



LAWS OF KENYA

PUBLIC AUTHORITIES LIMITATION ACT

CHAPTER 39

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CHAPTER 39

PUBLIC AUTHORITIES LIMITATION ACT

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SCHEDULE

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Spent.

CHAPTER 39

PUBLIC AUTHORITIES LIMITATION ACT

[Date of assent: 2nd May, 1974.]

[Date of commencement: 1st July, 1974.]

An Act of Parliament to provide for the limitation of proceedings against the Government and a local authority, and for purposes incidental to and connected with the foregoing

[Act No. 5 of 1974, L.N. 89/1974; L.N. 102/1974.]

1. Short title

This Act may be cited as the Public Authorities Limitation Act.

2. Interpretation

(1) In this Act, except where the context otherwise requires—

“**local authority**” means a municipal council, county council, town council, urban or area council, and, in respect of any function delegated to or conferred upon a local council, such local council;

“**minor**” means a person under eighteen years of age;

“**proceedings**” means civil proceedings in the High Court or a subordinate court.

(2) For the purposes of this Act—

- (a) proceedings against the Government includes proceedings against the Attorney-General or any Government department or any public officer as such;
- (b) proceedings against a local authority includes proceedings against any person employed by a local authority and sued or intended to be sued as such;
- (c) a person is under a disability while he is a minor or of unsound mind or is detained in pursuance of any written law which authorizes the detention of persons suffering from mental disorder or unsoundness of mind.

3. Limitation of proceedings

(1) No proceedings founded on tort shall be brought against the Government or a local authority after the end of twelve months from the date on which the cause of action accrued.

(2) No proceedings founded on contract shall be brought against the Government or a local authority after the end of three years from the date on which the cause of action accrued.

(3) Where the defence to any proceedings is that the defendant was at the material time acting in the course of his employment by the Government or a local authority and the proceedings were brought after the end of—

- (a) twelve months, in the case of proceedings founded on tort; or

- (b) three years, in the case of proceedings founded on contract, from the date on which the cause of action accrued, the court, at any stage of the proceedings, if satisfied that such defendant was at the material time so acting, shall enter judgment for that defendant.

4. Tender of amends

(1) In any proceedings founded on tort where damages are claimed against the Government or a local authority in respect of negligence, or a breach of any duty imposed by or under any written law, or in respect of any alleged act, neglect or default in the execution or intended performance of any public duty or authority-

- (a) tender of amends before the proceedings were instituted may, in lieu of or in addition to any other plea, be pleaded;
- (b) if the proceedings were instituted after such tender, or are proceeded with by the plaintiff after he has notice of the payment into court of any money in satisfaction of any cause of action, and the plaintiff does not recover more than the sum tendered or, in respect of the cause of action, paid, he shall not recover any costs incurred in the proceedings, or as the case may be, in respect of the cause of action, after the tender or payment, and the defendant shall be accordingly entitled to costs, to be taxed as between advocate and client, from the time of tender or payment;
- (c) if, in the opinion of the court, the plaintiff has not given the defendant a sufficient opportunity to make a tender of amends before the institution of proceedings, the court may award to the defendant costs to be taxed as between advocate and client;
- (d) subject to sections 5 and 6 of this Act, when proceedings have been instituted contrary to subsection (1) or (2) of section 3 of this Act, or judgment is entered in pursuance of subsection (3) thereof, the defendant shall be entitled to costs to be taxed as between advocate and client unless the court otherwise orders.

(2) This section shall not affect any proceedings by or on behalf of the Government against a local authority.

[L.N. 102/1974.]

5. Extension of limitation period in case of disability

Notwithstanding the provisions of section 4 of this Act, if, on the date when a right of action accrues for which a period of limitation is prescribed by this Act, the person to whom it accrues is under a disability, the action may be brought at any time before the end of twelve months from the date when that person ceases to be under a disability:

Provided that—

- (i) this section does not apply in respect of proceedings where the right of action first accrues to a person who is not under a disability and through whom the person under a disability claims;
- (ii) this section does not apply to an action to recover a penalty or forfeiture or a sum by way of penalty or forfeiture recoverable by virtue of a written law.

6. Application of Cap. 22

Notwithstanding the provisions of section 31 of the Limitation of Actions Act, section 22 of that Act shall not apply in respect of the provisions of this Act; and in section 27 of the Limitation of Actions Act the reference to section 4(2) of that Act shall be read and construed as a reference to section 3(1) of this Act, but subject thereto and notwithstanding section 42 of the Limitation of Actions Act, Part III of that Act shall apply to this Act.

7. Transitional provisions

Where immediately before the date of commencement of this Act, the time for commencing any proceedings has not already expired under any law relating to the limitation of actions then in force, but the bringing of such proceedings is barred by the provisions of this Act, the proceedings may be instituted before the expiration of twelve months from the date of commencement of this Act:

Provided that nothing in this section shall enable the institution of any proceedings in respect of which the time for bringing such proceedings would have expired apart from the provisions of this Act.

8. [*Spent.*]

9. [*Spent.*]

10. [*Spent.*]

11. [*Spent.*]

SCHEDULE

[*Spent.*]
