

CHAPTER 173

LIMITATION OF ACTIONS ACT

• Act • Subsidiary Legislation •

ACT

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 33. No arrears of rent or interest to be recovered for more than six years.
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CHAPTER 173

LIMITATION OF ACTIONS ACT

An Act relating to the limitation of actions and other proceedings, and to the law respecting prescription.

[26th May, 1897.]

1. Short title

This Act may be cited as the Limitation of Actions Act.

2. Interpretation

In this Act—

“land” extends to messuages and all other corporeal hereditaments, and also to any share, estate, or interest in them or any of them, whether freehold or chattel interest, and whether freehold or held according to any other tenure;

“person” extends to a class of creditors or other persons as well as an individual;

“person through whom another person is said to claim” means any person by, through, or under or by the act of whom the person claiming became entitled to the estate or interest claimed as heir, issue in tail, tenant by the curtesy of England, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee, or otherwise.

3. Rights of Crown and Government barred after lapse of sixty years

The rights of the Crown and Government in all lands shall be barred after the lapse of sixty years in like manner and subject to the same provisions as regulate the rights of the Crown in England.

4. No land or rent to be recovered but within twelve years, etc.

No person shall make an entry or distress, or bring an action to recover any land, but within twelve years next after the time at which the right to make the entry or distress, or to bring the action, has first accrued to some person through whom he or she claims, or, if the right has not accrued to any person through whom he or she claims, then within twelve years next after the time at which the right to make the entry or distress, or to bring the action, has first accrued to the person making or bringing it.

5. When right shall be deemed to have accrued

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

- (a) when the person claiming the land, or some person through whom he or she claims, has in respect of the estate or interest claimed, been in possession or receipt of the profits of the land and while entitled thereto has been dispossessed or has discontinued the possession, then the right shall be deemed to have first accrued at the time of the dispossession or discontinuance of possession or at the last time at which any such profits were so received;
- (b) when the person claiming the land claims the estate or interest of some deceased person who has continued in such possession or receipt in respect of the same estate or interest until the time of his or her death, and has been the last person entitled to the estate or interest who has been in such possession or receipt, then the right shall be deemed to have first accrued at the time of such death;
- (c) when the person claiming the land claims in respect of an estate or interest in possession granted, appointed, or otherwise assured by an instrument, other than a will, to him or her or some person through whom he or she claims, by a person being, in respect of the same estate or interest in the possession or receipt of the profits of the land, and no person entitled under the instrument has been in such possession or receipt, then the right shall be deemed to have first accrued at the time at which the person claiming as aforesaid, or the person through whom he or she claims, became entitled to such possession or receipt by virtue of the instrument;
- (d) when the estate or interest claimed has been 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 the land, then the right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession; and
- (e) when the person claiming the land or the person through whom he or she claims, has become entitled by reason of any forfeiture or breach of condition, then the right shall be deemed to have first accrued when the forfeiture was incurred or the condition was broken.

6. Where advantage of forfeiture is not taken by remainder person, he or she shall have a new right when his or her estate comes into possession

When any right to make an entry or distress, or to bring an action to recover any land by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or interest in reversion or remainder, and the land has not been recovered by virtue of the right, the right to make an entry or distress, or bring an action to recover the land, shall be deemed to have first accrued in respect of that estate or interest at the time when it became an estate or interest in possession, as if no such forfeiture or breach of condition had happened.

7. Reversioner to have a new right

(1) A right to make an entry or distress, or to bring an action to recover any land, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder or other future estate or interest, at the time at which the same shall have become an estate or interest in possession by the determination of any estate or estates in respect of which the land has been held, or the profits thereof have been received, notwithstanding that the person claiming the land or some person through whom he or she claims shall, at any time previously to the creation of the estate or estates which shall have determined, have been in possession or receipt of the profits of the lands.

(2) However, if the person last entitled to any particular estate on which any future estate or interest was expectant shall not have been in the possession or receipt of the profits of the land at the time when his or her interest determined, no such entry or distress shall be made and no such action shall be brought by any person becoming entitled in possession to a future estate or interest but within twelve years next after the time when the right to make an entry or distress or to bring an action for the recovery of the land shall have first accrued to the person whose interest has so determined, or within six years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of those two periods shall be the longer; and, if the right of any such person to make any such entry or distress or to bring any such action has been barred under this Act, no person afterwards claiming to be entitled to the same land in respect of any subsequent estate or interest under any deed, will, or settlement, executed or taking effect after the time when a right to make an entry or distress or to bring an action for the recovery of the land shall have first accrued to the owner of the particular estate whose interest has been so determined, shall make any such entry or distress or bring any such action to recover the land.

8. An administrator to claim as if he or she obtained the estate without interval after death of deceased

For the purposes of this Act, an administrator claiming the estate or interest of the deceased person, of whose chattels he or she is appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of the deceased person and the grant of the letters of administration.

9. In the case of a tenant at will the right shall be deemed to have accrued at the end of one year

When any person is in possession, or in receipt of the profits, of any land as tenant at will, the right of the person entitled subject thereto, or of the person through whom he or she claims, to make an entry or distress or bring an action to recover the land, shall be deemed to have first accrued either at the determination of the tenancy, or at the expiration of one year next after the commencement of the tenancy, at which time the 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 section, to his or her mortgagee or trustees.

10. No person after a tenancy from year to year to have any right but from the end of first year, or last payment of rent

When any person is in possession or in receipt of the profits of any land 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 or she claims, to make an entry or distress or to bring an action to recover the land, 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 of the tenancy has been received (which shall last happen).

11. Where rent amounting to five dollars or upwards reserved by a lease in writing has been wrongfully received, no right to accrue on determination of lease

When any person is in possession or in receipt of the profits of any land, or in receipt of any rent, by virtue of a lease in writing by which a rent amounting to a yearly sum of five dollars or upwards is reserved, and the rent reserved by the lease has been received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease, and no payment in respect of the rent has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to the land subject to the lease, or of the person through whom he or she claims, to make an entry or distress or to bring an action after the determination of the lease, shall be deemed to have first accrued at the time at which the rent was first so received by the person wrongfully claiming as aforesaid, and no such right shall be deemed to have accrued upon the determination of the lease to the person rightfully entitled.

12. Mere entry not to be deemed possession

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.

13. No right to be preserved by continual claim

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.

14. Possession of one coparcener, etc., not to be the possession of the others

When any one or more or several persons entitled to any land or rent as coparceners, joint tenants, or tenants in common shall have been in possession of the entirety or of more than his, her or their undivided share or shares of the land or of the profits thereof, or of the rent, for his, her or their own benefit, or for the benefit of any person other than the 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 the last-mentioned persons, or any of them.

15. Possession of a younger brother not to be possession of the heir

When a younger brother or other relation of the person entitled as heir to the possession or receipt of the profits of any land, 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 person entitled as heir.

16. Acknowledgment in writing given to person entitled equivalent to possession

When any acknowledgment of the title of the person entitled to any land has been given to him or her or his or her agent in writing, signed by the person in possession or in receipt of the profits of the land, then such possession or receipt of or by the person by whom the acknowledgment has been 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 the acknowledgment has been given at the time of giving it, and the right of the last-mentioned person, or any person claiming through him or her, to make an entry or distress, or bring an action to recover the land, shall be deemed to have first accrued at, and not before, the time at which the acknowledgment or the last of the acknowledgments if more than one, was given.

17. When right to estate in possession is barred, the right of the same person to future estates shall also be barred