

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4241 of 19th February, 2016

B. 08/16

BILL

FOR

AN Act to amend the Limitation Act.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Limitation (Amendment) Act 2016.

Commencement.

2. This Act comes into operation on the day of publication.

Amendment of the Limitation Act.

3.(1) The Limitation Act is amended in accordance with the provisions of this section.

(2) In section 2–

(a) in subsection (1) after the definition of “action” insert the following definition–

““child” means a person under the age of 18 years”.

(b) in subsection (2) for “minor” substitute “child”.

(3) Throughout the Act for every reference to “plaintiff” substitute “claimant”.

(4) For section 28(2) substitute–

“(2) In the case of actions for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of provision made by or under a statute or independently of any contract or any such provision) where the damages claimed by the claimant for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to any person who at the time of the action was under a disability, the preceding provisions of this section shall have effect as if for the words “six years” were substituted the words “three years”.”.

(5) After section 32 insert the following–

“PART IIA
DISAPPLICATION OF LIMITATION PERIOD AND FOR CERTAIN
ACTIONS AGAINST THE CROWN

Disapplication of limitation period for certain actions against the Crown.

32A.(1) The limitation period in section 4(1), which imposes a time limit of three years for bringing an action where the damages claimed by the claimant for negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to any person shall not apply to proceedings against the Crown where the proceedings relate to cases of–

- (a) neglect, ill-treatment or other abuses to a child who was looked after by the Crown on the date when any right of action accrued; or
- (b) mesothelioma alleged to have been caused by exposure to asbestos during the course of that person’s employment by the Crown.

(2) For the purposes of this Part–

- (a) “the Crown” means the Crown in right of Her Majesty’s Government of Gibraltar and its agents; and

- (b) “looked after” has the same meaning as in section 2 of the Children Act 2009.”.

(6) In section 36–

- (a) insert “(1)” after “36.”;
- (b) in the proviso to the newly numbered subsection (1) after “forfeiture of a ship” insert “, or to any proceedings for the recovery of any debt owed to the Crown”.
- (c) after the proviso to subsection (1) insert–
 - “(2) In the proviso to subsection (1), “debt owed to the Crown” means any debt, including but not limited to debts owed further to a contract or rent, owed–
 - (a) to the Crown in right of Her Majesty’s Government of Gibraltar; or
 - (b) to an Agency, Authority, Company, entity or agent of Her Majesty’s Government of Gibraltar where such debt is certified by the Financial Secretary as being owed to the Crown.”.

Transitional provision.

4. The amendments to section 36 of the Limitation Act contained in section 3(6) of this Act shall, in respect of proceedings for the recovery of any debt owed to the Crown–

- (a) have effect in relation to causes of action accruing before, as well as in relation to causes of action accruing after, this Act comes into force;
- (b) enable any action to be brought which was barred by the Limitation Act before this Act comes into force; and
- (c) affect any action commenced before this Act comes into force.

EXPLANATORY MEMORANDUM

This Bill amends the Limitation Act to–

- (a) provide for the more modern reference to “a child” in place of “a minor”;
- (b) change the limitation period to 3 years from the date that a person ceases to be under a disability, for cases involving actions for personal injury relating to neglect, ill-treatment or other abuses to a person who at the time was under a disability;
- (c) disapply the limitation period for actions against the Crown involving cases of–
 - (i) neglect, ill-treatment or other abuses to a minor who was looked after by the Crown on the date when any right of action accrued; or
 - (ii) mesothelioma alleged to have been caused by exposure to asbestos during the course of that person’s employment by the Crown;
- (d) disapply the Act with regards to proceedings by the Crown for the recovery of debts owed to the Her Majesty’s Government of Gibraltar or to a Government Agency, Authority, Company, entity or agent.

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