

## Limitation

Limitation sets out the period of time within which a legal claim must be brought until it becomes statute barred; in other words, before it can no longer be pursued.

### WHAT IS LIMITATION?

Limitation is a specific time period that imposes a time limit on issuing proceedings. Limitation is predominantly governed by the Limitation Act (1980). Limitation varies depending on the cause of action that the claim is related to. These issues are discussed below.

### WHAT IF I WANT TO PURSUE A CLAIM AFTER LIMITATION HAS PASSED?

If the limitation period has expired, the claim will be “*statute barred*” and the claimant may be prevented from bringing an action.

If a claim is brought out of time, the defendant will be able to plead the defence of limitation and the claimant will have the burden of proving that the cause of action is within the relevant period.

### WHEN DOES LIMITATION RUN FROM?

Depending on the cause of action, limitation runs from different times. Please see below. As an example, a claim for breach of contract must be brought within six years from the date of the breach. The breach being as soon as the wrongful act happens. This can be compared to a claim for fraud whereby time does not run until its discovery or when it should have reasonably been discovered.

The commencement of proceedings or an agreement will stop the “clock” from running for the specific cause of action. An agreement to “pause” or “extend” time could relate to a Standstill Agreement reached between the parties or an agreement for the sale of a business.

### APPLICABLE TIME LIMITS

Below is an overview of a range of time limits for various causes of actions:

#### FRAUD

*How long is the time limit?*

- Within six years of the date the cause of action occurred.

*When does it start?*

- Time does not begin to run until the fraud has, or with reasonable diligence would have been discovered, if the defendant deliberately conceals any fact relevant to the cause of action.

### CONTRACT

*How long is the time limit?*

- Within six years of the date of the breach.

*When does it start?*

- The cause of action occurs as soon as the contract is breached.

### NEGLIGENCE (NOT RELATING TO PERSONAL INJURY OR DEATH)

*How long is the time limit?*

- Within six years of the negligent act or omission; or
- If later, within three years of the date of knowledge in cases of latent damage.
- Negligent latent damage is barred by way of a 15 year long stop date of the defendant's negligent act or omission.

*When does it start?*

- Period runs from the date the damage is suffered.

### LIBEL, SLANDER AND MALICIOUS FALSEHOOD

*How long is the time limit?*

- Within one year of the cause of action occurring.

*When does it start?*

- A fresh cause of action starts every time the claimant is defamed.

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