

## **Book review**

### **Time bar in insurance and reinsurance**

Paul Bugden (editor)

London, Clyde & Co, 2011

x + 173 pages

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#### **Review by Jonathan Goodliffe, Solicitor**

##### **Introduction**

This useful short book is a comparative analysis of (re)insurance time bar rules in major international jurisdictions. The book is published by the leading law firm Clyde & Co LLP. Paul Bugden, one of its UK partners, is the editor and author of the chapter on England.

43 further chapters cover equivalent rules in other leading jurisdictions. They are written either by Clyde & Co lawyers or by lawyers in other organisations practising in the jurisdiction in question.

Each chapter contains sections covering the same practical questions which commonly arise in time bar cases, such as:

- limitation periods applicable to (i) insurance and (ii) reinsurance,
- the position when foreign law governs the contract,
- commencement and interruption of the limitation period,
- effect of its expiry.

The chapter on England runs to 15 pages. It covers, among other things, the vexed question of ascertaining when a cause of action accrues under a reinsurance contract. The author has, moreover, developed his thoughts on that subject in an article for this issue of the BILA Journal (see page 67). Most of the other chapters are 2 to 5 pages in length, with one or two a page or two longer.

##### **Some trends**

From the viewpoint of an English lawyer some interesting trends emerge. So (for example) in many Civil Law jurisdictions, such as France, there is a specific limitation period in the Insurance Code for claims under direct insurance contracts. By contrast the limitation period applicable to reinsurance claims is the same as that applying to ordinary contracts.

In common law jurisdictions such as England, expiry of the limitation period makes a claim unenforceable, whereas in France it extinguishes the cause of action.

In jurisdictions applying strict Shari'a law, such as Saudi Arabia and Iran, in principle there is no limitation period. In Saudi Arabia this applies even to claims in local courts under contracts governed by foreign law. Contractual time bar clauses may, however, be enforced on a discretionary basis.

In Iran foreign limitation periods will be applied for the benefit of Iranian nationals only. Iranian courts commonly exercise jurisdiction even where there is a foreign jurisdiction clause. When they do they will apply Iranian rather than foreign law.

#### **USA and Canada**

The chapter on the USA looks particularly useful as it has a table covering all the 50 states, with references allowing access to source material online. The chapter on Canada covers the rules in the provinces of Quebec and Ontario.

#### **General impression**

This is a useful short compendium which focuses on the most important issues likely to arise in (re)insurance disputes. Most of the contributions are long enough to include some helpful commentary and sometimes discussion of the cases as well as mere statement of the rules.

Moreover the book should be of some use in international litigation generally and not just in (re)insurance. This is because in most cases the relevant rules and principles apply across the full range of commercial disputes.

On the whole therefore this is worthwhile investment for international litigation practices.