdiction to extend the time for starting a proceeding under the Act, the applicant has the burden of proving that the court should extend the relevant limitation period.

If the action has already started the defendant shall have the burden of proving that the action is commenced after the lapse of the limitation under this Act or other law.

Division 3 – Extension of time by agreement

Clause 46 provides that nothing in this Act prohibits a person from agreeing to extend or shorten a limitation period provided for under the Act provided that such agreement shall not:

- exclude the operation of Clauses 37,38 or 39;
- extinguish a right or title in relation to land;
- conflict or contradict with any other written law, treaty or Convention.

Clause 47 provides that a cause of action that lies against a person and the person acknowledges the cause of action:

- (a) after the limitation period provided under the Act for the cause of action begins to run; but
- (b) before that limitation period expires, -

the time during which the limitation period runs before the acknowledgement is made does not count in reckoning the limitation period for an action by a person having the benefit of the acknowledgment against a person bound by the acknowledgement.

Clause 48 provides that for the purpose of Clause 47, an acknowledgment is of no effect unless it is in writing and signed by the maker.

Clause 49 provides for the purpose of the Act a person has the benefit of an acknowledgement if the acknowledgement is made to the person to whom the cause of action accrues to.

Clause 50 provides that a person is not bound by an acknowledgement if he or she:

- is a maker of the acknowledgement;
- in relation to the cause of action, a successor of a maker under a devolution from the maker occurring after the making of the acknowledgement;
- in the case where the maker is at the time the maker makes the confirmation, a trustee of than a personal representative of the deceased.

If the maker of an acknowledgement of a cause of action in relation to a property is in possession of the property when the acknowledgement is made, the acknowledgement binds a person subsequently in possession of the property who claims through the maker of the acknowledgement.

Clause 51 provides for the meaning of acknowledgement. A person acknowledges a cause of action if the person:

- acknowledges to a person having the cause of action of the person's right or title, even though the acknowledgement does not disclose a promise to pay;
- makes to a person having the cause of action a payment in relation to the person's right or title and makes the payment in circumstances not inconsistent with an acknowledgement of that right or title; or
- makes to a person having a cause of action to foreclose the equity of redemption of mortgaged property or to recover possession of mortgaged on payment of the principal or interest to secure the mortgage or payment to the person otherwise in relation to the person's right or title to the security.

PART 5 – MISCELLANEOUS

Clause 52 provides that the Act will not apply to the following court proceedings:

- an appeal;
- judicial review application;
- criminal proceedings;
- court proceeding enforce a local judgement for the possession of land;
- court proceeding to enforce a permanent order for an injunction or a restraining order;
- court proceeding to enforce an easement, restrictive covenant or profit a prendre.

Clause 53 provides that this Act does not apply to a claim:

- that is subject to the limitation period established by International Convention or treaty and is adopted by the Republic;
- for which the limitation period is provided under another Act;
- for possession of land if the person entitled to the possession has been disposed due to trespass;
- for possession of land by a life tenant or person entitled to the remainder of an estate;
- for possession of land by a person who has the right to enter for breach of condition subsequent, or a right to possession arising under possibility of reverter of a determinable estate;
- by a landlord to recover possession of land from a tenant who is in default or over holding;
- for a title to property by any person in possession of that property;
- in torts for damages relating to misconduct of a sexual nature;
- for torts for damages relating to misconduct of a sexual nature including marital rape;
- for the arrears of child support payable after a lapse of 6 years from the time the child reached the age of 20 years or any arrears of spousal support payable upon judgement or agreement after a lapse of 6 years from the time he or she remarries or lives in another relationship;
- fines or penalties imposed under the laws of the Republic.

Clause 54 provides that a counterclaim in a proceeding except for counterclaim by way of defence is for the purposes of the Act, a separate proceeding.

If a defendant in a proceeding makes a counterclaim against the plaintiff, the counterclaim is to be taken to commence as against the plaintiff when the defendant became a party to the proceeding.

If a defendant in the proceedings makes a counterclaim against a plaintiff in the action and then joins another person as a 3rd party against the joinder is taken to commence as against the other person when the person joined as a party to the proceedings.

If a counterclaim or 3rd party proceedings include set off contribution or indemnity, the proceedings above apply to such claim for set off contribution or indemnity.

A defendant shall not commence proceedings for counterclaim, third party or set off;

- if the time for commencing the proceeding has expired under the Act or any other law; or
- without the leave of the Court where the time for commencement of such proceedings may be extended by the court after the limitation under the Act has expired.

Clause 55 provides for joint cause of action by 2 or more people.

Clause 56 provides for joint liability of 2 or more people.

Clause 57 provides that a proceeding cannot commence on or after the commencement day if the action could not have been commenced immediately before the commencement day as consequence of the enactment this repealed or amended by this Act.

Clause 58 provides that if a proceeding is commenced and the defendant intends to rely upon a defence of limitation under this Act or any other law, the defendant shall plead the defence before trying to establish it.

If the statement of defence fails to:

- plead the defence of limitation; or
- amend the defence to plead the limitation -

it shall be deemed that the defendant has waived the requirement of the limitation period and the claiming may proceed to proving the claim.

If on delivery of judgement by the court on substantive matter and the defendant appeal to the Appellate Court, the defendant shall not be permitted to adduce fresh evidence or amend the pleading to rely on the defence of limitation.

Clause 59 provides for the cessation of the application of the Limitation Act of England as provided for under section 4 of the Custom and Adopted Laws Act 1971.

Clause 60 empowers Cabinet to make regulations prescribing all matter that are necessary or convenient to be prescribed to give effect to the Act. The Regulations may provide for:

- limitation period for other causes of action;
- excluding any stipulations of time under this Act for any cause of action; and
- any other matters.