

## Litigation - Cyprus

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### New law on limitation of actions

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#### Introduction

#### Provisions of the new law

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When Cyprus gained independence in 1960 it retained the colonial-era Limitation of Actions Law,<sup>(1)</sup> which prescribed the time limits within which claims must be brought before a court. The Limitations Law was suspended in 1964 following inter-communal disturbances. An attempt to revive it was made in 2002 with the enactment of the Suspension of Limitation Period (Provisional Provisions) Law (110(I)/2002), which provided that the Limitations Law would re-enter into force with effect from June 1 2005. However, the entry into force of the 2002 law was postponed by a succession of laws passed in the interim, each temporarily extending the suspension. The latest of these, enacted in December 2011, extended the suspension until June 30 2012.

A new law (66(I)/2012) has now been passed with respect to the limitation periods of actionable rights. It entered into force on July 1 2012.

#### Provisions of the new law

Article 3 of the law provides that the limitation period in respect of a claim commences from the day of completion of the basis of the claim (defined in Article 2 as all events that give rise to an actionable right concerning a claim). Article 4 stipulates that unless otherwise provided in this or any other law, no proceedings may be issued after 10 years have elapsed from that date.

#### **Secured loans**

Article 5 provides that for loans secured by a mortgage, charge or pledge, the limitation period is 12 years.

#### **Civil wrongs**

Article 6 prescribes a general limitation period of six years for civil wrongs. However, the limitation period for claims for damages for negligence, nuisance or breach of a statutory duty is set at three years by Article 6 (2).

Article 6(3) allows the court discretion to disapply the limitation provisions in cases of civil wrongs leading to bodily harm or death. In making its decision the court is required to consider:

- the length of the delay in issuing proceedings and the reasons for it;
- the duration of any inability on the part of the claimant to handle the case;
- the steps taken by the claimant to safeguard any relevant evidence;
- the stance of the defendant in relation to the application; and
- the consequences of the delay in relation to the preservation and reliability of the evidence.

The court cannot exercise its discretion to disapply the limitation period once two years have elapsed from the expiry of the prescribed limitation period.

Article 6(4) provides for a limitation period of one year in the case of proceedings for defamation or malicious falsehood.

### **Contracts**

Article 7 sets a general limitation period of six years for actions based on contractual claims. However, for proceedings related to a contract or to a quasi-contract in relation to agreed or reasonable remuneration of a lawyer, a doctor, a dentist, an architect, a civil engineer, a contractor or another independent professional, the limitation period is three years.

For loans with no set repayment date and which do not require advance notice as a condition of repayment of the debt, the limitation period commences on the date of service of written notice to the borrower to repay the debt, from or on behalf of the lender (or where there are co-lenders, from or on behalf of one of them).

### **Succession**

Article 9 provides that no action can be commenced questioning the validity of a will, or in relation to the estate of a deceased or any portion or part thereof or bequest, after eight years from the date of death. In the event that the claimant was absent from Cyprus, the limitation period will not be deemed to have been completed unless one year has elapsed from the time that the claimant returned to Cyprus or became aware of the death (or, with reasonable diligence, could have become aware of the death).

### **Specific exceptions**

Article 12 provides that the period of limitation will not commence or, if it has commenced, will be suspended in respect of the following:

- between spouses during their marriage, even though the marriage is later annulled;
- between parents and children, while the children are minors;
- between trustees and trust beneficiaries, while the trust beneficiaries are minors or when the beneficiary has not yet been born and until the beneficiary is born and reaches adulthood;
- between executors of a will or administrators of the property of a deceased and heirs and legatees of the deceased, while the heirs and legatees are minors; and
- between cohabiting partners.

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### **Endnotes**

<sup>(1)</sup> Cap 15.

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