



ANALYSIS

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PART IIA

APPLICATION OF LIMITATION LAW
OF OVERSEAS COUNTRIES

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1996, No. 131

An Act to amend the Limitation Act 1950

[2 September 1996]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Limitation Amendment Act 1996, and shall be read together with and deemed part of the Limitation Act 1950 (hereinafter referred to as the principal Act).

2. New Part inserted—The principal Act is hereby amended by inserting, after Part II, the following Part:

“PART IIA

“APPLICATION OF LIMITATION LAW OF OVERSEAS COUNTRIES

“28A. **Interpretation**—In this Part of this Act,—

“ ‘Country’ includes a State, territory, province, or other part of a country:

“ ‘Limitation law’ in relation to any matter, means a law that limits or excludes liability or bars a right to bring proceedings or to have the matter determined by arbitration by reference to the time when

proceedings or an arbitration in respect of the matter are commenced; and includes a law that provides that proceedings in respect of the matter may be commenced within an indefinite period.

Cf. Foreign Limitation Periods Act 1984 (U.K.), s. 4; Choice of Law (Limitation Periods) Act 1993 (N.S.W.), s. 3

“28B. Application of this Part of this Act—(1) This Part of this Act applies to the Commonwealth of Australia or any State or Territory of Australia, the United Kingdom, and to any country to which this Part of this Act is declared to apply by an Order in Council made under subsection (2) of this section.

“(2) The Governor-General may from time to time, by Order in Council, declare that this Part of this Act applies to a country specified in the order.

“(3) In the case of a country that is responsible for the international relations of a territory, an Order in Council under subsection (2) of this section may apply to the country and all or some of those territories.

“28c. Characterisation of limitation law—(1) Where the substantive law of a country to which this Part of this Act applies is to be applied in proceedings before a New Zealand Court or in an arbitration, the limitation law of that country is part of the substantive law of that country and must be applied accordingly.

“(2) If, in any case to which subsection (1) of this section applies, a New Zealand Court or an arbitrator exercises a discretion under the limitation law of another country, that discretion, so far as practicable, must be exercised in the manner in which it is exercised in that other country.

Cf. Foreign Limitation Periods Act 1984 (U.K.), s. 1; Choice of Law (Limitation Periods) Act 1993 (N.S.W.), ss. 5 and 6.”