

Reprint
as at 30 January 2021



Limitation Act 2010

Public Act 2010 No 110
Date of assent 7 September 2010
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Limitation Act 2010.

2 Commencement

This Act comes into force on 1 January 2011.

Part 1

Preliminary provisions

3 Purpose of this Act

The purpose of this Act is to encourage claimants to make claims for monetary or other relief without undue delay by providing defendants with defences to stale claims.

4 Interpretation

In this Act, unless the context otherwise requires,—

ancillary claim means a claim that relates to, or is connected with, the act or omission on which another claim (the **original claim**) is based, and is—

- (a) a claim that arises from, or results in, the addition of 1 or more parties to the original claim; or
- (b) a counterclaim; or
- (c) a claim by way of set-off; or
- (d) a claim that is added to, or substituted for, the original claim; or
- (e) a claim made by way of a third party, fourth party, or subsequent party procedure; or

(f) any other claim that is ancillary to the original claim

arbitration has the meaning given to it by section 39(1)

civil penalty means a sum that is recoverable under an enactment and is, or is by way of, a forfeiture or a penalty, but does not include the following to which a person is liable on conviction for an offence:

(a) a fine:

(b) an amount of compensation, reparation, or restitution

civil proceeding means a proceeding that is neither a criminal proceeding nor a disciplinary proceeding

claim means a claim (whether original or ancillary)—

(a) that may be made in a court or tribunal (other than in a criminal or disciplinary proceeding); or

(b) the dispute relating to which may be referred to arbitration

claim to recover land includes a claim to exercise a right to enter into possession of the land

claimant means the person on whose behalf a claim is made (whether by that person or another person), but does not include an individual (in section 53 called the **deceased**) who has died

country includes a state, territory, province, or other part of a country

date of the act or omission on which the claim is based, for a claim of a kind specified in a paragraph of section 5(1), has the meaning given to it by that paragraph

date on which the claim is filed has the meaning given to it by section 6

defendant means a person against whom a claim is made

Disputes Tribunal means—

(a) the Disputes Tribunal established under section 4 of the Disputes Tribunal Act 1988; or

(b) a Motor Vehicle Disputes Tribunal exercising under section 89(1)(b)(iii) or (iv) of the Motor Vehicle Sales Act 2003 the Disputes Tribunal's jurisdiction under—

(i) section 39 or 47 of the Consumer Guarantees Act 1993; or

(ii) sections 43 to 48 of the Contract and Commercial Law Act 2017

foreign country means a country other than New Zealand

fraud includes—

(a) dishonest or fraudulent concealment; and

(b) fraudulent breach of trust

goods means any tangible personal property (for example, computer software) other than money

land—

- (a) includes an interest under a lease of real property; but
- (b) does not include an easement or a *profit à prendre*

late knowledge period has the meaning given to it by section 11(3)(a)

limitation enactments has the meaning given to it by section 39(1)

limitation law means—

- (a) a law that limits or excludes liability or bars a right to bring civil proceedings or to have a matter determined by arbitration by reference to the time when civil proceedings or an arbitration in respect of the matter are commenced; or
- (b) a law that provides that civil proceedings in respect of a matter may be commenced within an indefinite period

longstop period has the meaning given to it by section 11(3)(b)

make means to bring a claim by—

- (a) making it in a civil proceeding commenced in a court or tribunal in accordance with rules of court or other laws relating to the claim; or
- (b) referring the dispute relating to the claim to arbitration

Maori customary land means Maori customary land within the meaning of Te Ture Whenua Maori Act 1993

money means currency that is or has been authorised as a medium of exchange by the law of New Zealand or of any other country

money claim has the meaning given to it by section 12

mortgage includes a charge or an encumbrance

Part 3 period, for a claim that is not a money claim, means the period prescribed for the claim by Part 3

personal property—

- (a) includes goods; but
- (b) does not include money or an interest under a lease of real property

primary period has the meaning given to it by section 11(1)

specified court or tribunal means—

- (a) the High Court, the District Court, the Family Court, or a Disputes Tribunal; or
- (b) the Employment Court, the Environment Court, or the Maori Land Court

start date, in relation to a period prescribed by this Act for a claim, means the date—adjusted in accordance with all relevant exceptions and modifications (if any) set out in this Act—on or after which the period starts

trust includes—

- (a) an express trust under the Trusts Act 2019; and
- (b) a trust that is not an express trust but that is created by or under an enactment; and
- (c) a trust that is not an express trust but that is recognised at common law or in equity as being a trust; and
- (d) a resulting trust; and
- (e) a constructive trust

trustee means a person who is a trustee of a trust.

Compare: 1950 No 65 ss 2(1), (5), (6), 4(5), 7A, 28A, 30

Section 4 **Disputes Tribunal** paragraph (a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 4 **Disputes Tribunal** paragraph (b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 4 **Disputes Tribunal** paragraph (b)(ii): replaced, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Section 4 **specified court or tribunal** paragraph (a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 4 **trust**: inserted, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 4 **trust** and **trustee**: repealed, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 4 **trustee**: inserted, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

5 Date of act or omission on which claim is based defined for certain claims

- (1) For a claim of a kind specified in one of the following paragraphs, the **date of the act or omission on which the claim is based** means the date specified in that paragraph:
 - (a) a claim based on an obligation not enforceable until a demand is made—the date on which the defendant defaulted after demand was made; and
 - (b) a claim in respect of an infringement after publication of the complete specification and before sealing of a patent sealed under the Patents Act 1953—the date on which the patent was sealed; and
 - (ba) a claim in respect of an infringement after the complete specification becomes open to public inspection and before the patent is granted under the Patents Act 2013—the date on which the patent was granted; and
 - (c) a claim in respect of an infringement (of a registered design or trade mark) in subsection (2)—the date on which the infringement was committed or occurred.
- (2) Subsection (1)(c) applies to—
 - (a) an infringement of a design registered under the Designs Act 1953 and in respect of which proceedings may be taken in accordance with the

proviso to section 7(5) or the proviso to section 21(2) of that Act because the infringement was committed on or after the date on which the certificate of registration is issued; and

- (b) an infringement of a registered trade mark (as defined in section 5(1) of the Trade Marks Act 2002) and in respect of which proceedings may be brought in accordance with section 100(a) or (b) of that Act because the infringement occurred on or after the date specified in whichever of those paragraphs applies.

Section 5(1)(ba): inserted, on 13 September 2014, by section 249 of the Patents Act 2013 (2013 No 68).

6 Date on which claim is filed defined

- (1) For a claim made in a civil proceeding commenced in a specified court or tribunal, the **date on which the claim is filed** means the date on which a statement of claim, or any other initiating document, that contains the claim, is filed in, or lodged with, the specified court or tribunal in accordance with rules of court or other laws relating to the claim.
- (2) For a claim the dispute relating to which is referred to arbitration, the **date on which the claim is filed** means the date on which the request for the dispute to be referred to arbitration (as defined in subsection (3)) was, by or on behalf of a party to the arbitration,—
 - (a) personally served on the defendant; or
 - (b) left at the usual or last known place of residence in New Zealand of the defendant; or
 - (c) sent by registered post to the defendant's usual or last known place of residence in New Zealand; or
 - (d) served on the defendant in accordance with any other applicable law providing for the means of service of the notice; or
 - (e) served on the defendant by a means provided for in the arbitration agreement.
- (3) **Request for the dispute to be referred to arbitration**, in subsection (2), and for a dispute relating to a claim, means a written notice that—
 - (a) requires the other party to appoint, or to agree on the appointment of, an arbitrator for the arbitration of the dispute; or
 - (b) if the arbitration agreement requires the arbitrator to be a person named or designated in, or appointed by a third party under, the agreement, requires the other party to submit the dispute, for arbitration, to the person so named, designated, or appointed.

7 Act binds the Crown

This Act binds the Crown.

Compare: 1950 No 65 ss 32, 33(1)

8 Act does not affect jurisdiction to refuse relief

Nothing in this Act limits or affects any equitable or other jurisdiction to refuse relief, whether on the ground of acquiescence or delay, or on any other ground.

Compare: 1950 No 65 s 31

9 Act may be applied by analogy to equitable claims

Nothing in this Act prevents it from being applied by analogy to a claim in equity to which no defence prescribed by this Act applies.

Compare: 1950 No 65 s 4(9)

10 Defences: application, exceptions, and modifications

Every defence prescribed by this Act—

- (a) applies only to a claim—
 - (i) based on an act or omission after 31 December 2010; and
 - (ii) made in a civil proceeding in a specified court or tribunal, or in an arbitration (*see* section 39); and
- (b) is subject to the exceptions and modifications set out in this Act.

Part 2

Defence to money claims

11 Defence to money claim filed after applicable period

- (1) It is a defence to a money claim if the defendant proves that the date on which the claim is filed is at least 6 years after the date of the act or omission on which the claim is based (the claim's **primary period**).
- (2) However, subsection (3) applies to a money claim instead of subsection (1) (whether or not a defence to the claim has been raised or established under subsection (1)) if—
 - (a) the claimant has late knowledge of the claim, and so the claim has a late knowledge date (*see* section 14); and
 - (b) the claim is made after its primary period.
- (3) It is a defence to a money claim to which this subsection applies if the defendant proves that the date on which the claim is filed is at least—
 - (a) 3 years after the late knowledge date (the claim's **late knowledge period**); or
 - (b) 15 years after the date of the act or omission on which the claim is based (the claim's **longstop period**).

12 Money claim defined

- (1) **Money claim** means a claim for monetary relief at common law, in equity, or under an enactment.
- (2) A claim for monetary relief includes a claim—
 - (a) for money secured by a mortgage; or
 - (b) for, or for arrears of, or for damages in respect of arrears of, interest in respect of a judgment debt; or
 - (c) for monetary relief for a breach of the New Zealand Bill of Rights Act 1990; or
 - (d) to have imposed, or recover, a civil penalty; or
 - (e) to enforce a surety's or other person's obligations under, or to obtain through forfeiture, a bond or recognisance (for example, a bail bond).
- (3) A claim for monetary relief does not include a claim—
 - (a) for damages in respect of any trespass or injury to Maori customary land (*see* section 28); or
 - (b) for an account if, and only insofar as, the claim seeks relief that is not monetary relief (*see* section 32); or
 - (c) for contribution from another tortfeasor or joint obligor (*see* section 34); or
 - (d) on a judgment, or to enforce an arbitral award (*see* sections 35 and 36); or
 - (e) under the Criminal Proceeds (Recovery) Act 2009; or
 - (f) under the Terrorism Suppression Act 2002.

13 Damages as well as, or in substitution for, injunction or specific performance

Nothing in section 11 applies to damages under section 13 of the Senior Courts Act 2016.

Section 13: amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

14 Late knowledge date (when claimant has late knowledge) defined

- (1) A claim's **late knowledge date** is the date (after the close of the start date of the claim's primary period) on which the claimant gained knowledge (or, if earlier, the date on which the claimant ought reasonably to have gained knowledge) of all of the following facts:
 - (a) the fact that the act or omission on which the claim is based had occurred;
 - (b) the fact that the act or omission on which the claim is based was attributable (wholly or in part) to, or involved, the defendant:

- (c) if the defendant's liability or alleged liability is dependent on the claimant suffering damage or loss, the fact that the claimant had suffered damage or loss:
 - (d) if the defendant's liability or alleged liability is dependent on the claimant not having consented to the act or omission on which the claim is based, the fact that the claimant did not consent to that act or omission:
 - (e) if the defendant's liability or alleged liability is dependent on the act or omission on which the claim is based having been induced by fraud or, as the case may be, by a mistaken belief, the fact that the act or omission on which the claim is based is one that was induced by fraud or, as the case may be, by a mistaken belief.
- (2) A claimant does not have late knowledge of a claim unless the claimant proves that, at the close of the start date of the claim's primary period, the claimant neither knew, nor ought reasonably to have known, all of the facts specified in subsection (1)(a) to (e).
- (3) The fact that a claimant did not know (or had not gained knowledge), nor ought reasonably to have known (or to have gained knowledge), of a particular fact may be attributable to causes that are or include fraud or a mistake of fact or law (other than a mistake of law as to the effect of this Act).

Compare: 1950 No 65 s 4(6B), (7)

15 Defamation claims: primary period and late knowledge period each 2 years

For a claim for defamation, "6 years" in section 11(1) and "3 years" in section 11(3)(a) must each be read as "2 years".

Compare: 1950 No 65 s 4(6A), (6B)

16 Special start dates for various money claims

- (1) For the purposes of section 11(1) and (3)(b), the primary and longstop periods of a claim specified in one of the following paragraphs have the start date specified in that paragraph:
- (a) a claim for, or for arrears of, or for damages in respect of arrears of, interest or rent—the date on which the interest, rent, or arrears became payable:
 - (b) a claim for conversion or wrongful detention made in respect of goods that have been the subject of 1 or more earlier instances of conversion or wrongful detention, and made by a person referred to in section 30 as the original claimant—the date of the original or first conversion or (as the case requires) wrongful detention:
 - (c) a claim to recover a principal sum of money secured by a mortgage over property that is or includes a future interest, or a life insurance policy,

that has not matured or been determined—the date on which the interest or policy matures or is determined:

- (d) a claim in respect of a beneficiary’s future interest in a trust—the date on which the beneficiary’s interest in the trust falls into possession:
 - (e) a claim in respect of a beneficiary’s discretionary interest in a trust—the date on which the beneficiary first becomes entitled to trust income or property because of the trustees’ discretion being exercised in the beneficiary’s favour:
 - (f) a claim to, or for a share or interest in, the personal estate (whether under a will or on an intestacy) of an individual who has died—the date on which the right to receive the share or interest accrued:
 - (g) a claim for cancellation of an irregular transaction and for an order under section 207 of the Insolvency Act 2006—the date on which the assignee of the bankrupt, or appointee of the estate of the deceased debtor, was appointed:
 - (h) a claim under section 213 of the Insolvency Act 2006—the date on which the assignee of the bankrupt was appointed:
 - (i) a claim under section 301 of the Companies Act 1993—the date on which the liquidator of the company or overseas company was appointed:
 - (j) a claim under section 54 of the Corporations (Investigation and Management) Act 1989 or section 138 of the Reserve Bank of New Zealand Act 1989—the date on which the corporation or bank was declared to be subject to statutory management.
- (2) When section 301 of the Companies Act 1993 applies, in accordance with section 55 of the Corporations (Investigation and Management) Act 1989 or section 139 of the Reserve Bank of New Zealand Act 1989, to a corporation or a registered bank subject to statutory management, the date in subsection (1)(i) must be read as the date on which the corporation or bank was declared to be subject to statutory management.

Compare: 1950 No 65 ss 2(7)(c), 4(4), 5(1), 19, 20(3), proviso to 21(2), 22

17 Discretion to allow relief for claim of abuse of minor or of gradual process, disease, or infection injury

- (1) This section applies to a claim—
 - (a) of a kind specified in subsection (2) or (4); and
 - (b) made in a civil proceeding commenced in a specified court or tribunal; and
 - (c) against which the defendant could establish, or has established, a defence under this Part.

- (2) Subsection (1)(a) applies to a claim in respect of abuse of the claimant (**A**) when he or she was aged under 18 years, and that is wholly or partly sexual abuse of A by any 1 or more persons, or is wholly non-sexual abuse of A by 1 or more persons who are or include—
 - (a) a person who is, or has at any time been, a parent, step-parent, or legal guardian of A (**B**); or
 - (b) a person who is, or has at any time been, a close relative or close associate of B (**C**).
- (3) **Abuse**, in the expressions “sexual abuse” and “non-sexual abuse” in subsection (2), means physical abuse, psychological abuse, or a combination of both.
- (4) Subsection (1)(a) also applies to a claim in respect of a personal injury—
 - (a) of the claimant (**A**) when he or she was of any age; and
 - (b) caused by a gradual process, disease, or infection.
- (5) **Personal injury**, in subsection (4), means any physical, mental, or physical and mental injury (even if it causes the death), of the claimant.
- (6) The specified court or tribunal may, if it thinks it just to do so on an application made to it for the purpose, order that monetary relief may be granted in respect of the claim as if no defence under this Part applies to it.
- (7) The application for the order may be made before or after the court or tribunal has decided whether the defendant has established a defence under this Part against the claim.

Compare: Limitation Act 1969 s 50E(2) (NSW); Limitation of Actions Act 1958 s 27I(2) (Vic); Limitation Act 1980 s 33 (UK)

18 Matters to be taken into account under section 17

In determining whether to make an order under section 17, the specified court or tribunal must take into account—

- (a) any hardship that would be caused,—
 - (i) if the order were made, to a person who is, or is represented by, the defendant; and
 - (ii) if the order were not made, to A; and
- (b) the length of, and reasons for, the delay on A’s part; and
- (c) any effects or likely effects of the delay on—
 - (i) the defendant’s ability to defend the claim; and
 - (ii) the cogency of the evidence offered, or likely to be offered, by A or the defendant; and
- (d) the defendant’s conduct on and after the date of the act or omission on which the claim is based, including the extent to which the defendant responded to requests for information or inspection that were reasonably

- made by or on behalf of A in order to discover facts that were, or might be, relevant to the claim; and
- (e) the extent to which prompt and reasonable steps were taken by or on behalf of A to make the claim after A became aware that A was entitled to do so; and
 - (f) any steps taken by or on behalf of A to obtain relevant medical, legal, or other expert advice, and the nature of any relevant expert advice received by or on behalf of A; and
 - (g) any other matters it considers relevant.

Part 3

Defences to other claims

Claims in respect of land

19 How Act applies to land

- (1) This Act applies to land, including Crown land, land subject to the Land Transfer Act 2017, and land registered under the Deeds Registration Act 1908.
- (2) However, no provision in Parts 2 and 3, except section 28, applies to Maori customary land.
- (3) In the event of any inconsistency between this Act and the Land Act 1948, the Land Transfer Act 2017 or, as the case may be, section 51 of the Public Works Act 1981, that Act or section prevails.

Compare: 1950 No 65 s 6(2)

Section 19(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 19(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

20 Crown owned minerals unaffected

Nothing in this Act affects any property or title in, right to, or ownership of, any Crown owned minerals (as defined in section 2(1) of the Crown Minerals Act 1991).

Compare: 1950 No 65 s 6(3)

21 Claim to recover land (based on adverse possession)

- (1) It is a defence to a claim to recover land if the defendant proves that the date on which the claim is filed is at least—
 - (a) 60 years after the date on which the claim accrued to the claimant or to some other person through whom the claimant claims, if the claimant is, or is a person claiming through, the Crown; and

- (b) 12 years after the date on which the claim accrued to the claimant or to some other person through whom the claimant claims, if the claimant is not, and is not a person claiming through, the Crown.
- (2) No claim to recover land accrues under this Act unless and until the land is in the possession (in this section called **adverse possession**) of a person in whose favour the period in subsection (1)(a) or (b) can run.
- (3) For the purposes of this section, 1 or more joint tenants or tenants in common of any land can take adverse possession of the land as against the other tenant or tenants.

Compare: 1950 No 65 ss 7, 13

22 When claims accrue: current interests in land

- (1) A claim to recover land is deemed to have accrued on the date of the discontinuance or dispossession if the claimant, or a person through whom the claimant claims,—
 - (a) has been in possession of the land; and
 - (b) has, while entitled to the land, discontinued possession, or been dispossessed, of the land.
- (2) A claim to recover land is deemed to have accrued on the date of the deceased's death if the land is (whether under a will or on an intestacy) land of an individual who has died (the **deceased**), and the deceased was—
 - (a) in possession of the land on the date he or she died; or
 - (b) in the case of a rentcharge created by will or taking effect on the deceased's death, in possession of the land charged, and was the last person entitled to the land to be in possession of that land.

Compare: 1950 No 65 s 8

23 When claims accrue: future interests in land

- (1) A claim to recover land is, unless this section provides otherwise, deemed to have accrued on the date on which the estate or interest claimed fell into possession (by the determination of the preceding estate or interest or otherwise) if—
 - (a) that estate or interest was one in reversion or remainder, or some other future estate or interest; and
 - (b) no person has taken possession of the land by virtue of that estate or interest.
- (2) If the person entitled to the preceding estate or interest was not in possession of the land on the date of the determination of that estate or interest, no relief may be granted in respect of a claim made by the person entitled to the succeeding estate or interest—

- (a) after 60 years from the date on which the claim accrued to the Crown if the Crown is entitled to the succeeding estate or interest; or
- (b) in any other case, after whichever expires last of the following periods:
 - (i) 12 years from the date on which the claim accrued to the person entitled to the preceding estate or interest:
 - (ii) 6 years from the date on which the claim accrued to the person entitled to the succeeding estate or interest.
- (3) Subsections (1) and (2) apply if the preceding estate or interest is a leasehold interest if, and only if, that estate or interest is determinable with life or lives, or with the end of a determinable life interest.
- (4) If a person (A) is entitled to an estate or interest in land in possession and, while so entitled, is also entitled to a future estate or interest in that land, and this Act prevents relief from being granted in respect of A's claim to recover the estate or interest in possession, no relief may be granted in respect of a claim made by A, or by any person claiming through A, in respect of the future estate or interest, unless in the meantime possession of the land has been recovered by a person entitled to an intermediate estate or interest.

Compare: 1950 No 65 s 9

24 When claims accrue: land held on trust

- (1) This Act applies to equitable interests in land, including interests in the proceeds of the sale of land held on trust for sale, in the same way as it applies to legal estates.
- (2) Accordingly a claim to recover the land is, for the purposes only of this Act, deemed to accrue to a person entitled in possession to an equitable interest of that kind in the same way and circumstances and on the same date as it would accrue if the person's interest were a legal estate in the land.
- (3) If land is held by a trustee (including one who is also tenant for life) on trust, including a trust for sale, and the period in section 21(1)(a) or (b) for the trustee to make a claim to recover the land has expired, the estate of the trustee is extinguished only if, and when, the claim to recover the land of every person entitled to a beneficial interest in the land or in the proceeds of sale has accrued and may be the subject of a defence under section 21.
- (4) If land held on trust for sale is in the possession of a person entitled to a beneficial interest in the land or in the proceeds of sale, not being a person solely and absolutely entitled to the land or the proceeds, no claim to recover the land is for the purposes of this Act deemed to accrue during that possession to a person in whom the land is vested as tenant for life, person having the powers of a tenant for life, or trustee, or to any person entitled to a beneficial interest in the land or the proceeds.

Compare: 1950 No 65 s 10

25 Restriction on redemption of mortgaged land

- (1) This section applies to a mortgage of land—
 - (a) only if none of that land is subject to the Land Transfer Act 2017; and
 - (b) only if, and after, the mortgagee has been in possession of all or any of that land for 12 years.
- (2) After the mortgage has become one to which this section applies, no court or tribunal may grant relief in respect of a claim—
 - (a) to redeem the land of which the mortgagee has been in possession for at least 12 years; and
 - (b) made by, or by a person claiming through, the mortgagor.
- (3) This section overrides anything to the contrary in section 97 of the Property Law Act 2007 or in any other enactment.

Compare: 1950 No 65 s 16

Section 25(1)(a): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

26 No claims preserved by formal entry or continual claim

For the purposes of this Act, no person is deemed to have been in possession of land by reason only of having made a formal entry on that land, and no continual or other claim upon or near land preserves a claim to recover that land.

Compare: 1950 No 65 s 17

27 Extinguishment of owner's title after specified period

- (1) A person's title to land is extinguished if the period in section 21(1)(a) or (b) ends before the person makes a claim to recover the land.
- (2) This section overrides section 43.

Compare: 1950 No 65 s 18

28 Claims relating to Maori customary land

- (1) It is a defence to a claim to recover Maori customary land if the defendant—
 - (a) is, or is a person claiming through, the Crown; and
 - (b) proves that the date on which the claim is filed is at least 12 years after the date on which the claim accrued to the claimant or to some other person through whom the claimant claims.
- (2) It is a defence to a claim for damages or an injunction in respect of any trespass or injury to Maori customary land if the defendant—
 - (a) is, or is a person claiming through, the Crown; and
 - (b) proves that the date on which the claim is filed is at least 6 years after the date on which the claim accrued.

- (3) For the purposes of this section, the date on which the claim accrued is the date, after 31 December 2010, on which the wrong occurred.
- (4) Nothing in this Act limits or affects section 344 of Te Ture Whenua Maori Act 1993, or any jurisdiction—
 - (a) to investigate and ascertain title to Maori customary land, or to determine whether any parcel of land has the status of Maori customary land; and
 - (b) that is conferred on the Maori Land Court or the Maori Appellate Court by any provision of Te Ture Whenua Maori Act 1993 or of any other Act.
- (5) This section is the only provision of Parts 2 and 3 that applies to Maori customary land.

Compare: 1950 No 65 ss 6(1), (1A), (2), 7A

*Claims in respect of personal property,
accounts, wills, contribution, and
judgments or awards*

29 Claim to recover converted or wrongly detained goods

- (1) It is a defence to a conversion or detinue claim to recover goods if the defendant proves that the date on which the claim is filed is at least 6 years after the date of the act or omission on which the claim is based.
- (2) Despite subsection (1), the 6 years start on the date of the original or first conversion or (as the case requires) wrongful detention if the conversion or detinue claim to recover goods—
 - (a) is a further conversion or wrongful detention claim (that is, one made in respect of goods that have been the subject of 1 or more earlier instances of conversion or wrongful detention); and
 - (b) is made by a person referred to in section 30 as the original claimant.
- (3) This section does not apply to a conversion or detinue claim made by or on behalf of a beneficiary to recover goods held on trust (*see* section 31).

Compare: 1950 No 65 s 5(1), (2)

30 Extinguishment of title of owner of converted goods

- (1) This section applies to goods if—
 - (a) a claim (the **original claim**) accrues to a person (the **original claimant**) in respect of the conversion or wrongful detention of the goods; and
 - (b) before the original claimant (whether by making the original claim or taking other steps) recovers possession of the goods, a further conversion or wrongful detention of the goods occurs.

- (2) The original claimant's title to the goods is extinguished if the period for the original claim ends before the original claimant makes the original claim.
- (3) This section overrides section 43.
- (4) However, this section does not limit or affect—
 - (a) section 152(1) of the Contract and Commercial Law Act 2017 (which ensures that, if goods have been stolen and the offender is convicted, the property in the goods that were stolen reverts in the person who was the owner of the goods, or that person's personal representative); or
 - (b) monetary relief in respect of a claim for conversion or wrongful detention when the granting of that relief is not prevented by section 43(a).

Compare: 1950 No 65 s 5(2), (3)

Section 30(4)(a): replaced, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

31 Claim to recover personal property held on trust

- (1) It is a defence to a claim made by or on behalf of a beneficiary to recover personal property held on trust if the defendant proves that the date on which the claim is filed is at least 6 years after,—
 - (a) if the claim is to recover personal property in the estate of an individual who has died, or an interest or share in property of that kind, the date on which the claimant's right to receive the interest or share in the property accrued; and
 - (b) if the claim is to recover personal property otherwise held on trust, the date on which the cause of action accrued.
- (2) A claim to which subsection (1) applies has both a late knowledge period and a longstop period, and sections 11(3)(a) and (b) and 14 apply to it,—
 - (a) as if it were a money claim; and
 - (b) as if the period in subsection (1) were its primary period.

Compare: 1950 No 65 ss 21(2), 22

32 Claim for account

- (1) It is a defence to a claim for an account (whether at common law, in equity, or under an enactment) if the defendant proves that the date on which the claim is filed is at least 6 years after the date the matter arose in respect of which the account is sought.
- (2) A claim to which subsection (1) applies has both a late knowledge period and a longstop period, and sections 11(3)(a) and (b) and 14 apply to it,—
 - (a) as if it were a money claim; and
 - (b) as if the period in subsection (1) were its primary period.

Compare: 1950 No 65 ss 2(7)(a), 4(2), (9)

33 Claim to have will declared invalid on specified grounds

- (1) This section applies to a will in respect of which probate has been granted or in respect of which letters of administration with the will annexed have been granted.
- (2) It is a defence to a claim seeking to have the will declared or adjudicated to be invalid on the ground of the will-maker's lack of testamentary capacity, or on the ground of undue influence, if the defendant proves that the date on which the claim is filed is at least 6 years after the date of the grant of probate or letters of administration.

Compare: 1950 No 65 s 4(6)

34 Claim for contribution from another tortfeasor or joint obligor

- (1) This section applies to a claim under section 17 of the Law Reform Act 1936—
 - (a) by a tortfeasor (**A**) liable in tort to another person (**B**) in respect of damage; and
 - (b) for contribution from another tortfeasor (**C**) who is, or would if sued in time by B have been, liable in tort to B (whether jointly with A or otherwise) in respect of that damage.
- (2) This section also applies to a claim—
 - (a) made by a person (**A**) who is liable (otherwise than in tort) to another person (**B**) in respect of a matter; and
 - (b) for contribution from a third person (**C**) who is, or would if sued in time by B have been, liable (otherwise than in tort) to B (whether jointly with A or otherwise) in a coordinate way in respect of that matter.
- (3) C is liable to B in a coordinate way for the purposes of subsection (2)(b) if, and only if,—
 - (a) a common obligation underlies C's liability to B and A's liability to B; and
 - (b) payment or other discharge of C's liability to B would have the effect of relieving A, in whole or in part, from A's liability to B.
- (4) It is a defence to A's claim for contribution from C if C proves that the date on which the claim is filed is at least 2 years after the date on which A's liability to B is quantified by an agreement, award, or judgment.

Compare: 1950 No 65 s 14; Limitation Act 1980 s 30 (UK)

35 Claim to enforce judgment by action

- (1) It is a defence to a claim to enforce a judgment by action (that is, by a civil action or proceeding to enforce the judgment by action and commenced or started in a specified court or tribunal) if the defendant proves that the date on which the claim is filed is at least 6 years after the date on which the judgment

became enforceable (by action or otherwise) in the country in which it was obtained.

- (2) **Judgment**, in this section, includes a judgment that is—
 - (a) an arbitral award entered as a judgment; or
 - (b) a judgment obtained in a foreign country.
- (3) A judgment that is an arbitral award entered as a judgment is treated as having become enforceable in the country in which it was obtained on the date on which the award became enforceable by action in New Zealand.
- (4) Nothing in this section applies to the following:
 - (a) enforcement of the judgment using enforcement processes in rules of court or other laws;
 - (b) an application—
 - (i) for a debtor to be adjudicated bankrupt, or to put a company into liquidation; and
 - (ii) based wholly or in part on the judgment.
- (5) If a defence under this section has been or could be established against a claim to enforce a judgment by action the specified court or tribunal may, if it thinks it just to do so on an application made to it for the purpose, order that relief may be granted in respect of the claim as if no defence under this Part applies to it.
- (6) The application for the order must be made before the specified court or tribunal has decided whether the defendant has established a defence under this Part against the claim.

Compare: 1950 No 65 ss 2(7)(b), 4(4); Limitation Act 1980 s 24(1) (UK)

36 Claim to enforce arbitral award by action or for entry of arbitral award as judgment

- (1) This section applies to a claim—
 - (a) to enforce by action (that is, by a civil action or proceeding to enforce the award by action and commenced or started in a specified court or tribunal) an arbitral award that is enforceable by action in New Zealand; or
 - (b) for entry of an arbitral award as a judgment of a specified court or tribunal.
- (2) Nothing in this section applies to enforcement of a judgment that is an arbitral award entered as a judgment.
- (3) It is a defence to the claim if the defendant proves that the date on which the claim is filed is at least 6 years after the date on which the award became enforceable by action in New Zealand.
- (4) If a defence under this section has been or could be established against the claim the specified court or tribunal may, if it thinks it just to do so on an appli-

cation made to it for the purpose, order that relief may be granted in respect of the claim as if no defence under this Part applies to it.

- (5) The application for the order must be made before the specified court or tribunal has decided whether the defendant has established a defence under this Part against the claim.

Compare: 1950 No 65 ss 2(1), 4(1)(c)

Claims under contract enactment

Heading: replaced, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

37 Claim for non-monetary and non-declaratory relief

- (1) This section applies to a claim for relief (other than any form of monetary relief or declaratory relief) under Part 2 of the Contract and Commercial Law Act 2017.
- (2) It is a defence to the claim if the defendant proves that the date on which the claim is filed is at least 6 years after the date of the act or omission on which the claim is based.
- (3) The claim has both a late knowledge period and a longstop period, and sections 11(3)(a) and (b), and 14 apply to it,—
 - (a) as if it were a money claim; and
 - (b) as if the period in subsection (2) were its primary period.

Section 37(1): replaced, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Special start dates

38 Special start dates for various other claims

- (1) For the purposes of sections 29 to 32, a period for a claim specified in one of the following paragraphs has the start date specified in that paragraph:
 - (a) a claim in respect of a beneficiary's future interest in a trust—the date on which the beneficiary's interest in the trust falls into possession;
 - (b) a claim in respect of a beneficiary's discretionary interest in a trust—the date on which the beneficiary first becomes entitled to trust income or property because of the trustees' discretion being exercised in the beneficiary's favour;
 - (c) a claim for cancellation of an irregular transaction and for an order under section 207 of the Insolvency Act 2006—the date on which the assignee of the bankrupt, or appointee of the estate of the deceased debtor, was appointed;

- (d) a claim under section 301 of the Companies Act 1993—the date on which the liquidator of the company or overseas company was appointed:
 - (e) a claim under section 54 of the Corporations (Investigation and Management) Act 1989 or section 138 of the Reserve Bank of New Zealand Act 1989—the date on which the corporation or bank was declared to be subject to statutory management.
- (2) When section 301 of the Companies Act 1993 applies, in accordance with section 55 of the Corporations (Investigation and Management) Act 1989 or section 139 of the Reserve Bank of New Zealand Act 1989, to a corporation or a registered bank subject to statutory management, the date in subsection (1)(d) must be read as the date on which the corporation or bank was declared to be subject to statutory management.

Compare: 1950 No 65 s 5(1), proviso to s 21(2)

Part 4 General provisions

Arbitrations, special defences, and contracting out

39 Application of limitation enactments to arbitrations

- (1) **Arbitration** means an arbitration under an arbitration agreement or under an enactment, and **limitation enactments** means this Act and any other enactment relating to the limitation of claims.
- (2) Limitation enactments apply to claims made in arbitrations as they apply to claims made in a civil proceeding commenced in a specified court or tribunal.
- (3) An arbitration must, for the purposes of a limitation enactment, be treated as being commenced in the same manner as provided in Article 21 of Schedule 1 of the Arbitration Act 1996.
- (4) If the High Court orders that an award be set aside, it may also order that the period between the commencement of the arbitration and the date of the setting aside order must be excluded in computing the time prescribed by a limitation enactment for the commencement of civil proceedings (including arbitration) with respect to the dispute referred.

Compare: 1950 No 65 s 29

40 Other enactments may displace or affect defences

- (1) A defence under Part 2 or 3 does not apply to a claim if an enactment other than this Act—
- (a) prescribes for the claim a limitation period or any other kind of limitation defence; or

- (b) provides for the determination or fixing of the time before which, or period within which, the claim must be made.
- (2) However, this section does not limit or affect the operation of enactments other than this Act that—
 - (a) do what is specified in subsection (1) but apply to a claim not instead of, but as well as, this Act; or
 - (b) alter, extend, limit, or prevent this Act's application or operation.

Compare: 1950 No 65 s 33(1)

41 Contracting out of defences

No provision of this Act makes ineffective, or prevents the enforcement of, an agreement that conflicts or is inconsistent with, or that modifies or prevents some or all of the operation or effects of, a defence under this Act.

Pleading, and effect of establishing, defences

42 Defendant not excused from pleading defence

No provision of this Act excuses the defendant from complying with a rule of court or other law requiring the defendant to plead a defence under this Act before trying to establish it.

43 Established defence bars relief, not underlying right

If the defendant establishes a defence under this Act against a claim, and no order under section 17, 35(5), 36(4), or 50 applies to the claim,—

- (a) a court or tribunal must not grant the relief sought by the claim; but
- (b) the establishment by the defendant of the defence does not extinguish, as against the defendant or any other person, any entitlement, interest, right, or title of the claimant on which the claim is based.

Exceptions or modifications to periods and start dates

44 Minority

If the claimant proves that, at the close of the start date of a claim's primary period, longstop period, or Part 3 period the claimant was younger than 18 years old, the period does not start to run until the day after the date on which the claimant becomes 18 years of age.

45 Incapacity

- (1) This section applies to a claimant who proves either or both of the following:
 - (a) that the claimant was incapacitated at the close of the start date of a claim's primary period, longstop period, or Part 3 period:
 - (b) that the claimant became incapacitated during a claim's primary period, longstop period, or Part 3 period.

- (2) If this section applies to a claimant, the specified court or tribunal may, if it thinks it just to do so on an application made to it (before or after the end of the period) for the purpose, order that a claim's primary period, longstop period, or Part 3 period is extended to the close of a date stated in the order.
- (3) In determining whether to make an order under this section, the specified court or tribunal must take into account—
 - (a) whether, while the claimant was incapacitated, a litigation guardian or other authorised representative managed the claimant's affairs with respect to the act or omission on which the claim is based; and
 - (b) any steps taken by the litigation guardian or other authorised representative to manage those affairs; and
 - (c) any effects or likely effects of the delay on—
 - (i) the defendant's ability to defend the claim; and
 - (ii) the cogency of the evidence offered, or likely to be offered, by the claimant or the defendant; and
 - (d) the defendant's conduct on and after the date of the act or omission on which the claim is based, including the extent to which the defendant responded to requests for information or inspection that were reasonably made by or on behalf of the claimant in order to discover facts that were, or might be, relevant to the claim; and
 - (e) the extent to which prompt and reasonable steps were taken by or on behalf of the claimant to make the claim after the claimant became aware that the claimant was entitled to do so; and
 - (f) any steps taken by or on behalf of the claimant to obtain relevant medical, legal, or other expert advice, and the nature of any relevant expert advice received by or on behalf of the claimant; and
 - (g) any other matters it considers relevant.

46 Incapacitated and related terms defined

In section 45 and this section,—

incapacitated means that a claimant or a personal representative is not capable of understanding the issues on which his or her decision would be required as a litigant conducting proceedings with respect to the act or omission on which the claim is based, or is unable to give sufficient instructions to issue, defend, or compromise proceedings of that kind, because of all or any of the following:

- (a) temporary or permanent physical, intellectual, or mental impairment;
- (b) lawful or unlawful detention;
- (c) a situation that is, or circumstances that arise from, war, another similar emergency, or a state of emergency declared under the Civil Defence Emergency Management Act 2002

intellectual or mental impairment means a clinically recognisable intellectual or mental impairment, whether or not it is or includes—

- (a) an intellectual disability as defined in section 7 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003; or
- (b) a mental disorder as defined in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992

personal representative means an executor, administrator, or trustee of the estate of an individual who has died.

47 Acknowledgment or part payment

- (1) This section applies if the claimant proves that, after the start date of a claim's primary period, longstop period, or Part 3 period, the defendant—
 - (a) acknowledged to the claimant in writing a liability to, or the right or title of, the claimant; or
 - (b) made a payment to the claimant in respect of a liability to, or the right or title of, the claimant.
- (2) If this section applies, the claimant is deemed for the purposes only of this Act to have a fresh claim on the day after the date, or the latest of the dates, on which an acknowledgment or part payment was given or made.
- (3) An acknowledgment or part payment of the kind specified in subsection (1)—
 - (a) is binding on the defendant's successors; and
 - (b) may be given or made by the defendant or an agent of the defendant and to the claimant or an agent of the claimant.
- (4) Payment or part payment of interest by the defendant must be treated for the purposes of this section as an acknowledgment by the defendant to the claimant in writing of the defendant's liability to pay the claimant both that interest and the principal in respect of which it is paid.

Compare: 1950 No 65 ss 25–27

48 Fraud

- (1) A claim's longstop period or Part 3 period does not apply to the claim if the claimant proves that, because of fraud by or on behalf of the defendant, at the close of the start date of that period the claimant neither knew nor ought reasonably to have known all or any of the following facts:
 - (a) the fact that the act or omission on which the claim is based had occurred;
 - (b) the fact that the act or omission on which the claim is based was attributable (wholly or in part) to, or involved, the defendant;
 - (c) if the defendant's liability or alleged liability is dependent on the claimant suffering damage or loss, the fact that the claimant had suffered damage or loss:

- (d) if the defendant's liability or alleged liability is dependent on the claimant not having consented to the act or omission on which the claim is based, the fact that the claimant did not consent to that act or omission:
 - (e) if the defendant's liability or alleged liability is dependent on the act or omission on which the claim is based having been induced by fraud or, as the case may be, by a mistaken belief, the fact that the act or omission on which the claim is based is one that was induced by fraud or, as the case may be, by a mistaken belief.
- (2) It is a defence to a claim whose Part 3 period is disapplied by subsection (1), and that does not have a late knowledge period, if the defendant proves that the date on which the claim is filed is at least 3 years after the date on which the claimant gained knowledge (or, if earlier, the date on which the claimant ought reasonably to have gained knowledge) of all of the facts specified in subsection (1)(a) to (e).
 - (3) The fact that a claimant did not know (or had not gained knowledge), nor ought reasonably to have known (or to have gained knowledge), of a particular fact may be attributable to causes that are or include fraud or a mistake of fact or law (other than a mistake of law as to the effect of this Act).
 - (4) Sections 44 to 47 apply to the 3-year period prescribed for a claim by subsection (2) of this section as if that period were a Part 3 period.

Compare: 1950 No 65 ss 4(6B), (7), 21(1)(a), 28

49 Trust property possessed or converted by trustee

- (1) A claim's longstop period or Part 3 period does not apply to the claim if it is one by a beneficiary of a trust to recover from the trustee either or both of the following:
 - (a) trust property, the proceeds of trust property, or both in the trustee's possession:
 - (b) trust property, the proceeds of trust property, or both previously received by the trustee and converted to the trustee's use.
- (2) It is a defence to a claim whose Part 3 period is disapplied by subsection (1), and that does not have a late knowledge period, if the defendant proves that the date on which the claim is filed is at least 3 years after the date on which the claimant gained knowledge (or, if earlier, the date on which the claimant ought reasonably to have gained knowledge) of the trustee's breach of the trust.
- (3) Sections 44 to 47 apply to the 3-year period prescribed for a claim by subsection (2) of this section as if that period were a Part 3 period.

Compare: 1950 No 65 s 21(1)(b)

*Ancillary claims***50 Discretion to allow relief for ancillary claim when allowed for original claim**

- (1) This section applies to an ancillary claim made in a civil proceeding commenced in a specified court or tribunal if, and only if,—
 - (a) relief may be granted in respect of the original claim, because no defence under Part 2 or 3 has been or could be established against it, or because of an order under section 17, 35(5), or 36(4); but
 - (b) relief cannot be granted in respect of the ancillary claim because a defence under Part 2 or 3 has been or could be established against it, and because no order under section 17, 35(5), or 36(4) allows a court or tribunal to grant monetary relief in respect of it.
- (2) The specified court or tribunal may, if it thinks it just to do so on an application made to it for the purpose, order that relief may be granted in respect of the ancillary claim as if no defence under Part 2 or 3 applies to it.
- (3) The application for the order must be made before the specified court or tribunal has decided whether the defendant has established a defence under Part 2 or 3 against the ancillary claim.

*Interest in respect of judgment debts***51 Recovery restricted to 6 years from date interest due**

No arrears of interest in respect of a judgment debt may be recovered after 6 years from the date on which the interest became due.

Compare: 1950 No 65 s 4(4); Limitation Act 1980 s 24(2) (UK)

*Purchasers, deceased estates, and trust beneficiaries***52 Protection of title of bona fide purchasers for value**

No provision of this Act operates, or may be applied, to the detriment of the title of a bona fide purchaser for value.

Compare: 1950 No 65 s 28(d), (e)

53 Personal representative making or defending claim on behalf of deceased's estate

- (1) **Personal representative**, in this section and for an individual who has died (the **deceased**), means a person who is the executor, administrator, or trustee of, and is making or defending a claim on behalf of, the deceased's estate.
- (2) A personal representative may take advantage of 1 or more exceptions or modifications set out in this Act that would have been available to the deceased, except that a period that under section 44 does not start to run because of the claimant's minority is treated as starting at the time of the deceased's death.

- (3) A personal representative may take advantage of any late knowledge period that the deceased could have sought to use had he or she not died and, if the personal representative does so, section 14 applies as if facts that the claimant knew, or ought to have known, include any facts that the personal representative gained knowledge of, or ought to have gained knowledge of, after the time of the deceased's death.
- (4) Section 45 applies to any incapacity of the personal representative after the time of the deceased's death in the same way as it applies to any incapacity of the deceased before that time.
- (5) A personal representative may take advantage of any discretion in section 17, 35, 36, or 50 that the deceased could have sought to use had he or she not died.

54 Trust beneficiaries cannot derive benefit indirectly

No beneficiary of a trust (**A**) as against whom there would under this Act be an effective defence may derive any greater or other benefit from a judgment or order obtained by any other beneficiary of the trust (**B**) than A could have obtained if—

- (a) A had made himself, herself, or itself a claim that is the same in substance as the claim made by B; and
- (b) this Act had been pleaded in defence to the claim made by A.

Compare: 1950 No 65 s 21(3)

Application of limitation law of foreign countries

55 How limitation law of foreign countries applied in civil proceedings and arbitrations

- (1) This section applies to a civil proceeding before a New Zealand court or tribunal, or to an arbitration, whenever the substantive law of a foreign country is to be applied in that proceeding or arbitration.
- (2) The limitation law of that foreign country is part of the substantive law of that country and must be applied accordingly in that proceeding or arbitration.
- (3) A New Zealand court or tribunal or arbitrator exercising, under subsection (2), a discretion under the limitation law of a foreign country must, so far as practicable, exercise it in the manner in which it is exercised in that foreign country.
- (4) If, under subsection (2), the limitation law of a foreign country must be applied in a proceeding or arbitration, the limitation law of New Zealand (other than this section) must not be applied in that proceeding or arbitration.

- (5) Subsection (4) does not apply insofar as the matter being determined in that proceeding or arbitration is one in the determination of which both the law of New Zealand and the law of a foreign country fall to be taken into account.

Compare: 1950 No 65 ss 28B, 28C; Choice of Law (Limitation Periods) Act 1993 ss 5, 6 (NSW); Foreign Limitation Periods Act 1984 s 1(1)(b), (2) (UK)

56 Public policy exception for limitation law of foreign countries other than Australia

- (1) Section 55 does not apply to the extent that its application would conflict (whether under subsection (2) or otherwise) with public policy.
- (2) A conflict with public policy exists for the purposes of subsection (1) when, and insofar as, the application of section 55 would cause undue hardship to a person who is, or might be made, a party to the proceeding or arbitration.
- (3) Nothing in this section applies in respect of any limitation law that is, or has been, in force in Australia.

Compare: Foreign Limitation Periods Act 1984 s 2(1), (2) (UK)

Repeal, consequential amendments, and saving

57 Limitation Act 1950 repealed

The Limitation Act 1950 (1950 No 65) is repealed—

- (a) immediately after it is amended by sections 61 and 62; and
- (b) subject to the saving in section 59.

58 Consequential amendments

The enactments specified in the Schedule are amended in the manner indicated in that schedule.

59 Actions based on acts or omissions before 1 January 2011

- (1) This section applies to an action, cause of action, or right of action—
- (a) based on an act or omission before 1 January 2011; and
- (b) to which the Limitation Act 1950 applied immediately before its repeal.
- (2) The action, cause of action, or right of action must, despite the repeal of the Limitation Act 1950 and unless the parties agree otherwise, be dealt with or continue to be dealt with in accordance with the Limitation Act 1950 as in force at the time of its repeal.
- (3) Nothing in this section prevents any provision of the Limitation Act 1950 as in force at the time of its repeal from being applied, after 31 December 2010, and by analogy, to any claim for equitable relief—
- (a) based on an act or omission before 1 January 2011; and
- (b) to which the Limitation Act 1950 immediately before its repeal did not apply directly.

Amendments relating to actions based on acts or omissions before 1 January 2011

60 Amendments to Limitation Act 1950

Sections 61 and 62 amend the Limitation Act 1950.

61 New section 2A inserted

The following section is inserted after section 2:

2A Act continues to apply despite its repeal to actions based on acts or omissions before 1 January 2011

- (1) This section applies to an action, cause of action, or right of action—
 - (a) based on an act or omission before 1 January 2011; and
 - (b) to which this Act applied immediately before its repeal by section 57 of the Limitation Act 2010.
- (2) Section 59 of the Limitation Act 2010 requires the action, cause of action, or right of action, despite the repeal of this Act and unless the parties agree otherwise, to be dealt with or continue to be dealt with under this Act as in force at the time of its repeal.
- (3) Nothing in section 59 of the Limitation Act 2010 prevents any provision of this Act as in force at the time of its repeal from being applied, after 31 December 2010, and by analogy, to any claim for equitable relief—
 - (a) based on an act or omission before 1 January 2011; and
 - (b) to which this Act immediately before its repeal did not apply directly.
- (4) Nothing in this Act as in force at the time of its repeal applies to an action, cause of action, or right of action based on an act or omission after 31 December 2010.

62 New heading and sections 23A to 23D

The following heading and sections are inserted above the heading to Part 2:

Longstop period of limitation

23A Actions to which longstop period of limitation applies

- (1) Section 23B applies to an action based on an act or omission before 1 January 2011 and to which this Act applied immediately before its repeal by section 57 of the Limitation Act 2010 so long as that action is neither—
 - (a) an action to which section 7(1) or 21(1)(a) or (b) applies; nor
 - (b) an action commenced before 1 January 2011.
- (2) Sections 23B to 23D also apply, in accordance with section 29, to arbitrations.

23B Longstop period of limitation

- (1) No action to which this section applies may be brought after the last to end of the following periods:
 - (a) 5 years ending on the close of 31 December 2015;
 - (b) 15 years after the date of the act or omission on which the action is based.
- (2) That period of limitation applies to the action in addition to every other period of limitation that applies to the action.
- (3) This section is, in accordance with section 3, subject to Part 2, which provides for the extension of that period of limitation in the case of disability, acknowledgment, part payment, fraud, and mistake.

Compare: 1986 No 5 ss 80(5), 82(2); 1991 No 150 s 91; 2004 No 72 s 393

23C Discretion to allow relief for action of abuse of infant or of gradual process, disease, or infection injury

- (1) This section applies to an action—
 - (a) of a kind specified in subsection (2) or (4); and
 - (b) that the defendant could establish, or has established, is an action to which the longstop period of limitation in section 23B applies; and
 - (c) that is not an action that, at the close of 31 December 2010,—
 - (i) was otherwise barred because of an applicable period of limitation; and
 - (ii) had not been revived by an acknowledgment or part payment.
- (2) Subsection (1)(a) applies to an action in respect of abuse of the plaintiff (A) when he or she was under a disability because he or she was an infant, and that is wholly or partly sexual abuse of A by any 1 or more persons, or is wholly non-sexual abuse of A by 1 or more persons who are or include—
 - (a) a person who is, or has at any time been, a parent, step-parent, or legal guardian of A (B); or
 - (b) a person who is, or has at any time been, a close relative or close associate of B (C).
- (3) **Abuse**, in the expressions “sexual abuse” and “non-sexual abuse” in subsection (2), means physical abuse, psychological abuse, or a combination of both.
- (4) Subsection (1)(a) also applies to an action in respect of a personal injury—
 - (a) of the plaintiff (A) when he or she was of any age; and
 - (b) caused by a gradual process, disease, or infection.
- (5) **Personal injury**, in subsection (4), means any physical, mental, or physical and mental injury (even if it causes the death), of the plaintiff.

- (6) The court may, if it thinks it just to do so on an application made to it for the purpose, order that relief may be granted in respect of the action as if the long-stop period of limitation in section 23B does not apply to it.
- (7) The application for the order may be made before or after the court has decided whether the defendant has established that the longstop period of limitation in section 23B applies to the action.

Compare: Limitation Act 1969 s 50E(2) (NSW); Limitation of Actions Act 1958 s 27I(2) (Vic); Limitation Act 1980 s 33 (UK)

23D Matters to be taken into account under section 23C

In determining whether to make an order under section 23C, the court must take into account—

- (a) any hardship that would be caused,—
- (i) if the order were made, to a person who is, or is represented by, the defendant; and
 - (ii) if the order were not made, to A; and
- (b) the length of, and reasons for, the delay on A's part; and
- (c) any effects or likely effects of the delay on—
- (i) the defendant's ability to defend the action; and
 - (ii) the cogency of the evidence offered, or likely to be offered, by A or the defendant; and
- (d) the defendant's conduct on and after the date of the act or omission on which the action is based, including the extent to which the defendant responded to requests for information or inspection that were reasonably made by or on behalf of A in order to discover facts that were, or might be, relevant to the action; and
- (e) the extent to which prompt and reasonable steps were taken by or on behalf of A to bring the action after A became aware that A was entitled to do so; and
- (f) any steps taken by or on behalf of A to obtain relevant medical, legal, or other expert advice, and the nature of any relevant expert advice received by or on behalf of A; and
- (g) any other matters it considers relevant.

Schedule

Consequential amendments

s 58

Arbitration Act 1996 (1996 No 99)

Item relating to the Limitation Act 1950 in Schedule 4: omit.

Building Act 2004 (2004 No 72)

Section 393(1): omit “provisions of the Limitation Act 1950 apply” and substitute “Limitation Act 2010 applies”.

Section 393(2): omit “civil proceedings relating to building work may not be brought” and substitute “no relief may be granted in respect of civil proceedings relating to building work if those proceedings are brought”.

Child Support Act 1991 (1991 No 142)

Section 203: repeal and substitute:

203 No limitation of action to recover financial support

No relief in respect of a claim for recovery of financial support is barred or otherwise affected by the following:

- (a) the Limitation Act 2010;
- (b) any other enactment that prescribes a limitation period or other limitation defence.

Compare: 1976 No 65 s 406

Civil Aviation Act 1990 (1990 No 98)

Section 91I(5): repeal and substitute:

- (5) Subsections (1) to (4) and the provisions of Article 35 of the Montreal Convention and Article 29 of the amended Convention have effect as if references in those provisions to an action included references to an arbitration.
- (6) Subsections (7) and (8) (which determine the time at which an arbitration is deemed to have commenced) apply for the purposes of subsection (5).
- (7) An arbitration (whether under an enactment or under an arbitration agreement) must be treated as being commenced in the same manner as provided in Article 21 of Schedule 1 of the Arbitration Act 1996.
- (8) If the High Court orders that an award be set aside, it may also order that the period between the commencement of the arbitration and the date of the setting aside order must be excluded in computing the time prescribed by this section for the commencement of civil proceedings (including arbitration) with respect to the dispute referred.

Civil Aviation Act 1990 (1990 No 98)—continued

- (9) Subsections (6) to (8) do not limit or affect section 39 of the Limitation Act 2010.

Construction Contracts Act 2002 (2002 No 46)

Section 71(1): repeal and substitute:

- (1) The Limitation Act 2010 applies to adjudications as it applies to claims (as defined in section 4 of that Act).

Contractual Remedies Act 1979 (1979 No 11)

Section 15(f): repeal.

Crown Proceedings Act 1950 (1950 No 54)

Section 4: repeal and substitute:

4 Limitation of actions by or against the Crown

This Act is subject to the Limitation Act 2010, and to any other enactment that—

- (a) limits the time before which, or provides for the determination or fixing of the time before which, or period within which, civil proceedings may be brought by or against the Crown; or
- (b) prescribes a limitation period or other limitation defence for civil proceedings by or against the Crown.

Compare: 1908 No 34 s 37

Customs and Excise Act 1996 (1996 No 27)

Insert before section 275:

274E No limitation of claims by Crown to recover duties or interest on duties, or on forfeiture proceedings, under this Act

No relief in respect of a claim by the Crown to recover any tax or duty, or interest on any tax or duty, or in respect of any forfeiture proceedings, under this Act, is barred or otherwise affected by the following:

- (a) the Limitation Act 2010;
- (b) any other enactment that prescribes a limitation period or other limitation defence.

Compare: 1950 No 65 proviso to s 32

Item relating to the Limitation Act 1950 in Schedule 5: omit.

Defamation Act 1992 (1992 No 105)

Section 55: repeal.

Disputes Tribunals Act 1988 (1988 No 110)

Section 10(5): repeal and substitute:

- (5) The Limitation Act 2010 prescribes defences in respect of claims based on an act or omission after 31 December 2010.

Government Roothing Powers Act 1989 (1989 No 75)

Section 54(9): omit “Limitation Act 1950” and substitute “Limitation Act 2010”.

Land Act 1948 (1948 No 64)

Section 172(2): omit “Notwithstanding any statute of limitation, no” and substitute “No”.

Section 172: add:

- (3) Subsection (2) applies despite any enactment that prescribes a limitation period or other limitation defence.

Land Transfer Act 1952 (1952 No 52)

Section 112(1): repeal and substitute:

- (1) The High Court may make an order directing a registered mortgage to be discharged if, on an application for the purpose made to it by the registered proprietor of an estate or interest in land subject to the mortgage, it is satisfied—
- (a) that the granting of relief in respect of a claim by the mortgagee for payment of the money secured by the mortgage would be prevented by the raising and establishment of a limitation period or other limitation defence under the Limitation Act 2010 or any other enactment; and
 - (b) that, but for section 64, the granting of relief to the mortgagee in respect of the mortgaged land would be likewise prevented.
- (1A) Subsection (1) overrides section 64.
- (1B) On production of a copy of the order, the Registrar must enter a memorandum of it in the register.
- (1C) The registered mortgage must be treated as having been discharged when the memorandum of the order is entered in the register under subsection (1B).

Section 197: omit “Limitation Act 1950 or any other statute of limitation” and substitute “Limitation Act 2010 or any other enactment that prescribes a limitation period or other limitation defence”.

Section 199(3): omit “under the Limitation Act 1950”.

Item relating to the Limitation Act 1950 in Schedule 8: omit.

Law Reform Act 1936 (1936 No 31)

Section 3(3A): omit “the date when the cause of action arose” and substitute “the start date of the claim’s primary period (as specified in section 11(1) of, and adjusted in

Law Reform Act 1936 (1936 No 31)—continued

accordance with all relevant exceptions and modifications (if any) set out in, the Limitation Act 2010”.

Local Government (Rating) Act 2002 (2002 No 6)

Section 66(2): omit “Section 20 of the Limitation Act 1950” and substitute “The Limitation Act 2010”.

Section 105(2): omit “section 20 of the Limitation Act 1950” and substitute “the Limitation Act 2010”.

Motor Vehicle Sales Act 2003 (2003 No 12)

Section 89: add:

- (5) The Limitation Act 2010 prescribes defences in respect of claims based on an act or omission after 31 December 2010.

Patents Act 1953 (1953 No 64)

Section 20(5): repeal.

Section 85(3): repeal and substitute:

- (3) Nothing in this section enables a person to obtain any relief the granting of which is prevented by the Limitation Act 2010, and nothing in section 40 of that Act excludes the operation of that Act in any case where proceedings may be barred under this section.

Prisoners’ and Victims’ Claims Act 2005 (2005 No 74)

Section 63(2)(b): omit “Limitation Act 1950” and substitute “Limitation Act 2010”.

Heading above section 73: repeal.

Section 73: repeal.

Property Law Act 2007 (2007 No 91)

Section 52(5)(b): add “in order to avoid a limitation defence applying to a claim made in the proceedings”.

Section 296(4): omit “Limitation Act 1950, an action may be brought at any time” and substitute “Limitation Act 2010, a claim may be made at any time, and relief may be granted in respect of a claim made at any time.”.

Item relating to the Limitation Act 1950 in Schedule 7: omit.

Protected Objects Act 1975 (1975 No 41)

Section 10E(5): omit “Limitation Act 1950” and substitute “Limitation Act 2010”.

Public Trust Act 2001 (2001 No 100)

Heading to section 117: omit “**Limitation Act 1950**” and substitute “**Limitation Act 2010**”.

Public Trust Act 2001 (2001 No 100)—*continued*

Section 117: omit “Limitation Act 1950” and substitute “Limitation Act 2010”.

Public Works Act 1981 (1981 No 35)

Section 51(1): omit “Notwithstanding any statute of limitation, no” and substitute “No”.

Section 51: insert after subsection (1):

(1A) Subsection (1) applies despite any enactment that prescribes a limitation period or other limitation defence.

Securities Act 1978 (1978 No 103)

Section 37(7): repeal.

Section 37A(8): repeal.

Sharemilking Agreements Act 1937 (1937 No 37)

Section 3(4): omit “Limitation Act 1950” and substitute “Limitation Act 2010”.

Social Security Act 1964 (1964 No 136)

Section 86A(1A): omit “Limitation Act 1950” and substitute “Limitation Act 2010”.

Summary Proceedings Act 1957 (1957 No 87)

Item relating to the Limitation Act 1950 in Schedule 4: omit.

Tariff Act 1988 (1988 No 155)

Section 12(2): omit “period of limitation established by any Act, any cause of action that is subject to subsection (1) of this section shall” and substitute “limitation period or other limitation defence prescribed by an enactment, any claim that is subject to subsection (1) must”.

Tax Administration Act 1994 (1994 No 166)

Section 163: repeal and substitute:

163 No limitation of action to recover tax

No relief in respect of a claim for recovery of tax is barred or otherwise affected by the following:

- (a) the Limitation Act 2010;
- (b) any other enactment that prescribes a limitation period or other limitation defence.

Compare: 1976 No 65 s 406

Te Ture Whenua Maori Act 1993 (1993 No 4)

Section 344: omit and substitute:

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

344 Co-owners of Maori land not bound by Limitation Act 2010 or other limitation enactments

- (1) Time does not run, and must not be treated as having run, against a co-owner of Maori land who neglects or has at any time neglected to exercise that co-owner's right of entering upon and using the common property while it remains in the occupation of another co-owner or someone claiming through or under that co-owner.
- (2) This section overrides the Limitation Act 2010 and all other enactments that impose on claims a limitation period or other limitation defence.

Compare: 1953 No 94 s 458

Sections 360 and 361: repeal.

Trustee Act 1956 (1956 No 61)

Item relating to the Limitation Act 1950 in Schedule 2: omit.

Weathertight Homes Resolution Services Act 2006 (2006 No 84)

Heading to section 37: omit “**Limitation Act 1950**” and substitute “**Limitation Act 2010**”.

Section 37(1): omit “Limitation Act 1950” and substitute “Limitation Act 2010”.

Reprints notes

1 *General*

This is a reprint of the Limitation Act 2010 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Trusts Act 2019 (2019 No 38): section 161

Land Transfer Act 2017 (2017 No 30): section 250

Contract and Commercial Law Act 2017 (2017 No 5): section 347

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b)

Patents Act 2013 (2013 No 68): section 249