

**CHAPTER 232**

## LIMITATION AND PRESCRIPTION

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## CHAPTER 232

## LIMITATION AND PRESCRIPTION

*An Act to consolidate and amend the Acts of Barbados relating to limitation and prescription.* 1891-2.  
1997-11.

[26th February, 1891] Commence-  
ment.

1. This Act may be cited as the *Limitation and Prescription Act*. Short title.

## PART I

2. *Repealed by 1997-11.*

## PART II

- 3-34. *Repealed by 1997-11.*

## PART III

*Prescription*

35. (1) No claim which may be lawfully made at common law, by custom, prescription or grant, to any way or other easement or to any watercourse or to the use of any water, to be enjoyed or derived upon, over or from any land or water, being the property of any person or body corporate, when such way or other matter has been actually enjoyed by any person claiming right thereto without interruption for the full period of 20 years, shall be defeated or destroyed by showing only that such way or other matter was first enjoyed at any time prior to such period of 20 years, but nevertheless such claim may be defeated in any other way by which it is now liable to be defeated.
- Prescription to any right of way, watercourse, etc., if enjoyed for 20 years may be defeated, but if for 40 years indefeasible.

(2) Where such way or other matter has been so enjoyed for the full period of 40 years, the right thereto shall be deemed absolute and indefeasible, unless it appears that it was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing.

Claims to the use of light enjoyed for 20 years indefeasible unless by express consent.

**36.** When the access and use of light to and for any dwelling-house, workshop or other building has been actually enjoyed therewith for the full period of 20 years without interruption, the right thereto shall be deemed absolute and indefeasible, any local usage or custom to the contrary notwithstanding, unless it appears that it was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

Prescription periods to be deemed those next before action.

**37.** Each of the periods mentioned in sections 35 and 36 shall be deemed and taken to be the period next before some action where in the claim or matter to which such period may relate is brought into question, and no act or other matter shall be deemed to be an interruption within the meaning of this Act, unless it is submitted to or acquiesced in for one year after the party interrupted has notice thereof and of the person making or authorising it to be made.

Restricting presumption to be allowed in support of claim.

**38.** In the cases provided for by sections 35, 36 and 37, no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time than for such period or number mentioned in this Act as may be applicable to the case and to the nature of the claim.

Provision as to persons under disability.

**39.** The time during which any person, otherwise capable of resisting any claim to any of the matters mentioned in sections 35 to 38, is an infant, idiot, *non compos mentis*, *feme covert* or tenant for life or during which any action is pending which has been diligently prosecuted until abated by the death of any party or parties thereto shall be excluded in the computation of the periods hereinbefore mentioned, except only in cases where the right or claim is hereby declared to be absolute and indefeasible.

**40.** When any land or water upon, over or from which any such way or other easement, watercourse or use of water is enjoyed or derived is held under or by virtue of any term of life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter during the continuance of such term shall be excluded in the computation of the said period of 40 years, in case the claim shall within 3 years next after the end or sooner determination of the term be resisted by any person entitled to any reversion expectant on the determination thereof.

Time to be excluded in computing the term of 40 years.