

### OVERVIEW

This chapter examines statutory limitation periods that dictate the time within which plaintiffs must commence their actions. The chapter begins by exploring the purpose of limitation periods; that is, the discouragement of stale claims which may cause evidentiary difficulties and injustice to defendants. The running of time is then outlined; that is, how a cause of action accrues, qualities which suspend the running of time, the expiry of time and the judicial discretion to extend the limitation period. This will be followed by an analysis of the operation of the Limitation Acts in personal injury actions. Not only is personal injury the most commonly litigated cause of action, it also gives rise to particular issues involving limitation periods such as latent injury or disease, as well as complicated questions about achieving justice between plaintiffs and defendants. The chapter will conclude with a brief discussion of limitation periods and choice of law.

### INTRODUCTION

#### State and territory jurisdictions

**6.1.1** For most types of legal action, there are time periods known as 'limitation periods' within which proceedings must be commenced. Statutes of limitation are in force in every Australian jurisdiction: Limitation Act 1985 (ACT); Limitation Act 1969 (NSW); Limitation Act 1981 (NT); Limitation of Actions Act 1974 (Qld); Limitation of Actions Act 1936 (SA); Limitation Act 1974 (Tas); Limitation of Actions Act 1958 (Vic); Limitation Act 2005 (WA) (referred to collectively as the 'Limitation Acts'). These Acts prescribe the general period within which an action to enforce a right must be commenced. Failure to commence proceedings within this limitation period will bar the action, subject to possible suspension or extension of the limitation period, or the other side failing to raise the issue. If an action is commenced, withdrawn or aborted, the limitation period will apply to any new action brought. The existence of the Limitation Acts is based on the policy that stale claims should not be brought. This policy is justified in two major respects:

1. *Injustice*: it would be an injustice to defendants to have proceedings hanging over their heads for too long, since people should be able to arrange their affairs on the basis

# Limitation Of Actions

**Marcel A. Müller**



## **Limitation Of Actions:**

*A Treatise on the Limitation of Actions at Law and in Equity* Horace Gay Wood,1882      *A Treatise on the Limitation of Actions at Law and in Equity* Horace Gay Wood,1893      *Preston and Newsom on Limitation of Actions* Cecil Herbert Sansome Preston,George Harold Newsom,Lionel Abel-Smith,1953      *A Treatise on the Limitation of Actions at Law and in Equity* Horace Gay Wood,1916      **Indiana Digest** ,1912      *Limitation of Actions* Calvin W. Corman,1991 Analyzing over 5 000 cases and all major statutory enactments this is the preeminent work on the principles underlying the law of limitation of actions its applications at law and its utility in practice it examines the law and its interpretation by both federal and state courts and then suggests clarifications where the law is ambiguous You ll find detailed discussion of all these aspects and more Limitation period Accrual Laches Tolling affected by defendant s actions or status Tolling due to personal disabilities the discovery rule Offensive uses of limitations Avoiding the bar of the statutes Using the bar as a defense Issues proof and variance Appendices include an extensive bibliography with case annotations      **The American and English**

**Encyclopaedia of Law** David Shephard Garland,Lucius Polk McGehee,James Cockcroft,Charles Porterfield,1901      *The Universal Cyclopaedia* ,1900      **The New York Practice, a Treatise Upon Practice and Pleadings in Actions and Special Proceedings in the Courts of Record of the State of New York** Joel TIFFANY (and SMITH (Henry)),1864

United States Statutes at Large United States,1962 Vols for 1950 19 contained treaties and international agreements issued by the Secretary of State as United States treaties and other international agreements      **Tentative List of Subject Headings and Index Rules for the State Law Index** Library of Congress. Legislative Reference Service,1927      United States Circuit Courts of Appeals Reports ,1905      *The Southwestern Reporter* ,1908      **Reports Containing the Cases Determined in All the Circuits from the Organization of the Courts** ,1906      American Digest ,1928      **Johnson's Universal Cyclopaedia** ,1897      *United States Statutes at Large Containing the Canal Zone Code* Canal Zone,1962

**Merchant Shipping Legislation** Aengus R M Fogarty,2017-05-12 Now in its third edition Merchant Shipping Legislation is a useful tool tool for those wishing to refer to the UK and Commonwealth merchant shipping statutes Organized in subject areas and regularly updated this complete annotation and commentary on the UK and Commonwealth merchant shipping legislation will be of use to the work of maritime lawyers in the UK and overseas All the provisions of the various merchant shipping acts are contained in a single easy to use volume organized in subject areas Divided into twenty chapters the work addresses all the most important areas including registration collisions salvage pilotage environmental protection oil pollution and carriage of goods      The Encyclopedic Digest of Alabama Reports Thomas Johnson Michie,1919

**The South Western Reporter** ,1898 Includes the decisions of the Supreme Courts of Missouri Arkansas Tennessee and Texas and Court of Appeals of Kentucky Aug Dec 1886 May Aug 1892 Court of Appeals of Texas Aug 1892 Feb 1893 Jan Feb 1928 Courts of Civil and Criminal Appeals of Texas Apr June 1896 Aug Nov 1907 Court of Appeals of Indian Territory May

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