

THE PRESCRIPTION ACT

ARRANGEMENT OF SECTIONS

1. Short title.
2. Effect of twenty years' enjoyment of easements, ways, etc., over lands.
3. Effect of twenty years' access and use of light or air.
4. Effect of twenty years' user by the public or any class of the public of a beach and of means of access thereto.
5. Computation of time.
6. No presumptions to be drawn from use for a less period.
7. Provisions in cases of persons under disabilities.
8. Provisions in cases of tenancies for life, or for any term exceeding three years.
9. Procedure for establishing right under section 4.
10. Production of documents of title and procedure thereafter.

THE PRESCRIPTION ACT

Cap. 304.
Law
65 of 1955.
Act
42 of 1969
3rd Sch.

[25th February, 1882.]

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

2. When any profit or benefit, or any way or easement, or any watercourse, or the use of any water, a claim to which may be lawfully made at the common law, by custom, prescription or grant, shall have been actually enjoyed or derived upon, over or from any land or water of Her Majesty the Queen, or of any person, or of any body corporate, by any person claiming right thereto, without interruption for the full period of twenty years, the right thereto shall, subject to the provisos hereinafter contained be deemed absolute and indefeasible, unless it shall appear that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

Effect of
twenty
years'
enjoyment
of ease-
ments,
ways, etc.,
over
lands.

3. When the access and use of light or air to and for any dwelling-house, workshop or other building, shall have been actually enjoyed therewith for the full period of twenty years without interruption, the right thereto shall, subject to the proviso hereinafter contained, be deemed absolute and indefeasible, unless it shall appear that the same was enjoyed by some consent or agreement expressly made or given for that purpose in writing.

Effect of
twenty
years'
access
and use
of light
or air.

Effect of
twenty
years'
user by the
public or
any class of
the public
of a beach
and of
means of
access
thereto.

65/1955
S. 2.

4.—(1) When any beach has been used by the public or any class of the public for fishing, or for purposes incident to fishing, or for bathing or recreation, and any road, track or pathway passing over any land adjoining or adjacent to such beach has been used by the public or any class of the public as a means of access to such beach, without interruption for the full period of twenty years, the public shall, subject to the provisos hereinafter contained, have the absolute and indefeasible right to use such beach, land, road, track or pathway as aforesaid, unless it shall appear that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

42/1969
3rd Sch.

(2) No act or other matter, whether submitted to or acquiesced in or not, shall be deemed to be an interruption within the meaning of subsection (1) if the same took place between the 8th day of February, 1954, and the 30th day of December, 1955.

Computa-
tion of
time.

5. Each of the respective periods hereinbefore mentioned shall be deemed and taken to be the period before some action or suit wherein the claim or matter to which such period may relate shall have been, or shall be brought in question; and no act or other matter shall be deemed to be an interruption within the meaning of this Act unless the same shall have been, or shall be, submitted to or acquiesced in for one year after the party interrupted shall have had or shall have notice thereof and of the person making or authorizing the same.

No pre-
sumptions
to be
drawn
from use
for a less
period.

6. In the several cases mentioned in and provided for by this Act 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, or number of years, than for such period or number mentioned in this Act as may be applicable to the case and to the nature of the claim.

7. Provided always that the time during which any person, otherwise capable of resisting any claim to any of the matters before mentioned, shall have been or shall be an infant, idiot or *non compos mentis*, shall be excluded in the computation of the periods hereinbefore mentioned, so that however in no case shall a claim to any of the matters aforesaid be liable to be defeated, by reason of anything in this section contained after such enjoyment as is hereinbefore described for the full period of thirty years.

Provisions in cases of persons under disabilities.

8. Provided always that when any land or water, upon, over or from which any such profit or benefit, way, easement, watercourse or use of water, shall have been or shall be enjoyed or derived hath been or shall be 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 profit or other matter during the continuance of such term shall be excluded in the computation of the said period of twenty years, in case the claim thereto shall within three years next after the end or sooner determination of such term be resisted by any person entitled to any reversion or remainder expectant on the determination thereof.

Provisions in cases of tenancies for life, or for any term exceeding three years.

9. Where the public or any class of the public have used any beach, land, road, track or pathway in the manner specified in subsection (1) of section 4 for the period mentioned in the said subsection and such user is disputed, any person concerned in the dispute may lodge a plaint in the Resident Magistrate's Court for the parish in which such beach, land, road, track or pathway is situated (hereafter in this Act referred to as "the Court") under section 99 of the

Procedure for establishing right under section 4.

65/1955 S. 3.

Judicature (Resident Magistrates) Act and the provisions of sections 99 to 104 (inclusive) of the said Act shall apply to the matter in dispute.

Production
of docu-
ments of
title and
procedure
thereafter.

65/1955
S. 3.

10.—(1) Any person in possession of any document of title relating to any beach, land, road, track or pathway with respect to the user of which a plaint has been lodged pursuant to section 8 shall produce such document to the Court.

(2) If the title to the beach or land is registered under the Registration of Titles Act, the Clerk of the Court shall forward the duplicate certificate of title together with a certified copy of the judgment of the Court to the Registrar of Titles who shall forthwith make an appropriate note upon such duplicate and upon the certificate of title, after which the duplicate shall be returned to the person who produced it to the Court or to his representative.

(3) If the title to such beach or land is not registered under the Registration of Titles Act, the Clerk of the Court shall forward a certified copy of the judgment of the Court to the Deputy Keeper of Records who shall forthwith record the same.

Penalty. 5. Every person who commits an offence against this Act shall be liable on summary conviction before a Resident Magistrate,—

- (a) if he is convicted of an offence under paragraph (a) of section 3 or under subsection (1) of section 4, to a penalty not exceeding one hundred dollars and in default of payment to imprisonment for a term not exceeding three months;
- (b) if he is convicted of an offence under paragraph (b) of section 3, to a penalty not exceeding twenty dollars and in default of payment to imprisonment for a term not exceeding one month.

Exemptions. 6. The provisions of this Act shall not apply to—

- (a) the impression of any engraving, or to the printing of any business or visiting card, or to any business bill-head, or to any letter heading; or
- (b) any bill of exchange, or promissory note, or any bond or other security for payment of money, or any bill of lading, policy of insurance, letter of attorney, deed, or agreement, or any transfer or assignment of any public stocks, funds, or other securities, or any transfer or assignment of the stocks of any public corporation or company authorized or sanctioned by law, or any dividend warrant of or for any such public or other stocks, funds, or securities, or any receipt for money or goods, or any proceeding in any court of law or equity, or in any inferior court, or any warrant, order, or other papers printed by the authority of any public board or public officer in the execution of the duties of their respective offices, notwithstanding the whole or any part of the said several securities, instruments, proceedings, matters, and things aforesaid shall have been or shall be printed.