

**THE LAW OF LIMITATION ACT, 1971**

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## THE UNITED REPUBLIC OF TANZANIA



No. 10 OF 1971

I ASSENT,

*Julius K. Nyerere*  
President

11TH FEBRUARY, 1971

**An Act to replace the Indian Limitation Act, 1978 hitherto in force  
in Tanganyika**

[1ST MARCH, 1971]

ENACTED by the Parliament of the United Republic of Tanzania.

**PART I**

## PRELIMINARY

1. This Act may be cited as the Law of Limitation Act, 1971, and Short title shall come into operation on the first day of March, 1971.

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

"administrator" includes an executor;

"appeal" means an appeal against a decree, order, award, judgment or decision passed, delivered or made in a proceeding of a civil nature.

"application" means an application made to a court, which is of, or in relation to any proceeding of, a civil nature;

"arbitration" means an arbitration on a submission or under any written law;

"assurance" includes conveyance, assignment, transfer, lease, mortgage and charge and any other disposition of land otherwise than by will or under intestacy;

"award" means an award of an arbitrator;

"contract" shall have the meaning assigned to that expression by the Law of Contract Ordinance and includes bailment, quasi-contract, and, where the customary law applies, any arrangement which, under the customary law, is enforceable as a contract; Cap. 433

"the Community" includes any corporation or institution of the Community whether or not established by any Act of the Community;

"estate or interest in land" shall not include an easement;

"fraud" includes conduct which, having regard to some special relationship between the parties concerned, is an unconscionable thing for the one to do towards the other;

"Government" includes the Community and a local authority;

"land" means immovable property or the proceeds of the sale of immovable property but does not include an easement or a debt secured on immovable property by mortgage;

"Minister" means the Minister for the time being responsible for legal affairs;

"minor" means a person who has not attained the apparent age of eighteen years;

"mortgage" includes charge, and, where the customary law applies, any arrangement under the customary law which has similar effect and incidents as a mortgage;

"penalty" does not include a fine imposed on a person convicted of a criminal offence;

"proceeding" means a suit, an appeal or an application, and includes proceedings under the customary law;

"public land" means any land which is not held, or deemed by the provisions of the Government Leaseholds (Conversion to Rights of Occupancy) Act, 1969 to be held, under a right of occupancy, or under customary law, or under the provisions of section 5 of the Customary Leaseholds (Enfranchisement) Act, 1968;

"right of occupancy" shall have the meaning assigned to that expression in the Land Ordinance and shall include any right of occupancy created by the Government Leaseholds (Conversion to Rights of Occupancy) Act, 1969;

"suit" means any proceeding of a civil nature instituted in any court but does not include an appeal or application;

"tax" means any tax, duty, cess, levy, surtax or imposition payable under any written law;

"tort" includes devastavit and, where the customary law applies, any wrong which gives rise to a suit for damages under the customary law;

"trust" includes a wakf and any arrangement under the customary law which is in the nature, of a trust.

(2) For the purposes of this Act-

(a) proceedings by or against the Government include proceedings by or against any public department or public officer as such;

(b) a person is under a disability while he is a minor or of unsound mind; and, without prejudice to the generality of the foregoing, a person is conclusively presumed to be of unsound mind while he is detained in pursuance of some written law authorizing the detention of persons of unsound mind or criminal lunatics;

Acts 1969  
No. 44

Acts 1968  
No. 47

Cap. 113

- (c) a person claims through another person where he becomes entitled to the right claimed by, through or under an act of that other person or by operation of law:

Provided that a person becoming entitled to an estate by virtue of a special power of appointment shall be deemed not to claim through the appoint or;

- (d) a thing shall be deemed not to have been done in good faith if it was done without due care and attention.

(3) References in this Act to a right of action to recover land include, save where it is otherwise provided, references to a right to enter into possession of the land, and references to the bringing of an action in respect of such a right of action include references to the making of such an entry.

(4) References in this Act to a right of action include references to a cause of action and to a right to receive money secured by mortgage on any property or to recover proceeds of the sale of land, and to a right to receive a share or interest in the movable estate of a deceased person; and in relation to an appeal or application the term "right of action" means the right to prefer such appeal or make such application.

(5) The time during which a company incorporated under the Companies Ordinance has been struck off the register and dissolved under the provisions of that Ordinance shall not be excluded in the computation of time for the purposes of this Act.

Cap. 212

## PART II

### LIMITATION OF ACTIONS

3.-(1) Subject to the provisions of this Act, every proceeding described in the first column of the First Schedule to this Act and which is instituted after the period of limitation prescribed therefor opposite thereto in the second column, shall be dismissed whether or not limitation has been set up as a defence.

Dismissal of proceedings instituted after period of limitation

(2) For the purposes of this section a proceeding is instituted-

- (a) in the case of a suit, when the plaint is presented to the court having jurisdiction to entertain the suit, or in the case of a suit before a primary court, when the complaint is made or such other action is taken as is prescribed by any written law for the commencement of a suit in a primary court;
- (b) in the case of an appeal, when the appeal is preferred either by filing a memorandum of appeal or in such other manner as may be prescribed by any written law;
- (c) in the case of an application, when the application is made.

(3) Where, after the institution of a proceeding, a person is made a party thereto, either as a plaintiff, defendant, appellant, applicant or respondent, the proceeding, shall, as regards him, be deemed to have been instituted on the date on which he is made a party.

(4) Nothing in subsection (3) shall apply to a case where a party is added or substituted by reason of an assignment or devolution of any interest during the pendency of a suit, or where a plaintiff is made a defendant or a defendant is made a plaintiff, or an appellant is made a respondent or a respondent is made an appellant, or an applicant is made a respondent or a respondent is made an applicant.

Commence-  
ment of  
period of  
limitation

**4.** The period of limitation prescribed by this Act in relation to any proceeding shall, subject to the provisions of this Act hereinafter contained, commence from the date on which the right of action for such proceeding accrues.

### PART III

#### ACCRUAL OF RIGHTS OF ACTION

Accrual of  
rights of  
action

**5.** Subject to the provisions of this Act the right of action in respect of any proceeding, shall accrue on the date on which the cause of action arises.

Accrual of  
rights of  
action in  
certain  
cases

**6.** For the purposes of this Act-

(a) in the case of a suit for an account, the right of action shall be deemed to have accrued on the date on which the last transaction relating to the matter in respect of which the account is claimed took place;

Acts 1966  
No. 49

(b) in the case of a suit by a person against whom an order has been made under the Civil Procedure Code, 1966-

(i) on an objection proceeding following attachment of property in execution of a decree; or

(ii) on an application by the holder of a decree for the possession of immovable property or by the purchaser of such property sold in execution of a decree, complaining of resistance or obstruction to the delivery or possession thereof, or upon an application by any person dispossessed of such property in the delivery of possession thereof to the decree holder or purchaser,

to establish the right which he claims to, the property comprised in the order, shall be deemed to have accrued on the date on which the order was made;

(c) in the case of a suit upon a judgment, the right of action shall be deemed to have accrued on the date on which the judgment was delivered;

(d) in the case of a suit for malicious prosecution, the right of action shall be deemed to have accrued on the date on which the plaintiff was acquitted or the prosecution was otherwise terminated;

- (e) in the case of a suit for compensation for a wrong which does not give rise to a cause of action unless some specific injury actually results therefrom, the right of action shall accrue on the date when an injury results from such wrong;
- (f) in the case of a suit for damages for inducing a person to break a contract, the right of action shall be deemed to have accrued on the date of the breach;
- (g) in the case of a suit on a bill of exchange payable on demand and not accompanied by any writing restraining or postponing the right to sue, the right of action shall be deemed to have accrued on the date of the bill of exchange;
- (h) in the case of a suit for the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties, the right of action shall accrue on the last day of the year in which the last item admitted or proved is entered in the account;
- (i) in the case of a suit for the cancellation or setting aside of an instrument or for the rescission of a contract, the right of action shall accrue when the facts entitling the person to have the instrument cancelled or set aside or, as the case may be, to have the contract rescinded, first became known to him;
- (j) in the case of an appeal, the right of action shall be deemed to have accrued on the date on which the judgment, decision, award, decree or order appealed against was delivered, passed or made;
- (k) in the case of an application for leave to appear and defend a suit under the summary procedure under Order XXXV of the Civil Procedure Code, 1966 the right of action shall be deemed to have accrued on the date on which the summons was served;
- (l) in the case of an application under the Civil Procedure Code, 1966 by a purchaser of immovable property at a sale in execution of a decree for delivery of possession, the right of action shall accrue on the date on which the sale is made absolute;
- (m) in the case of an application for the execution of a decree or enforcement of an order passed or made in any proceeding, the right of action shall be deemed to have accrued on the date on which the decree was passed or, as the case may be, the order was made.

7. Where there is a continuing breach of contract or a continuing wrong independent of contract a fresh period of limitation shall begin to run at every moment of the time during which the breach or the wrong, as the case may be, continues.

Continuing  
breaches  
and wrongs

Accrual of right of action in claim for contribution from joint tortfeasor

**8.** For the purposes of this Act, the date on which the right of tortfeasor to recover contribution from a joint tortfeasor accrues, shall be ascertained as follows: -

- (a) if the tortfeasor is held liable in respect of any damage by a judgment given in civil proceedings or by an award, the right of action shall accrue on the date on which the judgment is given or the award made, as the case may be;
- (b) if, in a case not falling within paragraph (a) the tortfeasor admits liability in favour of one or more persons in respect of any damage, the date on which the right of action to recover the contribution accrues shall be the earliest date on which the amount to be paid by him in discharge of that liability is agreed by or on behalf of the tortfeasor and that person, or each of those person as the case may be,

and for the purposes of this section no account shall be taken of any judgment or award given or made on appeal in so far as it varies the amount of damages awarded against the tortfeasor.

Accrual of right of action in case of person interested in land

**9.**-(1) Where a person institutes a suit to recover land of a deceased person, whether under a will or intestacy and the deceased person was, on the date of his death, in possession of the land and was the last person entitled to the land to be in possession of the land was the right of action shall be deemed to have accrued on the date of death.

(2) Where the person who institutes a suit to recover land, or some person through whom he claims, has been in possession of the land and has, while entitled to the land, been dispossessed or has discontinued his possession, the right of action shall be deemed to have accrued on the date of the dispossession or discontinuance.

(3) Where a person institutes a suit to recover land, being an estate or interest in possession and assured otherwise than by will, to him, or to some person from whom he claims, by a person who, at the date when the assurance took effect, was in possession of the land, and no person has been in possession of the land by virtue of the assurance, the right of action shall be deemed to have accrued on the date when the assurance took effect.

Accrual of right of action in case of future interest in land

**10.**-(1) Subject to this section, where a person institutes a suit to recover land, and the estate or interest claimed was an estate or interest in reversion, or any other future estate or interest, and no person has taken possession of the land by virtue of the estate or interest claimed, the right of action shall be deemed to have accrued on the date on which the estate or interest fell into possession by the determination of the preceding estate or interest.

(2) If the person entitled to the preceding estate or interest, not being a term of years absolute, was not in possession of the land on the date of the determination of the estate or interest, no suit may be instituted by the person entitled to the succeeding estate or interest after the expiry of the period prescribed for a suit for recovery of land



computed from the date on which the right of action accrued to the person entitled to the preceding estate or interest, or after the expiry of half of such period computed from the date on which the right of action accrued to the person entitled to the succeeding estate or interest, whichever period ends last.

(3) A person may not institute a suit to recover any estate or interest in land under an assurance taking effect after the right of action to recover the land had accrued to the person by whom the assurance was made, or some person through whom he claimed, or some person entitled to a preceding estate or interest, unless the action is brought within the period during which the person by whom the assurance was made could have brought such an action.

(4) Where-

(a) a person is entitled to an estate or interest in possession and, while so entitled, is also entitled to a future estate or interest in that land; and

(b) his right to recover the estate or interest in possession is barred under this Act,

no suit may be instituted by that person or by any person claiming through him 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.

**11.** A right of action to recover land by virtue of a forfeiture or breach of condition shall be deemed to have accrued on the date on which the liability for forfeiture was incurred or the condition broken:

Accrual of right of action in case of forfeiture or breach of condition

Provided that, if such a right has accrued to a person entitled to an estate or interest in reversion and the land was not recovered by virtue thereof, the right of action to recover the land shall not accrue to that person until his estate or interest falls into possession, as if no such forfeiture or breach of condition had occurred.

**12.**-(1) The right of action to recover land from a tenant having a tenancy at will shall accrue on the date on which the tenancy is determined.

Accrual of right of action in case of certain tenancies

(2) A tenancy from year to year or other period without a lease in writing shall be deemed to be determined at the end of the first year or other period, and accordingly the right of action of the person entitled to the land subject to the tenancy shall accrue at the date of such determination:

Provided that where any rent has subsequently been received in respect of the tenancy, the right of action shall accrue on the expiry of the period in respect of which the payment of rent was received.

(3) Where any person is in possession of land by virtue of a lease in writing by which a rent is reserved and-

(a) the rent is received by some person wrongfully claiming to be entitled to the land in reversion immediately expected on determination of the lease; and,

(b) no rent is subsequently received by the person rightfully so entitled,

the right of action of the last named person to recover the land shall be deemed to have accrued on the date when the rent was first received by the person wrongfully claiming as aforesaid and not on the date of determination of the lease.

Accrual of  
right of  
action in  
foreclosure  
suits

**13.**-(1) The right of action in a foreclosure suit in respect of mortgaged property shall accrue on the date on which the right to foreclose accrues:

Provided that if, after the date on which the right to foreclose a mortgaged property other than land accrues, the mortgagee was in possession of the mortgaged property, the right to foreclose on the property which was in his possession shall not accrue until the date on which his possession discontinues.

(2) Where a prior mortgagee or any encumbrancer has been in possession of the property mortgaged and an action is brought within one year of the discontinuance of such possession by the subsequent encumbrancer for the recovery of arrears of interest the subsequent encumbrancer may recover by that action all the arrears of interest which fell due during the period of possession by the prior encumbrancer, or damages in respect of such arrears, notwithstanding that the period of limitation prescribed by this Act for the recovery of such arrears or damages has expired.

(3) This section shall not apply to a mortgage on a ship.

#### PART IV

##### COMPUTATION OF PERIOD OF LIMITATION

Extension  
of period  
in certain  
cases

**14.** (1) Notwithstanding the provisions of this Act, the court may, for any reasonable or sufficient cause, extend the period of limitation for the institution of an appeal or an application, other than an application for the execution of a decree, and an application for such extension may be made either before or after the expiry of the period of limitation prescribed for such appeal or application.

(2) For the purposes of this section "the court" means the court having jurisdiction to entertain the appeal or, as the case may be, the application.

Legal  
disability

**15.** If on the date on which a right of action for a suit or an application for the execution of a decree accrues, the person to whom it accrues is under a disability, the action may be brought at any time before the expiry of the period of limitation prescribed for such action computed from the date when the person ceases to be under a disability or dies, whichever event first occurs.

**16.** Where, after the right of action for a suit or an application for the execution of a decree has accrued and before the period of limitation prescribed for such suit or application expires, the person to whom such right has accrued suffers a disability, in computing the period of limitation prescribed for such suit or application, the time during which such person is under disability shall be excluded.

Exclusion of time when plaintiff under disability

**17.**-(1) Where two or more persons are jointly entitled to institute a suit or make an application for the execution of a decree, and one of such persons is under a disability, the provisions of section 15 and section 16 shall apply as if all such persons are under a disability.

Disability of one of several plaintiffs or applicants

(2) This section shall not apply where a discharge can be given by the person or persons who are not under a disability without the concurrence of the person who is under a disability:

Provided that where such discharge cannot be given on the date when the right of action accrues but can be given subsequently, the period of limitation shall, if such disability continues, be computed from the date on which such discharge can be given.

**18.**-(1) Notwithstanding any provision of this Act or of any other written law, no suit against a person in whom property has become vested in trust for any specific purpose, to recover the trust Property or the proceeds thereof, or for an account of such property or the proceeds thereof, or in respect of any fraud, misconduct or fraudulent breach of trust to which the trustee was a party or privy, shall be barred by any period of limitation.

Actions concerning trust property

(2) For the purposes of this section "trustee" includes the legal representatives of a trustee or his assigns, not being assigns for valuable consideration.

**19.**-(1) In computing the period of limitation prescribed for any proceeding, the day from which such period is to be computed shall be excluded.

Exclusion of certain periods

(2) In computing the period of limitation prescribed for an appeal, an application for leave to appeal, or an application for review of judgment, the day on which the judgment complained of was delivered, and the period of time requisite for obtaining a copy of the decree or order appealed from or sought to be reviewed, shall be excluded.

(3) Where a decree is appealed from or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall be excluded.

(4) In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

(5) Where the court to which an appeal or application for leave to appeal or application for review is made, is satisfied that it was necessary for the appellant or, as the case may be, the applicant, to obtain a copy of the proceedings of the relevant suit or proceeding before

lodging or making the appeal or the application, the court may allow to be excluded from the period of limitation prescribed for such appeal or application, the period of time requisite for obtaining a copy of the proceedings.

(6) where the period of limitation prescribed for any proceeding expires on a day when the court in which such proceeding is to be instituted is closed, the proceeding may be instituted on the day on which the court reopens-

Exclusion of time of defendant's absence from Tanzania

**20.** In computing the period of limitation prescribed for any suit or an application for execution of a decree, the time during which the defendant has been absent from the United Republic shall be excluded.

Exclusion of time of proceeding *bona fide* in court without jurisdiction

**21.**-(1) In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting, with due diligence, another civil proceeding, whether in a court of first instance or in a court of appeal, against the defendant, shall be excluded, where the proceeding is founded upon the same cause of action and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is incompetent to entertain it.

(2) In computing the period of limitation prescribed for any application, the time during which the applicant has been prosecuting, with due diligence, another civil proceeding, whether in a court of first instance or in a court of appeal, against the same party, for the same relief, shall be excluded where such proceeding is prosecuted in good faith, in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) For the purposes of this section-

- (a) a plaintiff or applicant resisting an appeal shall be deemed to be prosecuting a proceeding;
- (b) references to a plaintiff, defendant or other party to a proceeding include references to any person through or under whom such plaintiff defendant or party claims;
- (c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with the defect of jurisdiction.

Exclusion of time during which proceeding suspended

**22.** In computing the Period of limitation prescribed for a proceeding the institution, continuance or conclusion of which has been stayed by injunction or order the time during which the injunction or order remains in force, shall be excluded.

Exclusion of time during which proceeding to set aside execution sale are pending

**23.** In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which any proceeding to set aside the sale has been prosecuted shall be excluded.

**24.**-(1) Where a person who would, if he were living, have a right of action in respect of any proceeding, dies before the right of action accrues, the period of limitation shall be computed from the first anniversary of the date of the death of the deceased or from the date when the right to sue accrues to the estate of the deceased, whichever is the later date.

Effect of death before right of action accrues

(2) Where a person against whom, if he were living, a right of action would have accrued, dies before the right accrues, the period of limitation shall be computed from the date when there is a legal representative of the deceased against whom such proceeding may be instituted or from the date when the right of action accrues against the estate of the deceased, whichever date last occurs.

**25.**-(1) Where a person dies after a right of action in respect of any proceeding accrues to him, the time during which an application for letters of administration or for probate have been prosecuted shall be excluded in computing the period of limitation for such proceeding.

Effect of death after the accrual of right of action

(2) Where a person dies after a right of action in respect of any proceeding accrues against him, in computing the period of limitation for such proceeding, there shall be excluded the period of time commencing from the date of the death of the deceased and expiring on the date when there is a legal representative of the deceased against whom such proceeding may be instituted.

**26.** Where in the case of any proceeding for which a period of limitation is prescribed-

Effect of fraud or mistake

- (a) the proceeding is based on the fraud of the party against whom the proceeding is prosecuted or of his agent, or of any person through whom such party or agent claims; or
- (b) the right of action is concealed by the fraud of any such person as aforesaid; or
- (c) the proceeding is for relief from the consequences of a mistake,

the period of limitation shall not begin to run until the plaintiff has discovered the fraud or the mistake, or could, with reasonable diligence, have discovered it:

Provided that nothing in this section shall enable any proceeding to be brought to recover, or enforce any mortgage upon, or set aside any transaction affecting, any property which-

- (a) 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
- (b) in the case of mistake, has been purchased for valuable consideration subsequent 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.

Fresh  
accrual of  
right of  
action on  
acknowledge-  
ment  
or part  
payment

**27.**-(1) Where-

- (a) a right of action (including a foreclosure action) to recover land;  
or
- (b) a right or mortgagee of immovable property to bring a foreclosure action in respect of the property,

has accrued, and

- (i) a person in possession of the land or immovable property acknowledges the title of the person to whom the right of action has accrued;
- (ii) in the case of a foreclosure or other action by a mortgagee, the person in possession of the land or immovable property, or the person liable for the mortgage debt, makes any payment in respect thereof, whether of principal or interest,

the right of action shall be deemed to have accrued on and not before the date of the acknowledgement or payment, as the case may be.

(2) Where a mortgagee is, by virtue of the mortgage, in possession of any mortgaged land and either receives any sum in respect of the principal or interest of the mortgaged debt, or acknowledges the title of the mortgagor, or his equity of redemption, the right of action to redeem the mortgaged property shall be deemed to have accrued on the date of payment or acknowledgement, as the case may be.

(3) Where a right of action has accrued to recover a debt or other pecuniary claim, or to recover any other movable property whatsoever, or to recover any sum of money or other property under a decree or order of a court, and the person liable or accountable therefor acknowledges the claim or makes any payment in respect of it, the right of action in respect of such debt, pecuniary claim or movable property, or, as the case may be, the right of action in respect of an application for the execution of the decree or the enforcement of the order, shall be deemed to have accrued on and not before the date of the acknowledgement or, as the case may be, the date of the last payment:

Provided that a payment of a part of the rent or interest due at any time shall not extend the period for claiming the remainder then due, but a payment of interest shall be treated as a payment in respect of the principal debt.

Provisions  
relating to  
acknowledge-  
ment and  
part payment

**28.**-(1) Every acknowledgement under section 27 must be in writing and signed by the person making it, or by his agent duly authorized in that behalf.

(2) Section 27 shall have effect in respect of part payment only when it is made to the person or to an agent of the person in respect of whose claim the payment is being made and by the person from whom the debt or claim is due or by his agent duly authorized in that behalf.

(3) Where the writing which contains the acknowledgement is not dated, oral evidence may be given of the date when the acknowledgement was signed,

(4) No acknowledgement or payment shall have effect for the purposes of section 27 if it is made after the expiry of the period of limitation prescribed for the proceeding in respect of the right of action to which the acknowledgement, or as the case may be, the payment relates.

(5) An acknowledgement shall not be ineffective for the purposes of section 27 by reason only of the fact that-

- (a) the exact nature of the right or claim to which it refers is not specified; or
- (b) it is accompanied by an averment that the right or claim to which it refers has not matured; or
- (c) it is accompanied by a refusal to deliver the property or pay the amount claimed or to meet the liability acknowledged; or
- (d) it is made to a person other than the person whose title or claim is being acknowledged; or
- (e) it is made subject to any condition.

(6) In this section "agent duty authorized in that behalf" includes, in the case of a person under disability, his lawful guardian, the manager of his properties or any person appointed under any written law as the agent or manager of such person under disability.

**29.**-(1) An acknowledgement of the title to any land or mortgaged movable property by any person in possession thereof shall bind all other persons in possession during the ensuing period of limitation.

(2) A payment in respect of a mortgage debt by the mortgagor or any person in possession of the mortgaged property shall, so far as any right of the mortgagee to foreclose or otherwise recover the property is concerned, bind all other persons in possession of the mortgaged property during the ensuing period of limitation.

(3) Where two or more mortgagees are, by virtue of the mortgage, in possession of the mortgaged land, an acknowledgement of the mortgagor's title or of his equity of redemption by one of the mortgagees shall bind all the mortgagees in possession.

(4) Where there are two or more mortgagors and the title or right to redemption of one of the mortgagors is acknowledged as aforesaid, the acknowledgement shall be taken to have been made to all the mortgagors.

(5) An acknowledgement of a debt, pecuniary claim or other movable property shall bind the acknowledger and his successors, but not any other person.

(6) A payment made in respect of a debt or other pecuniary claim shall bind all persons liable in respect of the debt.

(7) An acknowledgement by one of several personal representatives of a claim against the estate of a deceased person, or a payment by one of several personal representatives in respect of any such claim, shall bind the estate of the deceased person.

(8) In this section "successor" in relation to a mortgagee or a person liable in respect of a debt or claim, means his personal representative and any other person on whom the rights under the mortgage or, as the case may be, the liability in respect of the debt or claim devolves, whether on death, bankruptcy, disposition of property or otherwise.

Effect of  
acknowledgement  
or part  
payment on  
person  
other than  
the maker  
or  
recipient

Successive conversions and extensions of title goods

**30.**-(1) When a right of action in respect of the conversion or wrongful detention of movable property has accrued to any person and before he recovers possession of the property, a further conversion or wrongful detention takes place, no suit may be instituted by that person in respect of the further conversion or detention after the expiry of the period of limitation in respect of the original conversion or detention.

(2) Where any such cause of action has accrued to any person and the period of limitation prescribed for a suit in respect thereof and for a suit in respect of such further conversion or wrongful detention as aforesaid has expired and he has not, during that period, recovered possession of the movable property, the title of that person to the property shall be extinguished.

## PART V

### SPECIAL PROVISIONS RELATING TO LAND

Acquisition of easements

**31.**-(1) Where any easement has been enjoyed peaceably and openly as of right, and without interruption, for twenty years, the right to such easement shall be absolute and indefeasible.

(2) "Easement" includes-

- (a) the access and use of light or air to and from any building enjoyed with the building as an easement;
- (b) any way or water course, or the use of any water, enjoyed as an easement.

No easement over public land

**32.**(1) The provisions of section 31 shall not apply in respect of any public land and no easement or other right whatsoever shall be acquired by virtue of the operation of the provisions of that section upon, over or from any public land.

(2) Where any easement or other right has been acquired by virtue of the provisions of section 31 upon, over or from any land which is not public land, such easement or other right shall be extinguished upon reversion of the land to the President.

Right of action not to accrue or continue unless adverse possession

**33.**-(1) A right of action to recover land shall not accrue unless the land is in possession of some person in whose favour the period of limitation can run (which possession is in this Act referred to as "adverse possession") and, where on the date on which the right of action to recover any land accrues and no person is in adverse possession of the land, a right of action shall not accrue unless and until some person takes adverse possession of the land.

(2) Where a right of action to recover land has accrued and thereafter, before the right is barred, the land ceases to be in adverse possession, the right of action shall no longer be taken to have accrued and a fresh right of action shall not accrue unless and until some person again takes adverse possession of the land.



(3) For the purposes of this section receipt of rent under a lease by a person wrongfully claiming the land in reversion, shall be deemed to be adverse possession of the land.

**34.** For the purposes of this Act no person shall be deemed to have been in possession of any land by reason only of his having made a formal entry thereon, and no continual or other claim upon or near any land shall operate to preserve any right of action to recover the land.

Right of action not preserved by formal entry or continual claim Administration dates back to death

**35.** For the purposes of the provisions of this Act relating to suits for the recovery of land, an administrator of the estate of a deceased person shall be taken to claim as if there had been no interval of time between the death of the deceased person and the grant of the letters of administration or, as the case may be, of the probate.

**36.**-(1) Subject to the provisions of section 18, this Act shall apply to equitable interests in land, including interest in the proceeds of the sale of land held upon trust for sale, in like manner as it applies to legal estates, and accordingly, for the purposes of this Act, a right of action in respect of any such equitable interest shall accrue in the like manner and circumstances and on the same date as it would accrue if the interest were a legal estate in the land.

Equitable interests

(2) Where the land is held upon trust, including a trust for sale, and the period of limitation prescribed for an action by the trustees to recover the land has expired, the estate of the trustees shall not be extinguished if and so long as the right of action to recover the land of any person entitled to a beneficial interest in the land or in the proceeds of sale, either has not accrued or has not been barred by this Act, but when the right of action is so barred the estate of the trustees shall be extinguished.

(3) Where any land is held upon trust including a trust for sale, an action to recover the land may be brought by the trustees on behalf of any person entitled to a beneficial interest in possession of the land or in the proceeds of sale, whose right of action has not been barred by this Act, notwithstanding that the right of action of the trustees would, apart from this subsection, have been barred by this Act.

**37.**-(1) Where a person claims to have become entitled by adverse possession to any land held under a right of occupancy or for any other estate or interest, he may apply to the High Court for an order that he be registered under the relevant law as the holder of the right of occupancy or such other estate or interest, as the case may be, in place of the person then registered as such holder, and the High Court may, upon being satisfied that the applicant has become so entitled to such land, make an order that he be registered accordingly, or may make such other order as the High Court may deem fit.

Registration of title to land or easement acquired under this Act

(2) Where an order has been made under subsection (1) the Registrar shall take such steps as may be necessary to give effect to the order.

(3) Where a person has acquired an easement under the provisions of this Act, he may apply to the High Court for an order vesting the easement in him, and upon such order being made he may present the same to the Registrar for registration in the register of the land affected, and the Registrar shall register the same accordingly.

(4) Notwithstanding the provisions of this Act or of any other written law, no estate or interest in any land or easement shall vest in any person by adverse possession or by any virtue of prescription unless an order in respect of such estate or interest, or as the case may be, easement, has been made under subsection (1) or subsection (3).

(5) Every application under this section shall be by way of a suit, and in every such suit the person from whom the estate, interest or easement is claimed to have been acquired and the Commissioner for Lands, shall be made parties.

(6) In this section "Registrar" means-

(a) where the land is registered land, the Registrar of Titles appointed under the Land Registration Ordinance; and

(b) where the land is unregistered land, the Registrar appointed under the Registration of Documents Ordinance.

Cap. 334

Cap. 117

Limitation  
on acquisition  
by adverse  
possession

**38.** Notwithstanding anything contained in this Act-

(a) no person shall become entitled to an estate or interest in any public land by adverse possession;

(b) any estate or interest acquired in any land other than public land by adverse possession or by reason of any law of prescription shall expire upon the expiry, revocation or determination of the right of occupancy under which the land is held or, where the land was not held under a right of occupancy, upon the reversion of such land to the President;

(c) no suit or other proceeding by or on behalf of the President or the Government of the United Republic for the recovery of land shall be dismissed on the ground that the period of limitation has expired.

## PART VI

### MISCELLANEOUS PROVISIONS

Consequences  
of expiry of  
period of  
limitation

**39.** Subject to the provisions of section 38 and section 44, upon the expiration of the period of limitation prescribed for a suit for possession of any property the right to such property of the person who would, but for the expiry of such period, have been entitled to sue for the recovery of its possession shall be extinguished.

Application  
of  
limitation  
to law of  
arbitration

**40.**-(1) This Act shall apply to arbitrations in the same manner as it applies to other proceedings.

(2) Where a submission contains a term that no cause of action shall accrue in respect of a matter, the cause of action for the purposes of this Act shall accrue in respect of any such matter at the time when it would have accrued but for the term in the submission.

(3) For the purposes of this Act, an arbitration shall be taken to have commenced when one party to the arbitration serves on the other party a notice requiring him to appoint an arbitrator or, where the submission provides that the reference shall be to the person named or designated in the submission, requiring him to submit the dispute to the person so named or designated.

(4) Any such notice as is referred to, in subsection (3) may be served in the manner prescribed for the service of a summons in civil suits as well as in any other manner provided for in the submission.

(5) Where the court orders that an award be set aside, or orders, after the commencement of arbitration, that the arbitration shall cease to have effect in respect of the dispute referred, the court may further order that the period between the commencement of the arbitration and the date of the order of the court be excluded in computing the period of limitation prescribed for the bringing of an action or commencement of arbitration proceedings in respect of which the dispute is referred.

(6) In relation to an arbitration under any written law, subsections (3) and (4) of this section shall have effect as if references to the submission were references to such provision of the written law as relate to the arbitration.

**41.** For the purposes of this Act any claim by way of set-off or counter-claim shall be deemed to be a separate action and to have been commenced on the same date as the suit in which the set-off or counter-claim is pleaded.

Set-off and counter-claim

**42.**-(1) The provisions of this Act shall apply to proceedings in Tanganyika on rights of action arising outside Tanganyika in the same manner as they apply to rights of action arising within Tanganyika:

Cause of action arising abroad

Provided that where the foreign law bars either the right or the remedy in respect of a right of action arising outside Tanganyika which is pursued in a court in Tanganyika the proceedings shall be barred.

(2) No new cause of action shall be deemed to have arisen on a proceeding in Tanganyika on a foreign judgment.

**43.** This Act shall not apply to-

- (a.) criminal proceedings;
- (b) applications and appeals to the Court of Appeal for East Africa;
- (c) proceedings by the Government to recover possession of any public land or to recover any tax or the interest on any tax or any penalty for non-payment or late payment of any tax or any costs or expense in connection with any such recovery;
- (d) forfeiture proceedings under the East African Customs and Transfer Tax (Management) Act, 1952 or the East African Excise (Management) Act, 1952.

Exclusion of certain proceedings

E.A.H.C  
Acts, 1952  
No. 12  
E.A.H.C  
Acts, 1952  
No. 13

- (e) proceedings in respect of the: forfeiture of a ship or an aircraft;
- (f) any proceeding for which a period of limitation is prescribed by any other written law, save to extent provided for in section 46.

Minister  
may extend  
period of  
limitation

**44.** (1) Where the Minister is of the opinion that in view of the circumstances in any case, it is just and equitable so to do, he may, after consultation with the Attorney-General, by order under his hand, extend the period of limitation in respect of any suit by a period not exceeding one-half of the period of limitation prescribed by this Act for such suit.

(2) Where an order under subsection (1) is made in relation to any suit, the provisions of this Act shall apply to such suit as if references herein to the period of limitation were references to the aggregate of the period of limitation prescribed for such suit by this Act and the period specified in such order, such later period commencing to run immediately upon the expiry of the period prescribed by this Act.

(3) No order under this section shall be made-

- (a) in relation to any suit after the determination of the suit by any court having jurisdiction to determine same;
- (b) for any suit to recover land or contest a claim for easement after an order in respect of such land or easement has been made by the High Court under the provisions of section 37.

(4) For the avoidance of doubts it is hereby declared that an order under subsection (1) may be made in relation to a suit before or after the expiration of the period of limitation prescribed for such suit.

Application  
to  
proceedings  
by or  
against  
Government

**45.** Subject to the provisions of this Act or any other written law to the contrary, this Act shall apply to proceedings by or against the Government as it applies to proceedings between private persons.

Period of  
limitation  
prescribed  
by other  
written law

**46.** Where a period of limitation for any proceeding is prescribed by any other written law, then, unless the contrary intention appears in such written law, and subject to the provisions of section 43, the provisions of this Act shall apply as if such period of limitation had been prescribed by this Act.

Indian  
Limitation  
Act  
disapplied

**47.** The Indian Limitation Act, 1908, as hitherto in force in Tanganyika, shall cease to extend or apply to Tanganyika.

Transi-  
tional  
provisions

**48.** (1) The provisions of this Act shall apply to proceedings for rights of action which accrued before the commencement of this Act in the same manner as they apply to proceedings for rights of action which accrue after the commencement of this Act.

(2) Notwithstanding the provisions of subsection (1) nothing in this Act shall be construed-

- (a) as enabling any proceeding to be brought where such proceeding was barred by limitation before the commencement of this Act and a court of competent jurisdiction has, before the commencement of this Act, dismissed a proceeding for the same cause of action on the ground that such proceeding was barred by limitation;
- (b) as affecting any proceeding or arbitration instituted or commenced before the coming into operation of this Act, or the title to any property which is the subject matter of any such proceeding or arbitration, where any party to such proceeding has, before the commencement of this Act raised the defence that the proceeding is barred by the law of limitation as in force immediately before the coming into operation of this Act, and every such proceeding shall be determined as if this Act had not been enacted;
- (c) as affecting any easement or any estate or interest in or over land acquired by adverse possession before the commencement of this Act.

49. The laws set out in the first and second columns of the Second Schedule hereto are hereby amended in the manner specified opposite thereto in the third column.

Amendment to certain laws

50. The Minister may by regulations replace or modify all or any of the provisions of this Act in their application to proceedings under the customary law and until such time as regulations under this section are made the Magistrates Courts' (Limitation of Proceedings under Customary Law) Rules, 1964 made under the Magistrates Courts' Act, 1963 shall continue in force as if those rules were regulations made under this section replacing all the provisions of this Act other than law the provisions of section 43, and the Minister may by regulations made under this section, vary, amend or replace the said rules.

Minister may limit application of this Act to proceedings under customary law  
Cap. 537  
Supp. 64  
p. 11

FIRST SCHEDULE

PART I  
SUITS

COLUMN ONE Description of Suit	COLUMN Two Period of Limitation
1. For compensation for doing or for omitting to do an act alleged to be in pursuance of any written law ... ..	one year
2. Suit to recover any penalty or forfeiture or sum by way of penalty or forfeiture recoverable by virtue of a written law ...	two years
3. Suit to recover contribution from a joint tortfeasor ...	two years
4. Suit to set aside a sale in execution of a decree of a court exercising civil jurisdiction ... ..	two years
5. Suit referred to in paragraph (b) of section 6 ... ..	two years
6. Suit founded on tort ... ..	three years
7. Suit founded on contract not otherwise specifically provided for ... ..	six years

## FIRST SCHEDULE-contd.

COLUMN ONE <i>Description of Suit</i>	COLUMN TWO <i>Period of Limitation</i>
8. Suit to enforce a recognizance ... ..	six years
9. Suit to enforce an award ... ..	six years
10. Suit to recover any sum recoverable by virtue of a written law, other than a penalty or forfeiture or sum by way of penalty or forfeiture ... ..	six years
11. Suit, including suit claiming equitable relief, for which no period of limitation is prescribed by this Act or any other written law ... ..	six years
12. Suit for an account ... ..	six years
13. Suit to recover arrears of rent ... ..	six years
14. Suit by beneficiary to recover trust property, or in respect of any breach of trust (not being an action to which Section 18, or section 36 applies or an action for which a period of limitation is prescribed by any other provision of this Schedule).	six years
15. Suit to recover arrears of interest in respect of a legacy, or damages in respect of such arrears ... ..	six years
16. Suit founded on a judgment ... ..	twelve years
17. Suit to redeem land in possession of a mortgagee ... ..	twelve years
18. Suit to recover principal sum of money acquired by mortgage on land or movable property to recover proceeds of the sale of land	twelve years
19. A suit for the forfeiture of mortgaged property ... ..	twelve years
20. Suit to recover arrears of interest payable in respect of any sum of money secured by a mortgage or payable in respect of the proceeds of the sale of land or to recover damages in respect of such arrears ... ..	twelve years
21. A suit in respect of a claim to movable property of a deceased person whether under a will or intestacy ... ..	twelve years
22. Suit to recover land ... ..	twelve years
23. Suit by or on behalf of the Government ... ..	sixty years
24. Any suit not otherwise provided for ... ..	six years

PART II  
APPEALS

1. An appeal under the Civil Procedure Code, 1966 where the period of limitation is not otherwise provided for by any written law ... ..	ninety days
2. An appeal for which no period of limitation is prescribed by this Act or any other written law ... ..	forty-five days

PART III  
APPLICATIONS

1. For leave to appear and defend a suit under the summary procedure under Order XXXV of the Civil Procedure Code, 1966	twenty-one days
2. Under the Civil Procedure Code, 1966 to set aside an award	thirty days
3. For an application under the Civil Procedure Code, 1966 for a review of a decree, judgment or order ... ..	thirty days
4. For an order under the Civil Procedure Code, 1966 or the Magistrates' Courts Act, 1966 to set aside a dismissal of a suit ...	thirty days
5. For an order under the Civil Procedure Code, 1966 to set aside a decree passed <i>ex parte</i> ... ..	thirty days
6. Under the Civil Procedure Code, 1966 by a person dispossessed of immovable property and disputing the right of the decree holder or purchaser at a sale in execution of the decree to be put in Possession ... ..	thirty days
7. Under the Civil Procedure Code, 1966 to set aside a sale in execution of a decree ... ..	thirty days

FIRST SCHEDULE-contd.

COLUMN ONE <i>Description of Application</i>	COLUMN Two <i>Period of Limitation</i>
8. For relief against resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree	thirty days
9. For the readmission of an appeal dismissed for want of prosecution	thirty days
10. For the rehearing of an appeal heard <i>ex parte</i>	thirty days
11. Under the Magistrates' Courts Act, 1963 to restore proceeding dismissed for non-appearance or to set aside decision or order made <i>ex parte</i>	forty-five days
12. Under the Civil Procedure Code, 1966 for an order to set aside an abatement	sixty days
13. Under the Civil Procedure Code, 1966 by the assignee or the receiver of an insolvent plaintiff or appellant for an order to set aside the dismissal of a suit or an appeal	sixty days
14. For an order under the Civil Procedure Code, 1966 to restore to the list an application for review rejected in consequence of the failure of the applicant to appear when the application was called for hearing	ninety days
15. For the issue of a notice under the Civil Procedure Code, 1966 to show cause why any payment made out of court or any money payable under a decree or any adjustment of the decree should not be recorded as certified	ninety days
16. Under the Civil Procedure Code, 1966 to have a legal representative of a deceased party, whether in a suit or on an appeal, to be made a party	ninety days
17. For the payment of the amount of a decree by installments	six months
18. Under the Civil Procedure Code, 1966 for the Ming in court of an award in a suit made in any matter referred to arbitration by order of the court, or of an award made in any matter referred to arbitration without the intervention of a court	six months
19. Under the Civil Procedure Code, 1966 by a purchaser of immovable property at a sale in execution of a decree for delivery of possession	three years
20. To enforce a judgment, decree or order of any court where the period of limitation is not provided for in this Act or any other written law	twelve years
21. Application under the Civil Procedure Code, 1966, the Magistrates' Courts Act, 1963 or other written law for which no period of limitation is provided in this Act or any other written law	sixty days

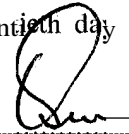
SECOND SCHEDULE

COLUMN One	COLUMN Two	COLUMN Three
Cap. 2	The Indian Acts (Application) Ordinance	(a) section 9 and section 10 are repealed;  (b) all references to the Indian Limitation Act, 1908 in the Schedule are deleted.
Cap. 15	The Arbitration Ordinance	Add immediately below section 6 the following section-  6A.-(1) Where the terms of an agreement to refer future disputes to arbitration provided that any claim to which the agreement applies shall be barred unless notice to appoint an arbitrator is given or an arbitrator is appointed or some other stop is taken within the time fixed by the agreement, and a dispute arises to

## SECOND SCHEDULE-contd.

COLUMN One	COLUMN Two	COLUMN Three
		which the agreement applies, the court, if it is of the opinion that the circumstances of the case hardship would otherwise be caused, and notwithstanding that the time so fixed has expired, may on such terms if any, as it may consider just extend the time for such period as it thinks proper.
		(2) The provisions of subsection (1) shall be without prejudice to any written law limiting the time for the commencement of arbitration proceedings."
Cap. 113	The Land Ordinance	Section 23 is amended in subsection (3) by deleting paragraph (b).
Cap. 334	The Land Registration Ordinance	Section 71 is amended by deleting the words "Where the Registrar" which occur at the beginning and substituting therefor the words "Subject to the provisions of the Law of Limitation Act, 1971, where the Registrar."
Cal). 360	The law Reform (Fatal Accident and Miscellaneous Provision) Ordinance	Section 4 is amended in subsection (2) by deleting paragraph (ii) of the proviso.
Cap. 537	The Magistrates' Courts Act, 1963	Section 65 is amended in subsection (2) by deleting paragraph (e).

Passed in the National Assembly on the twentieth day of January, 1971.



*Clerk of the National Assembly*