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New Section 6A of the Limitation Act 1953

Under the Limitation Act 1953, claims based on contract or tort must be brought within six years from the date when a cause of action accrues, which is when the right to sue arises.^[1] This rule applies even if the plaintiff has no knowledge of the damage, or if the damage suffered is only known much later.^[2]

In April last year, Parliament passed a Bill introducing a new section 6A to the Limitation Act 1953, which comes into effect on 1 September 2019.

The effect of section 6A, in short, is to extend the six-year limitation period in circumstances where the plaintiff only has requisite knowledge for bringing an action more than three years after the cause of action has accrued. This new provision applies to any action for damages for negligence not involving personal injuries.

In order to rely on this provision, a plaintiff must bring an action within three years of the earliest date on which he had the requisite knowledge to bring the action. However, this period cannot extend beyond 15 years from the date on which the cause of action accrued. Below is an illustration of the timeline:



Four illustrations are provided under section 6A, all of which are construction-related scenarios. As a matter of law, illustrations do not limit the scope of the section,^[3] and section 6A in itself does not limit the application of the provision to construction cases.

Although all discussions when the Bill was debated before Parliament were also centred on latent damages in construction cases,^[4] the Hansard is merely an aid of interpretation and cannot be determinative of an issue.^[5]

Section 6A is a welcome aid to plaintiffs who have no means of knowledge of damage which would have otherwise prevented them from bringing an

action within time.

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- [1] Limitation Act 1953, s 6(1)(a)
- [2] *AmBank (M) Bhd v Abdul Aziz Hassan & Ors* [2010] 3 MLJ 784 (CA) at para 28E
- [3] *Public Prosecutor v Lim Kiang Chai* [2016] 2 MLJ 153 (FC) at para 63
- [4] The Hansard, 4 April 2018
- [5] *Chor Phaik Har v Farlim Properties Sdn Bhd* [1994] 3 MLJ 345 (FC) at 360F