

Real Property Limitations Act

CHAPTER 258 OF THE REVISED STATUTES, 1989

as amended by

1993, c. 27; 1995-96, c. 13, s. 82; 2001, c. 6, s. 115;
2003 (2nd Sess.), c. 1, s. 27; 2005, c. 43, s. 74; 2007, c. 17, s. 16;
2014, c. 35, ss. 25-27



© 2016 Her Majesty the Queen in right of the Province of Nova Scotia
Published by Authority of the Speaker of the House of Assembly
Halifax

This page is intentionally blank.

CHAPTER 258 OF THE REVISED STATUTES, 1989
amended 1993, c. 27; 1995-96, c. 13, s. 82; 2001, c. 6, s. 115;
2003 (2nd Sess.), c. 1, s. 27; 2005, c. 43, s. 74; 2007, c. 17, s. 16;
2014, c. 35, ss. 25-27

**An Act Respecting the Limitation of Actions
in Respect of Real Property**

title *amended 2014, c. 35, s. 25.*

Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Land and Rent	
Action respecting land or rent.....	10
Commencement of limitation period.....	11
Action by administrator.....	12
Effect of entry on land.....	13
Effect of continual or other claim.....	14
Possession by one interest holder.....	15
Possession by relative of heir.....	16
Acknowledgment of title.....	17
Effect of receipt of rent.....	18
Person ceasing to be under disability.....	19
Limitation on claim by person under disability.....	20
Limitation on claim by Her Majesty.....	21
Claim extinguished.....	22
Mortgages and Charges on Land	
Limitation respecting charge against land.....	23
Claim under mortgage.....	24
Arrears of Dower, Rent and Interest	
Arrears of dower.....	25
Arrears of rent or interest.....	26
Equitable Claims	
Action for breach of trust respecting land.....	28
Claim based upon fraud.....	29
Protection of bona fide purchaser.....	30
Prescription in Case of Easements	
Prescription.....	32
Access and use of light.....	33
Interruption of prescription period.....	34
No presumption.....	35
Period when party under disability.....	36
Term excluded in corporation.....	37

Short title

1 This Act may be cited as the *Real Property Limitations Act*. R.S., c. 258, s. 1; 2014, c. 35, s. 26.

2 to 9 *repealed 2014, c. 35, s. 27.*

LAND AND RENT

Action respecting land or rent

10 No person shall make an entry or distress, or bring an action to recover any land or rent, but within twenty years next after the time at which the right to make such entry or distress or to bring such action first accrued to some person through whom he claims, or if such right did not accrue to any person through whom he claims, then within twenty years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to the person making or bringing the same. R.S., c. 258, s. 10.

Commencement of limitation period

11 In the construction of this Act the right to make an entry or distress, or bring an action to recover any land or rent, shall be deemed to have first accrued at such time as hereinafter is mentioned, that is to say:

(a) where the person claiming such land or rent, or some person through whom he claims, has, in respect to the estate or interest claimed, been in possession or in receipt of the profits of such land, or in receipt of such rent, and has, while entitled thereto, been dispossessed, or has discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits or rent were or was so received;

(b) where the person claiming such land or rent claims the estate or interest of some deceased person who continued in such possession or receipt in respect to the same estate or interest until the time of his death, and was the last person entitled to such estate or interest who was in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death;

(c) where the person claiming such land or rent claims in respect to an estate or interest in possession granted, appointed, or otherwise assured by any instrument, other than a will, to him, or some person through whom he claims, by a person being in respect to the same estate, or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under such instrument has been in such possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument;

(d) where the estate or interest claimed is an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land, or the receipt of such rent in respect to such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession;

(e) where the person claiming such land or rent, or the person through whom he claims, has become entitled by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred, or such condition was broken;

(f) where any person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant at will, the right of the person entitled subject thereto, or the person through whom he claims, to make an entry, or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined, provided always that no mortgagor or *cestui que trust* shall be deemed to be a tenant at will, within the meaning of this clause, to his mortgagee or trustee;

(g) where any person is in possession or receipt of the profits of any land, or in receipt of any rent, as tenant from year to year, or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make entry, or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years, or other periods, or at the last time when any rent payable in respect to such tenancy was received, whichever last happened. R.S., c. 258, s. 11.

Action by administrator

12 For the purposes of this Act, an administrator, claiming the estate or interest of the deceased person, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R.S., c. 258, s. 12.

Effect of entry on land

13 No person shall be deemed to have been in possession of any land, within the meaning of this Act, merely by reason of having made an entry thereon. R.S., c. 258, s. 13.

Effect of continual or other claim

14 No continual or other claim, upon or near any land, shall preserve any right of making an entry or distress, or of bringing an action. R.S., c. 258, s. 14.

Possession by one interest holder

15 Where any one, or more, of several persons entitled to any land or rent as co-parceners, joint tenants or tenants in common, have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, or of such rent for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned person or persons, or any of them. R.S., c. 258, s. 15.

Possession by relative of heir

16 Where a relation of the persons entitled as heirs to the possession or receipt of the profits of any land, or to the receipt of any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the persons entitled as heirs. R.S., c. 258, s. 16.

Acknowledgment of title

17 Where any acknowledgment of the title of the person entitled to any land or rent has been given to him, or to his agent, in writing, signed by the person in possession or in receipt of the profits of such land, or in receipt of such rent, then such possession, or receipt of or by the person by whom such acknowledgment was given, shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom, or to whose agent, such acknowledgment was given, at the time of giving the same and the right of such last-mentioned person, or of any person claiming through him, to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued at, and not before, the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R.S., c. 258, s. 17.

Effect of receipt of rent

18 The receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act. R.S., c. 258, s. 18.

Person ceasing to be under disability

19 If at the time at which the right of any person to make an entry or distress, or bring an action to recover any land or rent first accrues as aforesaid, such person is under any of the disabilities hereinafter mentioned, that is to say, infancy or unsoundness of mind, then such person, or the persons claiming through him may, notwithstanding the period of twenty years hereinbefore limited has expired, make an entry, or distress or bring an action to recover such land or rent at any time within five years next after the time at which the person to whom such right first accrued as aforesaid ceased to be under any such disability, or died, whichever first happened. R.S., c. 258, s. 19; 2001, c. 6, s. 115.

Limitation on claim by person under disability

20 No entry, distress or action shall be made or brought by any person who, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent, first accrued, was under any of the disabilities mentioned in the next preceding Section, or by any person claiming through him, but within twenty-five years next after the time at which such right first accrued although the person under disability at such time has remained under one or more of such disabilities during the whole term of such twenty-five years, or although the term of five years from the time at which he ceased to be under any such disability, or died, has not expired. R.S., c. 258, s. 20; 2001, c. 6, s. 115.

Limitation on claim by Her Majesty

21 No claim for land or rent shall be made by Her Majesty but within forty years after the right of action to recover such land or rent first accrued. R.S., c. 258, s. 21; 2001, c. 6, s. 115.

Claim extinguished

22 At the determination of the period limited by this Act to any person for making an entry, or distress, or bringing any action, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, or action respectively might have been made or brought within such period, shall be extinguished. R.S., c. 258, s. 22.

MORTGAGES AND CHARGES ON LAND

Limitation respecting charge against land

23 No action or other proceeding shall be brought to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent, at law or in equity, or any legacy, but within twenty years next after a present right to receive the same has accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the principal money, or some interest thereon, has been paid, or some acknowledgment of the right thereto has been given in writing, signed by the person by whom the same is payable, or his agent, to the person entitled thereto, or his agent and in such case no such action or proceeding shall be brought but within twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given. R.S., c. 258, s. 23.

Claim under mortgage

24 (1) Any person entitled to or claiming under a mortgage of land, may make an entry, or bring an action to recover such land at any time within twenty years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than twenty years have elapsed since the time at which the right to make such entry or bring such action first accrued.

(2) Notwithstanding subsection (1), no person claiming under a mortgage of land may make an entry or bring an action to recover such land after

twenty years have elapsed from the maturity date set out in the mortgage or any registered or recorded renewal thereof. R.S., c. 258, s. 24; 2001, c. 6, s. 115.

24A *repealed 2014, c. 35, s. 27.*

ARREARS OF DOWER, RENT AND INTEREST

Arrears of dower

25 No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action or proceeding for a longer period than six years next before the commencement of such action or suit. R.S., c. 258, s. 25.

Arrears of rent or interest

26 No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in any respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, action or proceeding, but within six years next after the same respectively have become due, or next after an acknowledgment of the same in writing has been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent. R.S., c. 258, s. 26; revision corrected 1998.

EQUITABLE CLAIMS

27 *repealed 2014, c. 35, s. 27.*

Action for breach of trust respecting land

28 Where any land or rent is vested in a trustee upon any express trust, the right of the beneficiary, or any person claiming through him, to bring an action against the trustee, or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which such land or rent has been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him. R.S., c. 258, s. 28.

Claim based upon fraud

29 In every case of a concealed fraud, the right of any person to bring an action for the recovery of any land, or rent, of which he, or any person through whom he claims, has been deprived by such fraud, shall be deemed to have first accrued at and not before the time at which such fraud was, or with reasonable diligence might have been, first known or discovered. R.S., c. 258, s. 29.

Protection of bona fide purchaser

30 Nothing contained in Section 29 shall enable any owner of lands or rents to bring an action for the recovery of such lands or rents, or for setting aside any conveyance of such lands or rents on account of fraud, against any *bona fide*

purchaser for valuable consideration who has not assisted in the commission of such fraud, and who, at the time he made the purchase, did not know, and had no reason to believe, that any such fraud had been committed. R.S., c. 258, s. 30.

31 *repealed 2014, c. 35, s. 27.*

PRESCRIPTION IN CASE OF EASEMENTS

Prescription

32 No claim which may be lawfully made at the common law by custom, prescription, or grant, to any way or other easement, or to any watercourse, or the use of any water to be enjoyed or derived upon, over or from any land or water of our Lady the Queen, her heirs or successors, or being the property of any ecclesiastical or lay person, or body corporate, when such way or other matter as herein last before mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty 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 twenty years but, nevertheless, such claim may be defeated in any other way by which the same is now liable to be defeated and where such way or other matter as herein last before mentioned has been so enjoyed as aforesaid for the full period of twenty-five years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was enjoyed by some consent or agreement expressly given, or made for that purpose by deed or writing. R.S., c. 258, s. 32; 2001, c. 6, s. 115.

Access and use of light

33 (1) 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 twenty 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 the same was enjoyed by some consent or agreement expressly made or given for the purpose by deed or writing.

(2) From and after the fifteenth day of April, 1931, no person shall acquire a right by prescription or by virtue of subsection (1) to the access and use of light or air to or for any building situate in any city or in any incorporated town, but this subsection shall not apply to any such right which has been acquired before the fifteenth day of April, 1931, nor affect the rights of the parties to any proceeding pending at the fifteenth day of April, 1931, in which such question has arisen before that date.

(3) For the purpose of subsection (2), “city” and “incorporated town” include any area of a regional municipality that, prior to the incorporation of the regional municipality, was a city or incorporated town. R.S., c. 258, s. 33; 2001, c. 6, s. 115.

Interruption of prescription period

34 Each of the respective periods of years, mentioned in Sections 32 and 33, shall be deemed and taken to be the period next before some action or proceeding wherein the claim or matter to which such period relates, was, or is, brought into question and no act or other matter shall be deemed an interruption within the meaning of the said two Sections, unless the same has been submitted to or acquiesced in for one year after the party interrupted has had notice thereof, and of the person making or authorizing the same to be made. R.S., c. 258, s. 34.

No presumption

35 In the several cases mentioned in and provided for by the said two Sections of the claims to ways, or other easements, watercourses, the use of any water or lights, 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 the said two Sections as is applicable to the case and to the nature of the claim. R.S., c. 258, s. 35.

Period when party under disability

36 The time during which any person otherwise capable of resisting any claim to any of the matters mentioned in the said two Sections is an infant, incompetent person, person of unsound mind, or tenant for life, or during which any action or proceeding has been pending, and has been diligently prosecuted until abated by the death of any party or parties thereto, shall be excluded in the computation of the periods mentioned in the said two Sections, except only in cases where the right or claim is thereby declared to be absolute and indefeasible. R.S., c. 258, s. 36; 2007, c. 17, s. 16.

Term excluded in corporation

37 Where any land or water upon, over, or from which any such way or watercourse, or use of water has been 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 as herein last before mentioned during the continuance of any such term, shall be excluded in the computation of the said period of twenty-five years in case the claim is within three years next after the end or sooner determination of such term resisted by any person entitled to any reversion expectant on the determination thereof. R.S., c. 258, s. 37; 2001, c. 6, s. 115.

38 *repealed 2014, c. 35, s. 27.*
