

# ***LIMITATION ACT, 1963***

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### **1.1 Limitation Act, 1963 Section 4**

- While the phrasing of your question touches on the broader legal principle of **Actus curiae neminem gravabit** (an act of the court shall prejudice no man), Section 4 is the specific provision that handles delays caused by the court's schedule.
- **Breakdown of the Relevant Sections**
- To give you the full picture, here is how the sections you mentioned differ:

Section	Key Provision	Purpose
Section 4	Expiry of prescribed period when court is closed	If the limitation period expires on a day the court is closed, the action can be taken on the day the court reopens. This is the "extension" due to court inaction/closure.
Section 5	Extension of prescribed period (Condonation of Delay)	Allows the court to admit an application/appeal after the deadline if the party shows "sufficient cause" (e.g., illness, misguidance).
Section 6	Legal Disability	Protects minors, insane persons, or idiots by pausing the clock until the disability ceases.
Section 9	Continuous running of time	Dictates that once time has begun to run, no subsequent disability or inability to institute a suit stops it.

### 1.1.1 Why Section 4 fits your description

Section 4 is based on the necessity that a person should not be penalized because the court is unavailable to receive their filing. It effectively extends the time to the next working day.

**Note:** Section 5 is often confused with this, but Section 5 is about the *litigant's* inability to act, whereas Section 4 is specifically about the *court's* inability to function on that specific day.

To successfully argue for an extension under **Section 5 of the Limitation Act, 1963**, a litigant must demonstrate "**Sufficient Cause**." Unlike Section 4 (which is an automatic right when the court is closed), Section 5 is **discretionary**. The court *may* admit the application if it's satisfied with your explanation, but it isn't required to.

### 1.1.2 What Qualifies as "Sufficient Cause"?

The courts generally interpret this term liberally to ensure justice is done, but the cause must be "bona fide" (in good faith).

- **Illness:** Severe medical conditions that physically prevent the party or their counsel from filing.
- **Legal Disability/Poverty:** While not always an automatic excuse, extreme circumstances are considered.
- **Mistake of Counsel:** If a lawyer gives incorrect advice regarding the limitation period or files in the wrong forum, courts often allow the extension so the client isn't punished for the professional's error.
- **Government Delay:** Official red tape is sometimes accepted, though the courts have become stricter about this recently.
- **Imprisonment:** If the person was in custody and lacked legal access.

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### 1.1.3 The "Day-to-Day" Rule

A crucial (and often stressful) aspect of Section 5 is that the applicant must explain **every single day of delay** after the limitation period expired.

**Example:** If you are 10 days late, you can't just explain why you were busy on Day 1. You must show why you couldn't file on Day 1, Day 2, all the way through Day 10.

### 1.1.4 Where Section 5 Does NOT Apply

It is important to remember that Section 5 applies to **Appeals** and **Applications**, but it **does not apply to Suits** (initial trials) unless specifically mentioned by another law. For a regular civil suit, if you miss the deadline, the court generally cannot extend it under this section.

Feature	Section 4 (Court Closed)	Section 5 (Condonation)
Nature	Mandatory (A matter of right)	Discretionary (Court's choice)
Scope	Suits, Appeals, & Applications	Appeals & Applications only
Proof	Proof that the court was closed	Proof of "Sufficient Cause"

**1.2** Section 8 of the Limitation Act, 1963 imposes a limitation on the concessions provided by sections 6 and 7 of the Limitation Act, 1963 to a person under disability to a maximum of 3 years.

Section 8 of the Limitation Act, 1963, acts as a "check" or a "special exception" to the extensions granted under Sections 6 and 7. While those sections allow a person with a legal disability (like a minor or someone of unsound mind) to file a suit after their disability ends, Section 8 ensures that this extension isn't indefinite.

### 1.2.1 How Section 8 Works

Under Sections 6 and 7, the "clock" for the limitation period is essentially paused while the person is under a disability. However, Section 8 imposes two critical restrictions:

1. **The 3-Year Cap:** Once the disability ceases (e.g., a minor turns 18 or a person regains their sanity), the maximum extension allowed to file the suit is **3 years**, regardless of what the original limitation period was.
2. **Pre-emption of Pre-existing Time:** If the remaining time in the original limitation period is already *more* than 3 years, Section 8 does not grant *extra* time. It only ensures that you get at least 3 years from the date the disability ends (provided it doesn't exceed the total period).

### 1.2.2 A Practical Example

Imagine a person is a minor when their right to sue for possession of immovable property arises.

- **Normal Limitation Period:** 12 years.
- **The Scenario:** The minor turns 18 (cessation of disability).
- **The Rule:** Under Section 8, they must file the suit within **3 years** of turning 18, even though the original category of the suit usually allows for 12 years. They cannot claim another 12 years from the date they reached majority.

### Comparison of Sections

Section	Purpose
Section 6	Deals with legal disability (Minority, Insanity, Idiocy) and extends the time to sue.
Section 7	Deals with the disability of one of several joint creditors or claimants.
Section 8	<b>Limits</b> the extension granted by Sections 6 and 7 to a maximum of <b>3 years</b> from death

<b>Section</b>	<b>Purpose</b>
	or cessation of disability.

To understand the "Pre-emption" rule of Section 8, you have to look at it as a "**ceiling**" on the extension. It doesn't always add 3 years; it simply ensures you have *at least* 3 years (but no more) from the date the disability ends.

**1.2.3** Let's look at two different scenarios to see how the math changes.

### Scenario A: The 3-Year Extension (Standard)

Imagine a minor has a right to sue for a debt (Normal Limitation: **3 years**).

1. **Cause of Action:** Occurs when the child is 10 years old.
2. **Disability Ends:** The child turns 18.
3. **The Math:** Under Section 6, the clock starts at 18. Under Section 8, they get **3 years** from age 18 to file the suit.
4. **Deadline:** Age 21.

### Scenario B: The "Ceiling" Effect (Longer Limitation)

Imagine a minor has a right to sue for possession of land (Normal Limitation: **12 years**).

1. **Cause of Action:** Occurs when the child is 7 years old.
2. **Disability Ends:** The child turns 18.
3. **The Math:** \* Normally, 12 years from age 7 would end at age 19.
  - Section 6 says the clock starts at age 18.
  - **Section 8 Intervenes:** It says you cannot have more than **3 years** from the date the disability ends.
4. **Deadline:** Age 21.
  - *Note: Even though the original limitation was 12 years, Section 8 shrinks the "extension" to just 3 years after reaching majority.*

### Summary Table: Numerical Breakdown

Type of Suit	Normal Period	Disability Ends (Age)	Final Deadline	Reason
<b>Debt/Money</b>	3 Years	18	<b>21</b>	3 years from cessation (Sec 8).
<b>Possession</b>	12 Years	18	<b>21</b>	3-year cap (Sec 8) overrides the 12-year rule.
<b>Specific Perf.</b>	3 Years	18	<b>21</b>	Standard 3-year window.

## Key Takeaway for Section 8

Section 8 **never expands** a limitation period beyond what is necessary to give the person 3 years of "clear air" after their disability ends. It is a restrictive section designed to prevent legal claims from hanging over someone's head for decades (e.g., waiting 12 years after a minor turns 18).

**1.3 Limitation period for suits not specifically provided** under the Schedule to the Limitation Act, 1963. This is governed by the "Residuary Clause" of the Limitation Act, 1963, specifically **Article 113**.

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### 1.3.1. Understanding Article 113 (The Residuary Provision)

The Limitation Act is structured with a Schedule that lists specific time limits for various types of suits (like contracts, torts, or property disputes). However, the law recognizes that it cannot possibly list every single type of legal action that might ever arise.

- **Article 113** states: "Any suit for which no period of limitation is provided elsewhere in this Schedule" shall have a limitation period of **three years**.
- **When the clock starts:** The period begins to run when the **right to sue accrues** (i.e., the moment the cause of action arises).

### 1.3.2 Why this exists

Think of Article 113 as a safety net. If a lawyer or judge looks through the entire Schedule and cannot find a specific category that fits a particular case, they default to this 3-year rule.

Category	Example	Period
Specific Suits	Possession of Immovable Property	12 Years
Specific Suits	Breach of Contract	3 Years
Residuary Suits	<b>Any suit not listed elsewhere</b>	<b>3 Years</b>

**1.3.3 Section 8 of the Limitation Act, 1963** imposes a limitation on the concessions provided by **Sections 6 and 7** of the Limitation Act, 1963 to a person under disability to a maximum of 3 years.

Section 8 of the Limitation Act, 1963, acts as a "check" or a "special exception" to the extensions granted under Sections 6 and 7. While those sections allow a person with a legal disability (like a minor or someone of unsound mind) to file a suit after their disability ends, Section 8 ensures that this extension isn't indefinite.

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**1.4 Section 6 of the Limitation Act, 1963**, specifically defines "**legal disability**" to include only three distinct categories. If a person falls into one of these categories at the time the limitation period is supposed to begin, the "clock" is paused.

#### 1.4.1 The Three Recognized Disabilities

According to the text of **Section 6(1)**, the extension of the limitation period applies only if a person is:

1. **Minority (A):** Being under the age of 18.
2. **Insanity (B):** Being of unsound mind.
3. **Idiocy (D):** A specific, severe form of mental disability (often considered a subset of unsoundness of mind in modern contexts, but listed separately in the Act).

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### 1.4.2 Why Insolvency (C) is Excluded

Insolvency is a **financial status**, not a "legal disability" under the Limitation Act.

- An insolvent person is still legally capable of suing or being sued (though usually through an Official Assignee or Receiver).
- The law does not consider the lack of money or being declared bankrupt as a reason to "pause" the statute of limitations.
- If the legislature intended to include insolvency, it would have been explicitly listed alongside the other three.

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### 1.4.3 Quick Reference Table

Disability	Included in Section 6?	Reason
Minority	Yes	Protection for those under 18.
Insanity	Yes	Protection for those unable to understand legal rights.
Idiocy	Yes	Protection for those with congenital mental defects.
Insolvency	No	Financial status does not pause the limitation clock.
Imprisonment	No	Being in jail is not a legal disability under this Act.

**1.4.4** When a person is hit with a "double whammy" of disabilities, **Section 6(2)** of the Limitation Act, 1963, provides a specific rule to ensure they aren't unfairly timed out of their legal rights.

Here is how the law handles **multiple disabilities**:

#### 1. Concurrent Disabilities (At the Start)

If a person is affected by **two disabilities** at the time the right to sue begins (e.g., a person is both a **minor** and of **unsound mind**), the limitation period does not start until **both** disabilities have ceased.

- **Example:** A 10-year-old child is also of unsound mind. They turn 18 (Minority ends), but they remain of unsound mind until they are 25. The limitation period only begins to run when they turn 25.

#### 2. Successive Disabilities (One after Another)

If a person is initially under one disability (e.g., Minority) and, **before that disability ends**, they are struck by a second disability (e.g., Insanity), the clock remains paused.

- **The Key Rule:** The second disability must occur **before** the first one ends. If there is even a one-day gap where the person is "disability-free," the limitation clock starts ticking and cannot be stopped again (based on Section 9: "Continuous running of time").

#### 3. Disability of the Legal Representative (Section 6(3))

If the person under disability dies **before** the disability ends, and their legal representative is *also* under a disability at the time of the death, the rules of **Section 6(1) and 6(2)** apply to that representative as well.

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### 1.4.5 Summary Table: Multiple Disability Rules

Scenario	When does the clock start?
Minor + Insane (at the start)	When <b>both</b> have ceased.
Minor then Insane (before turning 18)	When the <b>Insanity</b> ceases.
Minor turns 18 Insane (one week later)	<b>At age 18.</b> The clock started and doesn't stop.

### 1.4.6 The "Once the Clock Starts" Rule

It is vital to remember **Section 9** of the Act: once the limitation period has begun to run, no subsequent disability or inability to institute a suit stops it. This is why the "gap" between disabilities is so legally dangerous for a plaintiff.

When a person under a legal disability (like a minor) dies before their disability ends, **Section 6(3)** and **Section 6(4)** of the Limitation Act, 1963, step in to protect their heirs.

The law essentially "transfers" the protection to the **Legal Representative (LR)**. However, the timing depends entirely on whether the LR is also under a disability.

#### 1. If the Legal Representative is "Fit"

If the minor dies and their heir is an adult of sound mind, the limitation period starts running from the **date of the death** of the person who was under the disability.

#### 2. If the Legal Representative is ALSO under Disability

This is where **Section 6(4)** applies. If the person under disability dies, and their legal representative is *also* a minor or insane at the date of that death, the "pause" button stays pressed.

The limitation period will not start until **the representative's disability ceases**.

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### 1.4.7 A Complex Example: Three Generations of Disability

To see how powerful this is, look at this (rare but legal) chain:

1. **A (a minor)** has a right to sue.
2. **A dies** while still a minor.
3. **B (A's heir)** is also a minor at the time of A's death.
4. **The Rule:** The limitation clock does **not** start when A dies. It waits until **B** reaches the age of 18.

#### 3. The Final "Cap" (Section 8 Reminder)

Even in these complex chain-reaction cases, **Section 8** still hangs over the entire process. Once the final disability in the chain ends (e.g., the heir turns 18), the lawsuit **must** be filed within **3 years**, regardless of the original limitation period of the suit.

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### 1.4.8 Comparison of Scenarios

Status of Deceased	Status of Heir (at death)	When Limitation Starts
Minor	Adult / Sane	At the moment of the Minor's death.
Minor	Minor	When the <b>Heir</b> turns 18.
Insane	Insane	When the <b>Heir</b> regains sanity.

**Important Note:** The disability of the representative must exist **at the time of the death**. If the representative becomes insane *after* inheriting the right (even a day later), the clock has already started and Section 9 (Continuous Running of Time) prevents it from stopping again.

**1.4.9** This is a **crucial distinction** that often trips people up in exams. While they sound similar, the law treats them very differently. **Legal Disability** (Section 6) pauses the clock; **Inability to Sue** does not.

### 1. Legal Disability (The "Pause" Button)

As we discussed, this is strictly limited to the three categories in Section 6: **Minority, Insanity, and Idiocy**.

- **Source:** Created by the statute (The Limitation Act).
- **Effect:** The limitation period simply does not start (or is suspended) until the disability ends.

### 2. Inability to Sue (The "Personal Obstacle")

This refers to physical, social, or financial circumstances that make it difficult or practically impossible for someone to file a case.

- **Examples:** Poverty (Insolvency), being in prison, being bedridden with illness, or even a national lockdown.
- **Source:** Personal or external circumstances.
- **Effect: None.** Under **Section 9**, once the clock starts, no subsequent "inability" can stop it.

### 1.4.10 Why the distinction matters: Section 9

The "General Rule" in **Section 9** of the Limitation Act states:

*"Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it."*

This means if you have a right to sue and you are perfectly healthy and 18+ on day one, the clock starts. If you fall into a coma (Inability) or lose all your money (Insolvency) on day two, the clock **keeps ticking**. The law expects you to have a representative or an agent act on your behalf.

### 1.4.11 Comparison Table: Disability vs. Inability

Feature	Legal Disability (Sec 6)	Inability to Sue (Sec 9)
Defined By	The Law (Statute).	Personal/External facts.
Categories	Minority, Insanity, Idiocy.	Illness, Poverty, Imprisonment, etc.
Impact on Time	Extends/Pauses the period.	<b>No impact</b> ; time continues to run.

<b>Feature</b>	<b>Legal Disability (Sec 6)</b>	<b>Inability to Sue (Sec 9)</b>
<b>Example</b>	An 8-year-old child.	A person who is too poor to pay court fees.

#### 1.4.12 The "Poverty" Exception

It is worth noting that while **Insolvency/Poverty** doesn't stop the limitation clock, the law offers a different remedy: **Order 33 of the CPC (Suits by Indigent Persons)**. This allows a poor person to file a suit without paying the initial court fees, ensuring that "Inability to Sue" (money-wise) doesn't result in a total loss of justice—even if the limitation clock is still ticking.

This is a perfect example of how the law provides a "restart" button, even when a "pause" button (**Section 6**) isn't available.

While **Inability to Sue** (like being broke or sick) doesn't stop the clock under **Section 9**, an **Acknowledgment of Liability** under **Section 18** of the Limitation Act, 1963, can completely reset it.

#### 1.4.13 How Section 18 Works

If, before the original limitation period expires, the person against whom the right is claimed signs an acknowledgment of their liability in writing, a **fresh period of limitation** begins to run from that moment.

- **The Key Requirement:** The acknowledgment must be made **before** the original period expires. You cannot "revive" a dead claim using Section 18; you can only "extend" a living one.

### 1. Acknowledgment vs. Disability

Think of it this way:

- **Section 6 (Disability):** Pauses the clock because the *Plaintiff* is incapable.
- **Section 18 (Acknowledgment):** Restarts the clock because the *Defendant* admitted the debt.

#### Example:

- You are owed money (3-year limitation).
- In Year 2, you become very ill (**Inability to Sue**). Under Section 9, the clock keeps ticking.
- However, in Year 2.5, the debtor sends you a letter saying, "I know I owe you \$5,000, I'll pay soon."
- **The Result:** Even though you are still sick, the 3-year clock **restarts from zero** on the date of that letter.

### 2. Comparison of Time Extensions

<b>Mechanism</b>	<b>Cause</b>	<b>Effect on Time</b>
<b>Section 6</b>	Minority, Insanity, Idiocy.	<b>Suspends</b> the start of the clock.
<b>Section 18</b>	Written Admission by Defendant.	<b>Restarts</b> the clock from zero.

Mechanism	Cause	Effect on Time
Section 19	Part-payment of debt.	Restarts the clock from zero.
Section 5	"Sufficient Cause" (e.g., illness).	Extends time (Appeals/Apps only, NOT suits).

#### 1.4.14 Why this matters for "Inability to Sue"

If a person is unable to sue due to poverty or illness (Inability), their lawyer's best strategy is often to get the opponent to sign an acknowledgment or make a small "part-payment" (Section 19). This buys the plaintiff a whole new limitation period, effectively overcoming the harshness of Section 9.

#### 1.4.14 Important Distinction: Section 18 vs. Section 25(3) of the Contract Act

- **Section 18 (Limitation Act):** Must be signed *before* the time runs out. It extends the period.
- **Section 25(3) (Contract Act):** Can be signed *after* the time has run out. It creates a "Time-Barred Debt" contract which is a brand new promise to pay.

This is one of the most important "traps" in the Limitation Act. While Section 6 covers **Disability** and Section 18 covers **Acknowledgment**, **Section 5** deals with "**Condonation of Delay.**"

#### 1.4.15 The biggest takeaway is this: **Section 5 does NOT apply to Suits.**

##### 1. The Scope of Section 5

**Section 5** allows a court to admit a case even after the limitation period has expired if the applicant shows "**sufficient cause**" (like a serious illness, a natural disaster, or a mistake by a lawyer). However, it is strictly limited to:

- **Appeals**
- **Applications** (except those under Order 21 of the CPC regarding execution of decrees).

##### 2. Why doesn't it apply to Suits?

The law is intentionally harsh on the initial filing of a lawsuit (a "Suit").

- **Finality:** If plaintiffs could constantly ask for "extra time" to start a case because they were sick or busy (Inability to Sue), no one would ever be safe from the threat of litigation.
- **The Difference:** Once a suit has been decided and you are moving to an *Appeal*, the law is slightly more lenient because the dispute has already been "born" in the eyes of the court.

##### 3. Comparison: Section 6 vs. Section 5

It's easy to confuse these because they both deal with "extra time." Here is the breakdown:

Feature	Section 6 (Legal Disability)	Section 5 (Condonation of Delay)
Applies to	Suits, Appeals, and Applications.	<b>Appeals and Applications ONLY.</b>
Grounds	Minority, Insanity, Idiocy.	Any "Sufficient Cause" (Illness, etc.).
Nature	A <b>Right</b> (Mandatory extension).	<b>Discretionary</b> (Court decides).
Timing	Exists at the <i>start</i> of the period.	Occurs at the <i>end</i> of the period.

#### 1.4.16 What constitutes "Sufficient Cause"?

Since Section 5 is discretionary, the court looks for a genuine excuse. Examples include:

- **Medical Emergency:** A sudden, debilitating illness (Inability to Sue).
- **Legal Error:** A lawyer giving honestly mistaken advice about the filing date.
- **Imprisonment:** Being physically unable to reach the court.
- **Government Delay:** Delay in obtaining certified copies of a judgment.

#### Summary of the "Suit" Problem

If you miss the deadline to file a **Suit** (the very first step of a case) because you were sick, you **cannot** use Section 5. Your only hope is if you were under a **Section 6 Disability** (Minor/Insane/Idiot) or if the defendant gave you a **Section 18 Acknowledgment**.

#### 1.5 The Legal Philosophy Of Limitation Act, 1963

The **Limitation Act, 1963** is based on two famous Latin maxims that form the bedrock of legal "public policy":

1. **Interest reipublicae ut sit finis litium:** It is in the interest of the State that there should be an end to litigation.
2. **Vigilantibus non dormientibus jura subveniunt:** The law assists the vigilant, not those who sleep over their rights.

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##### 1.5.1 Why Public Policy?

The primary goal of the Law of Limitation is to ensure **legal certainty** and **finality**. If there were no time limits for filing cases, a person could be sued for a debt or a property dispute from 50 years ago, long after witnesses have died or evidence has been lost.

- **Not Morality (B):** Limitation is often seen as "hard" law. It can prevent a person from getting their rightful money back just because they were late. Morally, the debt still exists, but legally, the remedy is barred.
- **Not Administrative Convenience (C):** While it does help keep court dockets from being infinite, the core reason is to protect individuals from the "Sword of Damocles" hanging over their heads indefinitely.

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##### 1.5.2 Key Effects of Limitation

Feature	Description
<b>Bars the Remedy</b>	You cannot file a lawsuit after the period expires.
<b>Does Not Extinguish the Right</b>	The underlying right still exists (except in some property cases under Section 27).
<b>Mandatory</b>	Under Section 3, the Court <b>must</b> dismiss a suit filed after the limitation period, even if the defendant doesn't raise it as a defense.

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##### 1.5.3 A Common Exception

While the law is strict, **Section 5** allows for "Condonation of Delay" in appeals and applications (but notably **not** for original suits) if the party can show "sufficient cause" for being late.

This distinction is one of the most practical parts of the **Limitation Act, 1963**, because it determines whether a court even has the power to "forgive" you for being late.

#### 1.5.4 Section 3: The "Sword" (Bar of Limitation)

Section 3 is mandatory. It states that every suit, appeal, or application filed **after** the prescribed period **shall be dismissed**, even if the opposite party does not raise limitation as a defense.

- **Self-Operating:** The judge is legally bound to check the date.
- **No Discretion:** If a suit is one day late, the court technically cannot hear it under Section 3 unless a specific exception applies.

#### 1.5.5 Section 4 & 5: The "Shield" (The Exceptions)

Because Section 3 is so strict, the law provides "safety valves" for honest mistakes or unavoidable delays.

##### Section 4: Expiry when Court is Closed

If the last day of limitation falls on a day the court is closed (like a Sunday or public holiday), you can file it on the day the court reopens. This is based on the maxim: *Lex non cogit ad impossibilia* (The law does not compel a man to do that which he cannot possibly perform).

##### Section 5: Condonation of Delay

This is the "mercy" clause. It allows the court to extend the time limit if the applicant shows "**sufficient cause**" for the delay.

Feature	Section 3 (The Bar)	Section 5 (The Extension)
Nature	Mandatory (The Court <b>must</b> dismiss).	Discretionary (The Court <b>may</b> allow).
Applicability	Applies to <b>Suits</b> , Appeals, and Applications.	Applies to <b>Appeals and Applications ONLY</b> .
Exclusion	<b>Does not apply to original Suits.</b>	Cannot be used to extend the time for filing a basic civil suit.
Who initiates?	The Court (Duty of the judge).	The Litigant (Must file an application).

#### 1.5.6 Why doesn't Section 5 apply to "Suits"?

This is a very common exam question. The law of limitation for a **Suit** (the very first time you go to court for a claim) is strictly enforced to ensure people don't sit on their rights for years.

If you miss the 3-year deadline to sue for a debt, Section 5 **cannot** save you. However, if you lose a case and are 10 days late filing the **Appeal**, you can use Section 5 to ask the judge for an extension by explaining why you were late (e.g., illness, death in the family).

##### What counts as "Sufficient Cause"?

The courts are generally liberal here. Common examples include:

- Bona fide mistake of a lawyer.
- Serious illness of the party.
- Imprisonment.
- Misleading instructions from a government department.

**1.6** The **period of limitation under the Limitation Act, 1963** for a **suit to enforce a right of pre-emption** is **1 year**.

This is found in **Article 97** of the **Schedule to the Limitation Act, 1963**. It is a very short period compared to other suits because "**Pre-emption**" is considered a "weak right" in law, as it interferes with a person's freedom to sell their property to whomever they choose.

### 1.6.1 What is the Right of Pre-emption?

The right of pre-emption (often called *Shufa* in Muslim Law) is the right of a person (the pre-emptor) to purchase a property in preference to all other people. It usually arises in three cases:

1. **Co-sharers:** When a part-owner of a property wants to buy the other part before an outsider.
2. **Adjacent Owners:** When a neighbor has a right to buy the land next door to prevent a stranger from moving in.
3. **Easement holders:** People who share a common path or water source.

### 1.6.2 When does the 1-year clock start?

The "Starting Point" for this 1-year period is crucial:

- From the date the purchaser takes **physical possession** of the whole of the property sold.
- If the property is of such a nature that physical possession cannot be taken (like a share in an undivided property), then from the date the **sale deed is registered**.

### 1.6.3 Important Connections: Section 8

Recall our discussion on Section 9 and Section 6. **Section 8** of the Limitation Act specifically mentions **pre-emption**:

**"Nothing in Section 6 or Section 7 applies to suits to enforce rights of pre-emption."**

This means that even if a person is a **minor** or **insane**, they do **not** get an extension of time to file a suit for pre-emption. They must file it within the 1-year period regardless of their disability. This highlights how strictly the law treats this specific right.

### 1.6.4 Summary Table for Exam Prep

Suit Type	Limitation Period	Article
Pre-emption	1 Year	Article 97
Recovery of Money	3 Years	Article 113 (Residuary)
Possession of Immovable Property	12 Years	Article 65
Specific Performance of Contract	3 Years	Article 54

**1.7 Article 113** of the **Schedule to the Limitation Act, 1963**, is known as the "**Residuary Article**." It acts as a safety net for any suit that hasn't been specifically mentioned in any other Article of the Act.

### 1.7.1 The Scope of Article 113

If you are filing a suit and you can't find a specific time limit for it in Articles 1 to 112, you automatically fall under Article 113.

- **Period of Limitation: 3 years.**
- **Time begins to run:** When the **right to sue accrues** (i.e., when the cause of action arises).

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### 1.7.2 Why is this Article Important?

Because the law is constantly evolving, new types of legal disputes arise that the drafters of 1963 might not have foreseen. **Article 113** ensures that these "**unlisted**" suits still have a deadline, adhering to the principle that litigation must eventually come to an end.

### 1.7.3 Common examples of suits falling under Article 113:

- Suits for a **Permanent Injunction**.
- Suits for **Dissolution of a Partnership** (where not specifically covered elsewhere).
- Suits to set aside an adoption.
- Suits for recovery of money that don't fit into specific "contract" categories.

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### 1.7.4 "Right to Sue Accrues" vs. "Knowledge"

A common point of litigation is exactly *when* the 3-year clock starts.

- The Supreme Court has clarified that the right to sue accrues when there is a **clear and unequivocal threat** to the rights of the plaintiff.
- It doesn't necessarily start the moment a minor disagreement happens, but when the right is seriously infringed upon.

### 1.7.5 Comparison: Articles 113, 137, and 65

Article	Category	Period	Applicability
Article 113	Suits (Residuary)	3 Years	Any civil suit not specifically listed.
Article 137	Applications (Residuary)	3 Years	Any petition/application (like Arbitration).
Article 65	Possession	12 Years	Specific to immovable property (Adverse Possession).

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### 1.7.6 Important Case Law

In **Shakti Bhog Food Industries Ltd. v. Central Bank of India**, the court emphasized that Article 113 is only a last resort. If a suit can be reasonably fitted into a specific Article (**like Article 11 concerning contracts**), that specific Article must take **precedence over the residuary one**.

While **Article 113** is the "safety net" for **suits**, **Article 137** is the "safety net" for **applications**. It is perhaps the most cited article in modern commercial litigation, especially regarding Arbitration.

### 1.7.7 The Scope of Article 137

It applies to any application for which no period of limitation is provided elsewhere in the third division of the Schedule (which deals specifically with applications).

- **Period of Limitation: 3 years.**
- **Time begins to run: When the right to apply accrues.**

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### 1.7.8 Why Article 137 is a "Hot Topic" in Arbitration

The **Arbitration and Conciliation Act, 1996**, does not specify a time limit for filing an application under **Section 11** (for the appointment of an arbitrator).

The Supreme Court has stepped in to fill this vacuum using Article 137:

1. **The Trigger:** The "right to apply" accrues 30 days after one party serves a notice to the other to appoint an arbitrator and the other party fails to do so.
2. **The Deadline:** From that 30th day, the party has exactly **3 years** to move the court under Section 11. If they wait 3 years and 1 day, the application is time-barred.

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### 1.7.9 Key Applications falling under Article 137:

- Applications to **appoint an arbitrator** (Section 11 of the Arbitration Act).
- Applications to **set aside an ex-parte decree** (if not covered by Art. 123).
- Applications for **Probate or Letters of Administration** (though there is debate here, as the "right to apply" is often considered continuous).
- Applications to a court to exercise its **revisionary powers** (where not specifically limited by state law).

### 1.7.10 Article 113 vs. Article 137

Feature	Article 113	Article 137
Applies to	Suits (The main trial)	Applications (Interlocutory/Special)
Duration	3 Years	3 Years
Trigger	Right to <b>sue</b> accrues	Right to <b>apply</b> accrues
Example	Suit for Permanent Injunction	Application to appoint an Arbitrator

[Image comparing the different divisions of the Limitation Act Schedule]

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### 1.7.11 Important Distinction: Section 5 of Limitation Act

Unlike suits (Art. 113), most applications falling under Art. 137 can benefit from **Section 5 (Condonation of Delay)**.

- If you file a **suit** late under Art. 113, the court usually cannot excuse the delay.
- If you file an **application** late under Art. 137, you can file a "**Condone Delay**" petition under **Section 5**, and if the judge finds you had a "sufficient cause," they can let the application proceed.

**1.8 Section 27 of the Limitation Act, 1963** is an **exception to the general rule** that in personal actions, the Limitation Act, 1963 **bars only the remedy and does not extinguish the right**.

### 1.8.1 The Legal Principle

In the law of limitation, there is a **general maxim**: "**Limitation bars the remedy but does not extinguish the right**." This means if you wait too long to sue for a debt, you lose the right to go to court, but the debt technically still exists.

**Section 27** is the significant exception to this rule. It deals with the **extinguishment of right to property**.

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### 1.8.2 How Section 27 Works

Under this section, if a person fails to institute a suit for possession of any property within the prescribed period of limitation, their **right to such property is extinguished**. It doesn't just block the lawsuit; it effectively kills the legal ownership.

- **Substantive Law**: This section is unique because it acts as a rule of substantive law rather than just procedural law.
  - **Adverse Possession**: It is the foundation for the concept of "Adverse Possession," where the original owner loses their title to the person in possession after the limitation period (usually 12 years for private property) expires.
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### 1.8.3 Quick Comparison of the Options

- **Section 26**: Deals with the acquisition of right to easements by physical enjoyment.
- **Section 27: The Exception** (Extinguishment of right to property).
- **Section 28**: (Repealed/Omitted) — Formerly dealt with the amendment of certain Acts.
- **Section 29**: Contains "Savings" (exceptions for special or local laws, marriage/divorce acts, etc.).

For private property, the standard timeline is **12 years**, but the law applies differently depending on who owns the land and the nature of the possession.

### 1.8.4 The Limitation Timelines

The Limitation Act, 1963, provides different periods under the **Schedule** (specifically Articles 64 and 65) which work in tandem with **Section 27**:

- **Private Property: 12 years**. If the owner does not sue for possession within 12 years of "adverse" possession, their title is extinguished.
- **Government Property: 30 years**. The state is given a much longer buffer to protect public land from encroachment.

- **Trust Property:** Generally, there is **no limitation period** for suits against a trustee to recover trust property (under Section 10), meaning the right is rarely extinguished by time alone.

### 1.8.5 The "Triple Test" for Adverse Possession

To successfully trigger Section 27 and extinguish the original owner's right, the person in possession must prove their occupancy was:

1. **Nec vi (Adequate in continuity):** The possession must be continuous and uninterrupted for the entire 12-year period.
2. **Nec clam (Adequate in publicity):** It must be open and visible to the world; "secret" possession doesn't count.
3. **Nec precario (Adverse):** It must be "hostile" to the true owner, meaning the possessor claims ownership against the owner's interest, not just as a tenant or licensee.

### 1.8.6 Summary of Section 27 vs. General Rule

Feature	General Limitation Rule	Section 27 Exception
Example	Recovery of a Money Debt	Recovery of Land/Property
Effect on Remedy	Barred (Cannot sue)	Barred (Cannot sue)
Effect on Right	Right survives (Can still be paid voluntarily)	Right is extinguished (Title is lost)

To understand how Section 27 of the Limitation Act works in practice, we look at how the Supreme Court defines the "breaking" of that 12-year clock.

Under Indian law, an "interruption" resets the 12-year timer to zero. Here are the landmark cases and principles that define what counts as a valid interruption:

#### 1.8.7. The "Sword and Shield" Doctrine

**Case:** *Ravinder Kaur Grewal v. Manjit Kaur (2019)*

- **The Rule:** This is arguably the most important recent case. The Court ruled that adverse possession is not just a **defense** (shield) for a defendant, but can be used as a **sword** by a plaintiff.
- **Impact:** If a person completes 12 years of adverse possession, they can actually sue the original owner to be declared the new legal owner. Before this case, it was mostly used only to block the owner from suing.

#### 1.8.8 Physical vs. Symbolical Possession

**Case:** *M.V.S. Manikayala Rao v. M. Narasimhaswami (1966)*

- **The Rule:** If a court grants "symbolical possession" (e.g., a court official visits the land and declares the owner has possession on paper), does it stop the squatter's 12-year clock?
- **Decision:** The Supreme Court held that the **delivery of symbolical possession** through a court decree is sufficient to interrupt the adverse possession of the defendant. The 12-year clock resets the moment that symbolical delivery happens.

#### 1.8.9 Permissive Possession is NEVER Adverse

**Case:** *P.T. Munichikkanna Reddy v. Revamma (2007)*

- **The Rule:** The Court emphasized that for possession to be "adverse," there must be *animus possidendi* (the intent to exclude the real owner).
- **Decision:** If the owner gives you permission (like a lease or a handshake agreement) to stay on the land, the 12-year clock **never even starts**. An interruption occurs the moment the possessor acknowledges the owner's title (e.g., by paying rent or asking for permission).

#### 1.8.10 What does NOT count as an Interruption?

- **Mere Protest:** A verbal protest or a simple letter from the owner saying "get off my land" is usually **not enough** to interrupt the 12-year period.
- **Internal Transfers:** If the squatter sells the "right" to another person, and that new person takes over immediately, the 12-year period **continues** (it does not reset) because the possession itself was never interrupted.

#### 1.8.11 Summary Table: What breaks the 12-year clock?

Action	Does it stop the clock?	Legal Reason
Filing a Lawsuit	Yes	The matter is now <i>sub-judice</i> (under judicial consideration).
Sending a Legal Notice	No	Unless followed by a suit, it's just a "paper threat."
Court-ordered Possession	Yes	Even "symbolical" possession resets the timer.
Paying Rent	Yes	Converts adverse possession into "permissive" possession.

**1.9 Section 14** of the *Limitation Act, 1963* provides for **exclusion of time of proceeding bona fide in Court without jurisdiction**.

#### 1.9.1 What is Section 14?

Section 14 of the Limitation Act, 1963, is a "remedial" provision designed to protect a litigant who has been diligently pursuing their case but in the **wrong court**.

If a person filed a lawsuit in a court that ultimately could not decide the case due to a **lack of jurisdiction** (or other similar causes), the time spent in that "wrong" court is **excluded** when calculating the limitation period for filing the suit in the correct court.

#### 1.9.2 Conditions for Section 14 to Apply

To claim this benefit, the plaintiff must prove:

- **Bona Fide (Good Faith):** They genuinely believed they were in the right court.
- **Due Diligence:** They were actively prosecuting the case, not just letting it sit.
- **Same Subject Matter:** The previous proceeding must be based on the same cause of action.

- **Defect of Jurisdiction:** The first court was unable to entertain the case because it lacked the power (territorial, pecuniary, or subject-matter jurisdiction).

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### 1.9.3 Comparison of Options

It helps to distinguish Section 14 from other "exclusion" sections in the Act:

Section	Purpose of Exclusion
Section 14	Time spent in a <b>court without jurisdiction</b> .
Section 15	Time during which an <b>injunction or stay order</b> was in effect.
Section 16	Time in cases where a person <b>dies before the right to sue accrues</b> .
Section 17	Time in cases of <b>fraud or mistake</b> (the clock starts only after discovery).

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### 1.9.4 A Common Pitfall

Note that Section 14 applies to **Suits** and **Applications**, but it generally **does not apply to Appeals** unless specifically made applicable by other laws.

In the context of **Section 14 of the Limitation Act**, "jurisdiction" isn't the only thing that matters. The law also uses the phrase "**other cause of a like nature**," which is where the "Defect of Character" (or more accurately, **Defect of Jurisdiction or other cause**) comes in.

The Supreme Court has clarified that this protection isn't just for when a judge says, "I don't have the power to hear this." It also applies to technical errors that make the suit "defective" from the start.

#### 1. Lack of Jurisdiction (The Standard Rule)

This is straightforward. It occurs when a court cannot hear a case because:

- **Territorial:** The land or incident happened in a different city.
- **Pecuniary:** The value of the suit is ₹1\$ Crore, but the court can only hear cases up to ₹20\$ Lakhs.
- **Subject Matter:** A Civil Court trying to hear a specialized Tax or Labour tribunal matter.

#### 2. "Other Cause of a Like Nature" (The "Defect" Rule)

This refers to a **defect in the proceedings** themselves that prevents the court from deciding the case on its merits. For Section 14 to apply, this defect must be so fundamental that the court *cannot* proceed, even if it wanted to.

#### Common "Like Nature" Defects:

- **Misjoinder of Parties:** Accidentally suing the wrong people together in a way that the law doesn't allow.
- **Non-joinder of Necessary Parties:** Failing to include someone whose presence is legally mandatory for the case to exist.
- **Wrong Procedure:** Filing a "Revision" when you should have filed an "Appeal," provided it was done in good faith.

### What does NOT count as a "Defect of Like Nature"?

The court is very strict about **negligence**. You cannot claim Section 14 if:

1. You simply **forgot** to file a document.
2. You failed to pay the **Court Fee** (this is seen as your fault, not a defect of the court's jurisdiction).
3. Your lawyer made a **grossly negligent** mistake that any junior lawyer would have caught.

#### 1.9.5 Summary Comparison

Feature	Lack of Jurisdiction	Defect of Like Nature
Source	The Court's power is missing.	The suit's legal structure is broken.
Example	Suing in Delhi for a house in Mumbai.	Joining two unrelated claims together.
Result	Court returns the plaint (Order 7 Rule 10).	Court dismisses/rejects for technicality.
Section Benefit	14 <b>Applicable</b>	<b>Applicable</b> (if done in good faith).

#### 1.9.6 Pro-Tip for Exams/Practice

The burden of proof is always on the **Plaintiff**. You must demonstrate that you were "prosecuting with due diligence." If you filed the first suit and then went on vacation for 6 months while it was pending, the court might refuse to exclude that time!

The "Good Faith" test is the heart of Section 14. Under **Section 2(h)** of the Limitation Act, "good faith" is defined strictly: *nothing shall be deemed to be done in good faith which is not done with **due care and attention***.

When a lawyer makes a mistake—like filing in the wrong city or under the wrong statute—the court asks: "**Was this an understandable oversight or gross negligence?**"

##### 1. The "Mistake of Counsel" Rule

Courts are generally lenient toward litigants because a client shouldn't suffer for their lawyer's error. However, the mistake must be "**bona fide**."

- **Excusable Mistake:** If the law is complex, ambiguous, or there are conflicting judgments from different High Courts, a lawyer choosing the "wrong" path is still acting in good faith.
- **Inexcusable Mistake:** If the law is "settled and clear" (e.g., filing a suit for ₹10 Lakhs in a court that clearly only handles up to ₹1 Lakh), the court may rule that there was no "due care and attention."

##### 2. The "Diligence" Factor

The court looks at the behavior of the party during the entire time the case was in the wrong court.

- **Active Prosecution:** Did you attend hearings? Did you file the necessary applications?
- **Laches (Delay):** If the wrong court returned your papers on January 1st, but you waited until March 1st to file in the correct court, that **2-month gap** will usually not be excluded. You only get credit for the time the case was actually *pending*.

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### 1.9.7 The Three-Pronged Test for Good Faith

For a court to grant you the benefit of Section 14, you must pass these three checks:

Check	Requirement	The "Failure" Scenario
<b>Cognizable Mistake</b>	The error must be one a "reasonable person" could make.	Filing a divorce petition in a Traffic Court.
<b>Continuous Action</b>	The party must show they weren't sleeping on their rights.	Letting the case get dismissed for "non-appearance."
<b>Immediate Rectification</b>	Moving to the correct court as soon as the error is discovered.	Waiting weeks after the "Return of Plaintiff" to refile.

### 1.9.8 Landmark Case: *Consolidated Engineering Enterprises v. Principal Secretary (2008)*

The Supreme Court held that Section 14 should be interpreted **liberally** to advance the cause of justice. The goal is to ensure that a person's right to a trial isn't killed by a technicality, provided they weren't being lazy or dishonest.

**Key Takeaway:** "Good faith" in limitation law is not just about "honesty"—it is about **honesty + hard work**.

**1.10.** The **limitation for filing an appeal commences** from the **date of the judgment**.

#### 1.10.1 The Legal Rule

Under the **Limitation Act, 1963** (specifically looking at the Schedule and **Section 12**), the period of limitation for filing an appeal begins to run from the **date of the decree, sentence, or order** appealed from.

In civil law, the **date of the decree** is technically the **date of the judgment** (under Order 20 Rule 7 of the CPC), even if the decree is physically prepared and signed by the judge days or weeks later.

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#### 1.10.2 Why not the date the Decree is signed?

There is a legal fiction in the Code of Civil Procedure (CPC) which states that the decree shall bear the date on which the judgment was pronounced.

- Even if there is a delay in the clerical work of drafting the decree, the law considers it to have been "drawn up" on the day the judge read the verdict.
- Therefore, the "clock" for your appeal starts the moment the judgment is delivered in open court.

#### Important: The "Exclusion" Rule (Section 12)

While the clock starts on the date of the judgment, the law is fair regarding the time it takes to get official paperwork. Under **Section 12(2)** of the Limitation Act, you can **exclude** certain time:

1. The day on which the judgment was pronounced.
2. The **time requisite for obtaining a copy** of the decree or order appealed from.

### 1.10.3 Summary Table

Event	Does the Limitation Clock Start?
Judgment Pronounced	Yes (Start Date)
Decree Prepared/Signed	No (Relates back to Judgment date)
Applying for Certified Copy	Pause (This time is excluded)
Receiving Certified Copy	Resume (Clock continues)

### 1.10.4 A Common Practical Scenario

If a judgment is passed on **January 1st**, but you apply for a certified copy on **January 2nd** and receive it on **January 10th**, those 9 days are added to your total limitation period. If the limit was 30 days, your new deadline effectively becomes February 9th instead of January 31st.

Understanding the difference between these three terms is crucial because they represent different stages of a court's decision-making process and carry different rights of appeal.

#### 1. Judgment

The **Judgment** is the "statement given by the Judge on the grounds of a decree or order." (Section 2(9) of the CPC).

- **What it is:** It is the detailed reasoning. It explains *why* the judge reached a certain conclusion, discusses the evidence, and cites the law.
- **Effect:** It is the precursor to the Decree. You cannot have a Decree without a Judgment.

#### 2. Decree

The **Decree** is the "formal expression of an adjudication" which conclusively determines the rights of the parties. (Section 2(2) of the CPC).

- **What it is:** It is the "result sheet." It doesn't contain the reasons; it simply states who won, what they won (e.g., ₹5 Lakhs or possession of a house), and the costs.
- **Key Feature:** A Decree is **always appealable** unless specifically barred by law.

#### 3. Order

An **Order** is the "formal expression of any decision of a Civil Court which is not a decree." (Section 2(14) of the CPC).

- **What it is:** These are usually decisions on "**interlocutory**" or **procedural matters** during the life of a case (e.g., an order to summon a witness or an order for an adjournment).
- **Key Feature:** Most orders are **not appealable**. Only "Appealable Orders" (listed under Order 43, Rule 1 of the CPC) can be challenged in a higher court.

### 1.10.5 Comparison Table

Feature	Judgment	Decree	Order
Definition	Reasons for the decision.	Final outcome of rights.	Procedural or interim

Feature	Judgment	Decree	Order
			decision.
<b>Nature</b>	Detailed and long.	Formal and concise.	Formal and concise.
<b>Appeal</b>	Not appealable (you appeal the Decree).	<b>Always appealable.</b>	Only if listed in the CPC.
<b>Number</b>	Usually one per case.	Usually one (can be Preliminary/Final).	Can be many in one case.

### 1.10.6 The "Preliminary vs. Final" Decree

A unique feature of Decrees is that they can be split into two parts:

- **Preliminary Decree:** When the court decides the rights of the parties but leaves something to be calculated later (e.g., in a partition suit where the court says everyone gets 1/3 share, but the actual physical division hasn't happened yet).
- **Final Decree:** When the case is completely disposed of.

**Legal Tip:** If you don't appeal a Preliminary Decree, you are barred from challenging it later when the Final Decree is passed!

### 1.10.7 List of Orders that are appealable

Since most orders are not appealable, the CPC provides a specific list under **Order 43, Rule 1** to prevent the higher courts from being flooded with appeals over minor procedural matters. These are known as "**Miscellaneous Appeals.**"

Here are the most common orders that you **can** appeal:

#### 1. Orders Related to Plaints

- **Order 7, Rule 10:** An order **returning a plaint** to be presented to the proper court.
- **Order 7, Rule 11:** An order **rejecting a plaint** (though this is technically a "deemed decree," it follows similar appeal paths).

#### 2. Orders Related to Injunctions and Receivers

- **Order 39, Rules 1 & 2:** An order granting or refusing to grant a **Temporary Injunction**. This is one of the most frequently appealed orders in civil litigation.
- **Order 40, Rule 1:** An order appointing a **Receiver** to manage property during a dispute.

#### 3. Orders Related to Defaults and Dismissals

- **Order 9, Rule 9:** An order rejecting an application to **restore a suit** that was dismissed for the plaintiff's non-appearance.
- **Order 9, Rule 13:** An order rejecting an application to **set aside an ex-parte decree** (a decree passed when the defendant didn't show up).

#### 4. Other Significant Appealable Orders

- **Order 38, Rule 3:** An order for **attachment of property** before judgment.

- **Order 21, Rule 92:** An order setting aside or refusing to set aside a **sale of property** in the execution of a decree.

### 1.10.8 Key Distinctions in Appeals

Feature	Appeal from Decree	Appeal from Order
Right to Appeal	A statutory right for every decree.	Only for specific orders listed in Order 43.
Second Appeal	Possible on "Substantial Questions of Law."	<b>No Second Appeal</b> is allowed (Section 104).
Grounds	Can challenge both facts and law.	Usually limited to the specific grounds of that order.

### 1.10.9 What if an order is NOT on this list?

If you are unhappy with an order that is not appealable (e.g., a judge refusing to adjourn a case), you cannot file an "Appeal." Instead, you must look at:

- **Revision (Section 115):** Filed in the High Court if there is a jurisdictional error.
- **Review (Section 114):** Filed in the same court if there is an error apparent on the face of the record.

### 1.11. The Limitation Act. 1963 does not apply to writ petitions.

#### 1.11.1 Explanation: Why the Limitation Act does not apply to Writ Petitions

The Limitation Act, 1963, provides specific timeframes for filing suits, appeals, and certain applications in civil courts. However, **Writ Petitions (filed under Article 32 or Article 226 of the Constitution)** are governed by constitutional principles rather than statutory limitation periods.

Instead of a "limitation period," courts apply the **Doctrine of "Laches" (unreasonable delay)**.

#### 1.11.2 Key Distinctions

Legal Action	Governed by Limitation Act?	Governing Rule
Suits	Yes	Specific periods (e.g., 3 years for contracts).
Appeals	Yes	Usually 30 to 90 days depending on the court.
Applications	Yes	Various periods defined in the Schedule.
Writ Petitions	No	Court's discretion; must be filed within a "reasonable time."

### 1.11.3 Important Points to Remember:

- **The Power of the Court:** Since Writs are an "extraordinary remedy," the High Court or Supreme Court can dismiss a petition if there is an unjustified delay, even though no specific "expiry date" exists in the Limitation Act.
- **Criminal Proceedings:** It is also worth noting that, generally, the Limitation Act does not apply to criminal prosecutions (unless specified by the CrPC/BNSS), as "crime never dies" (*nullum tempus occurrit regi*).
- It's helpful to know these, as they are the most frequently tested periods in legal exams. The **Schedule to the Limitation Act, 1963** divides these into categories.

**1.11.4** Here are the **most common limitation periods** you'll encounter:

#### 1. Money and Contracts

- Most suits related to money or breach of contract follow a **3-year** rule.
- **Money recovery:** 3 years (from when the money becomes due).
- **Breach of contract:** 3 years (from the date the contract was broken).
- **Promissory notes:** 3 years (from the date of execution).

#### 2. Immovable Property

- Property disputes have much longer windows to ensure stability in land ownership.
- **Foreclosure by a mortgagee:** 30 years.
- **Recovery of possession (based on title):** 12 years.
- **Redemption of a mortgage:** 30 years.

#### 3. Tort (Civil Wrongs)

- Because evidence and memories fade quickly in personal injury or libel cases, these periods are much shorter.
- **Compensation for libel/slander:** 1 year.
- **Compensation for personal injury:** 1 year.
- **Trespass on immovable property:** 3 years.

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### 1.11.5 Comparison Table: Suits vs. Appeals

Category	Typical Period	Trigger Point (Start of Clock)
Civil Suit	3 years	When the right to sue accrues.
Appeal to High Court	90 days	From the date of the decree/order.
Appeal to other Courts	30 days	From the date of the decree/order.

### 1.11.6 Key Legal Maxim:

The Limitation Act is based on the principle: *Vigilantibus non dormientibus jura subveniunt* (The law assists the vigilant, not those who sleep over their rights).

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### Important "Excluded" Time:

- Under **Section 12**, certain time is "cut out" of the calculation:
- The day the judgment was pronounced.
- The time taken to obtain a **certified copy** of the decree or order.

**1.12 Section 13 of the Limitation Act, 1963** provides for **exclusion of time in cases where leave to sue or appeal as a pauper is applied for.**

### Section 13: Exclusion of time in cases where leave to sue or appeal as a pauper is applied for

Under the Code of Civil Procedure (CPC), a person who cannot afford court fees may apply to sue as an **indigent person** (formerly called a "pauper"). **Section 13** of the Limitation Act ensures that the time spent by the applicant in pursuing this application is protected.

If the application for leave to sue/appeal as an indigent person is made and then **rejected**, the court can exclude the period during which the applicant was prosecuting that application in good faith.

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#### 1.12.1 Understanding the Options (Exclusion of Time)

The Limitation Act contains several sections (11 to 14) that "**stop the clock**" or exclude certain periods from the calculation. Here is a quick breakdown of the sections mentioned in your options:

Section	Purpose	Example
<b>Section 11</b>	Suits on contracts entered into outside the territories to which the Act extends.	International contracts.
<b>Section 12</b>	Exclusion of time in <b>legal proceedings.</b>	Time taken to get a <b>certified copy</b> of a judgment.
<b>Section 13</b>	Exclusion of time for <b>pauper applications.</b>	Time spent waiting for a court's decision on indigent status.
<b>Section 14</b>	Exclusion of time of proceeding bona fide in <b>court without jurisdiction.</b>	Filing a case in the wrong court by mistake.

#### 1.12.2 Important Condition for Section 13:

For this exclusion to apply, the court must be satisfied that the applicant was acting in **good faith** and that once the application was rejected, the required court fees were paid within the time allowed by the court.

#### Quick Tip for Your Exam:

If you see a question about "**Wrong Court**", the answer is almost always **Section 14**. If you see a question about "**Certified Copies**", it is **Section 12**. If it's about "**Paupers/Indigent Persons**", it's **Section 13**.

Since you mentioned "most frequently asked," you're likely focusing on **Section 14** of the Limitation Act, 1963. This section is a favorite for examiners because it deals with a very common real-world scenario: **Filing a case in the wrong court by mistake.**

**1.12.3** Here is the breakdown of the most essential points you need to know for your exam.

### 1. The Core Purpose

Section 14 protects a plaintiff or applicant who has been "diligent" but made a "bona fide" (good faith) mistake by filing their case in a court that could not hear it (usually due to a lack of jurisdiction).

### 2. The 5 Essential Ingredients

For a court to grant you the "exclusion of time" under Section 14, you must prove all five of these elements:

1. **Civil Proceeding:** Both the first (wrong) case and the second (current) case must be civil proceedings.
2. **Same Parties & Matter:** The dispute must be between the same parties and relate to the same "matter in issue."
3. **Due Diligence & Good Faith:** You must show that you weren't being lazy or negligent. You genuinely believed that court had jurisdiction.
4. **Defect of Jurisdiction:** The first court must have been unable to entertain the case specifically due to a "defect of jurisdiction" or a "cause of a like nature" (e.g., misjoinder of parties).
5. **Bona Fide Prosecution:** You were actively pursuing the case while it was in the wrong court.

### 3. Key Concepts for MCQs

- **"Cause of a like nature":** This is a broad term. It includes things like a "misjoinder of parties" or "misjoinder of causes of action."
- **Counting the Days:** Under the *Explanation* to Section 14, both the day the first case was filed and the day it ended are included in the time to be **excluded**.
- **Good Faith:** This is defined in Section 2(h) as something done with "due care and attention."

### 4. Comparison: Section 5 vs. Section 14

This is a common point of confusion. Here is how they differ:

Feature	Section 5 (Condonation)	Section 14 (Exclusion)
Applies to...	Appeals and Applications.	Suits and Applications.
Court's Power	Discretionary (Court <i>may</i> allow it).	Mandatory (Court <i>must</i> exclude the time if conditions are met).
Reason	"Sufficient Cause" (Illness, etc.).	"Defect of Jurisdiction."

### 1.12.4 Important Landmark Case:

**Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department (2008):** The Supreme Court clarified that the conditions of Section 14 must be applied liberally to ensure that a party is not deprived of a remedy on technical grounds if they acted in good faith.

Here is a condensed **Short-Notes Table** of the most frequently tested sections of the Limitation Act, 1963. This is designed for quick revision before an exam.

### 1.13 Quick Revision Guide: Sections 1–27

Section	Key Title / Concept	Why it's Important for Exams
Section 3	Bar of Limitation	The court <b>must</b> dismiss a suit filed after the period, even if the defendant doesn't raise it as a defense.
Section 5	Condonation of Delay	Court's discretion to "forgive" delay for <b>Appeals/Applications</b> (Does NOT apply to Suits).
Section 6	Legal Disability	Stops the clock for Minors, Insane persons, or Idiots until the disability ends.
Section 9	Continuous Running of Time	Once time begins to run, no subsequent disability or inability stops it.
Section 12	Exclusion of Time (Legal Proc.)	Excludes time taken to get <b>certified copies</b> of judgment/decrees.
Section 14	Defect of Jurisdiction	Excludes time spent in the <b>wrong court</b> in good faith (Applies to Suits).
Section 15	Exclusion in certain cases	Excludes time when an injunction/stay order was in place.
Section 17	Effect of Fraud or Mistake	Period begins only when the fraud/mistake is <b>discovered</b> .
Section 18	Effect of Acknowledgment	A written admission of debt before the period expires <b>starts a fresh</b> limitation period.
Section 19	Effect of Payment	Part-payment of a debt starts a fresh limitation period.
Section 22	Continuing Breaches	A fresh period begins at every moment the breach continues (e.g., Nuisance).
Section 25	Easements by Prescription	Right to light/air/way is absolute after <b>20 years</b> of peaceable use.
Section 27	Extinguishment of Right	At the end of the period for property possession, the owner's <b>right</b> to the property is gone forever.

#### 1.13.1 Pro-Tips for the Exam:

1. **Section 3 vs. Section 5:** Section 3 is **mandatory** (the court has no choice but to dismiss), while Section 5 is **discretionary** (the court *may* admit it).
2. **Section 6 (Legal Disability):** Remember the three specific disabilities: **Minority, Insanity, and Idiocy**. "Illness" or "Poverty" are NOT legal disabilities under Section 6 (though they may count as "Sufficient Cause" under Section 5).

3. **The Schedule:** Don't forget that the actual "days" and "years" aren't in the sections; they are in the **Schedule** at the end of the Act.

**1.14 Section 10** of the *Limitation Act, 1963* provides for the limitation period **in case of suits against trustees and their representatives**.

#### 1.14.1 Why Section 10?

**Section 10** of the **Limitation Act, 1963** is unique because it provides that **no period of limitation** applies to suits against "trustees and their representatives" when the suit is for the purpose of following trust property in their hands.

In simpler terms, if a property is vested in a person for a specific purpose (an express trust), the beneficiary can sue the trustee to recover that property at any time. The law essentially says that time does not run in favor of a trustee to allow them to keep property that isn't theirs.

#### 1.14.2 Comparison of the Sections Mentioned:

Section	Subject Matter	Key Detail
<b>Section 9</b>	Continuous running of time	Once limitation starts, no subsequent disability stops it.
<b>Section 10</b>	<b>Suits against trustees</b>	<b>No limitation period</b> for express trusts.
<b>Section 11</b>	Suits on foreign contracts	Rules for suits instituted in India on contracts entered abroad.
<b>Section 13</b>	Exclusion of time (Indigent)	Time taken to apply for leave to sue as a pauper/indigent person.

**1.15.** The Law of Limitation in India (and globally) is built upon these two foundational Roman legal maxims. They represent the "public interest" and "individual responsibility" sides of the same coin.

#### 1.15.1. *Interest reipublicae ut sit finis litium*

**Literal Translation:** "It is in the interest of the State that there should be an end to litigation."

- **The Logic:** If there were no time limits, lawsuits could go on forever. This would clog the courts and create perpetual uncertainty in society.
- **The Goal:** To ensure peace and order by putting a "period" at the end of a dispute. It prevents the resurrection of "stale" (very old) claims that would trouble the peace of the community.

#### 1.15.2 *Vigilantibus non dormientibus jura subvenient*

**Literal Translation:** "The law assists the vigilant, not those who sleep over their rights."

- **The Logic:** If you have a legal right, you must exercise it within a reasonable time. If you sit on your rights for 20 years and then suddenly decide to sue, the law will not help you.
- **The Goal:** To punish negligence. It protects a defendant from being surprised by a lawsuit years later when their evidence might be lost, witnesses might have died, or memories might have faded.

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### 1.15.3 How these Maxims Shape the Law

The Limitation Act doesn't technically "destroy" your right; it simply **bars the remedy**.

Feature	Interest Reipublicae...	Vigilantibus non...
Perspective	The State / Public Policy	The Individual / Litigant
Objective	Efficiency and Finality	Diligence and Fairness
Result	Prevents overburdening of Courts	Prevents harassment of Defendants

### 1.15.4 A Quick Note on Section 3 of the Limitation Act

In India, **Section 3** of the Limitation Act, 1963, makes it the **duty of the Court** to dismiss any suit filed after the prescribed period, even if the defendant does not raise the defense of limitation. This is a direct application of these two maxims.

While the **Law of Limitation** is strict, it isn't "blind." The law recognizes that sometimes a person *cannot* be vigilant through no fault of their own. In these cases, the clock is effectively "paused" or "reset."

**1.15.5** Here are the **three most common exceptions** where the maxims of limitation are relaxed:

#### 1. Legal Disability (Sections 6, 7, and 8)

If a person is legally unable to sue at the time their right to sue begins, the law protects them. The "clock" only starts ticking once the disability ends.

- **Who is covered?** Minors (under 18), insane persons, and idiots.
- **The Rule:** If a minor's property is taken, the limitation period doesn't start until they turn 18. They then usually get **3 years** from that date to file a suit.

#### 2. Fraud or Mistake (Section 17)

Remember how we discussed "Fraud" earlier? It applies here too. If a defendant hides the fact that you have a right to sue, or hides a document you need, the limitation period is paused.

- **The Rule:** The period of limitation only begins once the person defrauded **discovers the fraud** (or could have discovered it with reasonable effort).
- **The Logic:** You cannot be expected to be "vigilant" about a right you don't even know exists because someone else hid it from you.

#### 3. Acknowledgment in Writing (Section 18)

This is a very common scenario in debt recovery. If a debtor signs a document admitting they owe you money *before* the limitation period expires, the clock **resets to zero**.

- **The Rule:** A fresh period of limitation begins from the date the acknowledgment was signed.
- **Example:** You have 3 years to sue for a debt. At year 2, the debtor writes you a letter saying, "I know I owe you, please give me more time." You now get a **fresh 3 years** from the date of that letter.

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### 1.15.6 Summary of Exceptions

Category	Legal Provision	Effect on Limitation
Legal Disability	Sections 6-8	Period starts only after disability ends.
Fraud/Mistake	Section 17	Period starts only after discovery.
Acknowledgment	Section 18	Fresh period starts from the date of admission.
Sufficient Cause	Section 5	Court may excuse delay (only for appeals/apps).

### 1.15.7 Important Distinction: Section 5 (Condonation of Delay)

It is vital to remember that **Section 5** (which allows a judge to forgive a delay for "sufficient cause" like illness) **does not apply to original Suits**. It only applies to **Appeals and Applications**. For a regular lawsuit, if you are one day late and don't fall under the specific exceptions above, the case is dismissed.

Let's test your understanding with a scenario involving **Section 6 (Legal Disability)** and **Section 18 (Acknowledgment)**. This is a classic "bar exam" style question.

### 1.15.8 The Scenario

- January 1, 2020:** Mr. X borrows ₹1,00,000 from a lender. The limitation period to sue for recovery is **3 years**.
- June 1, 2021:** Mr. X sends an email to the lender saying, *"I am sorry I haven't paid back the ₹1,00,000 yet. I will pay you soon."*
- January 1, 2023:** The lender passes away. His only heir is his son, who is **15 years old** at the time.
- January 1, 2026:** The son turns **18 years old**.

### The Question

By what date must the son file the lawsuit to recover the money?

- (A) June 1, 2024
- (B) January 1, 2026
- (C) June 1, 2027
- (D) January 1, 2029

### How to Solve It:

- Identify the Acknowledgment:** The email on June 1, 2021, resets the clock. The new 3-year period would normally end on **June 1, 2024**.
- Identify the Disability:** When the father died in 2023, the right to sue moved to the son. However, the son was a minor.
- Apply Section 6:** The limitation period is "paused" for the son until he reaches majority (18 years old).

4. **Calculate the Final Date:** Once he turns 18 on Jan 1, 2026, he gets a fresh period (usually 3 years for such suits) to file.

**Answer: (D) January 1, 2029.** (3 years from the date he turned 18).

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### 1.15.9 A Final "Pro Tip" for Law Exams

Remember the difference between **Condonation of Delay** (Section 5) and **Exclusion of Time** (Sections 11-14).

- **Section 5** is a "favor" from the court (Discretionary).
- **Exclusions** (like time spent in a wrong court by mistake) are a "right" (Mandatory).

This is one of the **most important procedural rules in Indian law**. **Section 5 of the Limitation Act** is titled "Extension of prescribed period in certain cases," but it comes with a massive "No Entry" sign for original lawsuits.

### 1.15.10 Why doesn't Section 5 apply to Suits?

The language of Section 5 explicitly states that it applies to **any appeal or any application**. It deliberately leaves out the word "**suit**."

The logic is based on the finality of litigation:

1. **A "Suit" is the beginning:** When you file a suit, you are asking the court to start a new legal battle. The law gives you a very generous amount of time (usually 3 years for contracts, 12 years for property) to decide to sue. If you miss that long window, the law assumes you've abandoned your right.
  2. **Appeals are different:** An appeal is a challenge to a judgment that has already happened. The time limit for appeals is very short (usually 30 or 90 days). Because this window is so small, the law allows the court to be "merciful" if you had a genuine reason (like a sudden medical emergency) for being late.
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### 1.15.11 What is "Sufficient Cause"?

If you are filing an **appeal** and you are late, you must prove "Sufficient Cause." The court has the discretion to accept your delay if it's reasonable.

**Accepted as "Sufficient Cause":**

- **Illness:** Severe enough to prevent you from contacting a lawyer.
- **Imprisonment:** If you were physically unable to reach the court.
- **Mistake of Counsel:** If your lawyer gave you the wrong date (provided the mistake was *bona fide*).
- **Government Delay:** Sometimes courts are more lenient with the State if the file was stuck in "red tape," though this is becoming stricter.

**NOT Accepted:**

- **Ignorance of Law:** "I didn't know there was a time limit" is never an excuse.
  - **Poverty:** Simply being poor is generally not a "sufficient cause" unless it prevented you from paying court fees.
  - **Negligence:** "I forgot the file on my desk."
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### 1.15.12 The "Saving Grace" for Suits: Section 14

Since you can't use Section 5 for a late suit, what happens if you filed your suit on time but in the **wrong court**?

This is where **Section 14** comes in. It allows for the **Exclusion of Time** spent proceeding *bona fide* in a court without jurisdiction.

#### The Criteria for Section 14:

1. The plaintiff was prosecuting the case with **due diligence**.
2. The case was in a court that **lacked jurisdiction** (e.g., you sued in Delhi when the property was in Mumbai).
3. The mistake was made in **good faith**.

If these are met, the time you "wasted" in the wrong court is subtracted from the total time, potentially bringing your suit back within the limitation period.

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### 1.15.13 Summary Table: Section 5 vs. Section 14

Feature	Section 5 (Condonation)	Section 14 (Exclusion)
Applies to	Appeals and Applications	<b>Original Suits</b> and Applications
Nature	Discretionary (Court's "favor")	Mandatory (Your "right" if conditions met)
Grounds	Sufficient Cause (Illness, etc.)	Defect of Jurisdiction/Other cause
Goal	To excuse a delay	To ignore time spent in the wrong place