

The Limitation of Actions Act

Repealed

by Chapter L-16.1 of the *Statutes of Saskatchewan, 2004*
(effective May 1, 2005).

Formerly

Chapter L-15 of *The Revised Statutes of Saskatchewan, 1978*
(effective February 26, 1979) as amended by *The Revised
Statutes of Saskatchewan, 1978 (Supplement)*, c.39, and the
Statutes of Saskatchewan, 1983, c.80; 1989-90, c.18; 1990-91,
c.C-8.1, S-66.1 and 28; 1993, c.9; 1996, c.31; 2000, c.A-5.3; and
2001, c.33.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER L-15

An Act respecting the Limitation of Actions

SHORT TITLE

Short title

- 1 This Act may be cited as *The Limitation of Actions Act*.

INTERPRETATION

Interpretation

- 2 In this Act:

- (a) **“action”** means a civil proceeding, and includes a civil proceeding by or against the Crown;
- (b) **“assurance”** means a transfer, deed or instrument, other than a will, by which land may be conveyed or transferred;
- (c) **“disability”** means disability arising from infancy or unsoundness of mind;
- (d) **“heirs”** includes the persons entitled beneficially to the real estate of a deceased intestate;
- (e) **“land”** includes all corporeal hereditaments, and a share or a freehold or leasehold estate or an interest in any of them;
- (f) **“mortgage”** includes charge, **“mortgagor”** includes chargor, and **“mortgagee”** includes chargee;
- (g) **“proceedings”** includes action, entry, taking of possession, distress and sale proceedings under an order of a court or under a power of sale contained in a mortgage or conferred by statute;
- (h) **“rent”** means a rent service or rent reserved upon a demise;
- (i) **“rent charge”** includes all annuities and periodical sums of money charged upon or payable out of land.

PART I
Limitation Periods

Periods of limitation

3(1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:

- (a) actions for penalties imposed by a statute brought by:
- (i) an informer suing for himself alone or for the Crown as well as for himself; or
 - (ii) a person authorized to sue for the same, not being the person aggrieved;

within one year after the cause of action arose;

- (b) actions for penalties, damages or sums of money in the nature of penalties given by a statute:

- (i) to the Crown or the person aggrieved; or
- (ii) partly to one and partly to the other;

within two years after the cause of action arose;

- (c) actions of defamation, whether libel or slander:

- (i) within two years of the publication of the libel or the speaking of the slanderous words; or
- (ii) where special damage is the gist of the action within two years after the occurrence of the damage;

- (d) actions for:

- (i) subject to subsection (3.1), trespass to the person, assault, battery, wounding or other injury to the person, whether arising from an unlawful act or from negligence; or
- (ii) false imprisonment; or
- (iii) malicious prosecution;
- (iv) **Repealed.** 1990-91, c.C-8.1, s.69.

within two years after the cause of action arose;

- (e) actions for:

- (i) trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence; or
- (ii) the taking away, conversion or detention of chattels;

within six years after the cause of action arose;

- (f) actions for:

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(i) the recovery of money, except in respect of a debt charged upon land, whether recoverable as a debt or damages or otherwise, and whether on a recognizance, bond, covenant or other specialty or on a simple contract, express or implied; or

(ii) an account or for not accounting;

within six years after the cause of action arose;

(g) actions grounded on fraudulent misrepresentation, within six years from the discovery of the fraud;

(h) actions grounded on accident, mistake or other equitable ground of relief not hereinbefore specifically dealt with, within six years from the discovery of the cause of action;

(i) actions on a judgment or order for the payment of money, within ten years after the cause of action thereon arose;

(j) any other action not in this Act or any other Act specifically provided for, within six years after the cause of action arose.

(2) Nothing in this section extends to an action where the time for bringing the action is by statute specially limited.

(3) The period during which proceeds against a debtor are stayed and the period during which a proposal is binding upon a debtor and his creditor under *The Farmers' Creditors Arrangement Act, 1934*, (Canada) shall not be included in calculating the time within which an action or other proceeding must be commenced under this Act.

(3.1) A person is not governed by a limitation period and may at any time bring an action for trespass to the person, assault or battery where:

(a) the cause of action is based on misconduct of a sexual nature; or

(b) at the time of the injury:

(i) one of the parties who caused the injury was living with the person in an intimate and personal relationship; or

(ii) the person was in a relationship of financial, emotional, physical or other dependency with one of the parties who caused the injury.

(3.2) Subsection (3.1) applies whether or not the person's right to bring the action was at any time governed by a limitation period pursuant to this Act or any other Act.

(3.3) A person is not governed by a limitation period pursuant to this Act or *The Consumer Products Warranties Act* respecting an action that is brought on or before December 31, 1998 for damages caused by:

(a) the injection of silicone into a human body; or

(b) the insertion into a human body of saline filled implants or implants consisting of silicone, silicone gel or polyurethane or elastomer made of silicone.

(3.4) Subsection (3.3) applies whether or not the person's right to bring the action was at any time governed by a limitation period pursuant to this Act or *The Consumer Products Warranties Act*.

(4) **Repealed.** 1990-91, c.S-66.1, s.12.

R.S.S. 1978, c.L-15, s.3; 1990-91, c.C-8.1, s.69,
c.S-66.1, s.12 and c.28, s.6; 1993, c.9, s.2; 1996,
c.31, s.2.

Fraudulent concealment

4 When the existence of a cause of action has been concealed by the fraud of the person setting up this Part or Part II as a defence, the cause of action shall be deemed to have arisen when the fraud was first known or discovered.

R.S.S. 1978, c.L-15, s.4.

Items of account

5 No claim in respect of an item in an account that arose more than six years before the commencement of the action is enforceable by action by reason only of some other claim in respect of another item in the same account having arisen within six years next before the commencement of the action.

R.S.S. 1978, c.L-15, s.5.

DISABILITIES

Time in case of disability

6 The running of time with respect to a limitation period to bring an action fixed by this or any other Act is postponed for a person who is entitled to bring such an action for so long as he is an infant or:

(a) he is by reason of mental disorder not competent to manage his affairs or estate; and

(b) he is not represented by a personal guardian or property guardian appointed pursuant to *The Public Guardian and Trustee Act* or *The Adult Guardianship and Co-decision-making Act* who:

(i) is aware of the cause of action; and

(ii) has the legal capacity to commence the cause of action on behalf of that person or his estate.

1983, c.80, s.13; 1989-90, c.18, s.8; 2000,
c.A-5.3, s.82; 2001, c.33, s.23.

ACKNOWLEDGMENTS AND PART PAYMENT

Effect of acknowledgment or part payment

7(1) Where a person who is or, but for the effluxion of time, would be liable to an action for the recovery of money as a debt, or his agent in that behalf:

- (a) conditionally or unconditionally promises his creditor or the agent of the creditor in writing signed by the debtor or his agent to pay the debt; or
- (b) gives a written acknowledgment of the debt signed by the debtor or his agent to his creditor or the agent of the creditor; or
- (c) makes a part payment on account of the principal debt or interest thereon, to his creditor or the agent of the creditor;

then an action to recover the debt may be brought within six years from the date of the promise, acknowledgment or part payment, as the case may be, notwithstanding that the action would otherwise be barred under this Act.

(2) A written acknowledgment of a debt or a part payment on account of the principal debt or interest thereon has full effect:

- (a) whether or not a promise to pay can be implied therefrom; and
- (b) whether or not it is accompanied by a refusal to pay.

R.S.S. 1978, c.L-15, s.7.

One joint debtor or obligor

8 Where there are two or more:

- (a) joint debtors, joint contractors, joint obligors or joint covenantors; or
- (b) executors or administrators of any debtor, contractor, obligor or covenantor;

no such joint debtor, joint contractor, joint obligor or joint covenantor, or executor or administrator loses the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed, or by reason of any payment of any principal or interest made, by any other or others of them.

R.S.S. 1978, c.L-15, s.8.

Where action barred against one

9 In actions commenced against two or more such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act, as to one or more of the joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he is entitled to recover, and for the other defendant or defendants against the plaintiff.

R.S.S. 1978, c.L-15, s.9.

Endorsement by payee

10 No endorsement or memorandum of a payment written or made upon a promissory note, bill of exchange or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Act.

R.S.S. 1978, c.L-15, s.10.

Counterclaim

11 This Part applies to the case of a claim of the nature hereinbefore mentioned, alleged by way of counterclaim or set-off on the part of a defendant.

R.S.S. 1978, c.L-15, s.11.

PART II
Charges on Land, Legacies, Etc.

Charges on land, legacies and personality of intestates

12(1) No proceedings shall be taken to recover:

- (a) any rent charge; or
- (b) any sum of money:
 - (i) secured by any mortgage; or
 - (ii) otherwise charged upon or payable out of any land or rent charge; or
- (c) any legacy, whether it is or is not charged upon land; or
- (d) the personal estate or any share of the personal estate of any person dying intestate and possessed by his personal representative;

but within ten years next after a present right to recover the same accrued to some person capable of giving a discharge therefor or a release thereof, unless prior to the expiry of said ten years:

- (e) some part of the rent charge, sum of money, legacy or estate or share or some interest thereon has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent; or
- (f) some acknowledgment in writing of the right to such rent charge, sum of money, legacy, estate or share, signed by any person so bound or entitled, or his agent in that behalf, has been given to a person entitled to receive the same or his agent;

and in such case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one, was made or given.

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(2) In the case of a reversionary interest in land, no right to recover the sum of money charged thereon shall be deemed to accrue until the interest has fallen into possession.

R.S.S. 1978, c.L-15, s.12.

Moneys payable under agreements for sale

13 No proceedings shall be taken to recover a sum of money payable under an agreement for the sale of land but within ten years after a present right to recover the same accrued to some person entitled to receive the same, or capable of giving a release thereof, unless prior to the expiry of such ten years:

(a) some part of the sum of money, or some interest thereon, has been paid by a person bound or entitled to make a payment thereof, or his agent in that behalf, to a person entitled to receive the same or his agent; or

(b) some acknowledgment in writing of the right to receive such sum of money signed by the person so bound or entitled, or his agent in that behalf, has been given to a person entitled to receive the same or his agent;

and in such case no action shall be brought but within ten years after the payment or acknowledgment, or the last of the payments or acknowledgments, if more than one, was made or given.

R.S.S. 1978, c.L-15, s.13.

Arrears of rent interest and damages

14(1) No arrears of rent, or of interest in respect of any sum of money to which section 12 or 13 applies and no damages in respect of such arrears shall be recovered by any proceeding, but within six years next after a present right to recover the same accrued to some person capable of giving a discharge therefor or a release thereof unless, prior to the expiry of such six years:

(a) some part of the arrears has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent; or

(b) some acknowledgment in writing of the right to the arrears signed by a person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the arrears or his agent;

and in such case no proceeding shall be taken but within six years after the payment or acknowledgment, or the last of the payments or acknowledgments, if more than one, was made or given.

(2) Subsection (1) does not apply to an action for redemption or similar proceedings brought by a mortgagor or by any person claiming under him.

R.S.S. 1978, c.L-15, s.14.

Prior mortgage in possession

15 Where a prior mortgagee has been in possession of any land within one year next before an action is brought by a person entitled to a subsequent mortgage on the same land, the person entitled to the subsequent mortgage may recover in such action the arrears of interest that have become due during the whole time the prior mortgagee was in such possession or receipt, although that time may have exceeded such term of six years.

R.S.S. 1978, c.L-15, s.15.

Money secured by express trust

16(1) No action shall be brought to recover a sum of money or legacy charged upon or payable out of any land or rent charge, though secured by an express trust, or to recover any arrears of rent or of interest in respect of a sum of money or legacy so charged or payable or so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust.

(2) Subsection (1) does not operate so as to affect a claim of a *cestui que trust* against his trustee for property held on an express trust.

R.S.S. 1978, c.L-15, s.16.

PART III**Land****RIGHT TO TAKE PROCEEDINGS*****Land Titles Act***

17 This Part is subject to *The Land Titles Act*.

R.S.S. 1978, c.L-15, s.17.

General principle

18 No person shall take proceedings to recover any land but within ten years next after the time at which the right to do so first accrued to some person through whom he claims, hereinafter called "predecessor", or if the right did not accrue to a predecessor then within ten years next after the time at which the right first accrued to the person taking the proceedings, hereinafter called "claimant".

R.S.S. 1978, c.L-15, s.18.

SPECIAL CASES**Dispossession, etc.**

19 Where the claimant or a predecessor:

- (a) has in respect of the estate or interest claimed been in possession of the land or in receipt of the profits thereof; and

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- (b) has while entitled thereto:
 - (i) been dispossessed; or
 - (ii) discontinued such possession or receipt;

the right to take proceedings to recover the land 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.

R.S.S. 1978, c.L-15, s.19.

Succession on death

20 Where the claimant claims the estate or interest of a deceased predecessor who was:

- (a) in possession of the land or in receipt of the profits thereof in respect of the same estate or interest at the time of his death; and
- (b) the last person entitled to the estate or interest who was in such possession or receipt;

the right to take proceedings to recover the land shall be deemed to have first accrued at the time of the death of the predecessor.

R.S.S. 1978, c.L-15, s.20.

Alienation

21 Where the claimant claims in respect of an estate or interest in possession, granted, appointed or otherwise assured to him or a predecessor by a person being in respect of the same estate or interest in the possession of the land or in receipt of the profits thereof and no person entitled under the assurance has been in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the claimant or his predecessor became entitled to such possession or receipt by virtue of the assurance.

R.S.S. 1978, c.L-15, s.21.

Forfeiture

22 Where the claimant or the predecessor becomes entitled by reason of forfeiture or breach of condition, the right to take proceedings to recover the land shall be deemed to have first accrued when the forfeiture was incurred or the condition was broken.

R.S.S. 1978, c.L-15, s.22.

FUTURE ESTATES

Owner of particular estate in possession

23 Where:

- (a) the estate or interest claimed has been:
 - (i) an estate or interest in reversion or remainder; or

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(ii) some other future estate or interest, including therein an executory devise; and

(b) no person has obtained the possession of the land or is in receipt of the profits thereof in respect of the estate or interest;

the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the estate or interest became 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 claimant or the predecessor has at any time previously to the creation of the estate or estates that has determined been in the possession of the land or in receipt of the profits thereof.

R.S.S. 1978, c.L-15, s.23.

Owner of particular estate out of possession

24 If the person last entitled to any particular estate on which any future estate or interest was expectant was not in possession of the land or in receipt of the profits thereof at the time when his interest determined, no proceedings to recover the land shall be taken by any person becoming entitled in possession to a future estate or interest but:

(a) within ten years next after the time when the right to take proceedings first accrued to the person whose interest has so determined; or

(b) within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession;

whichever of these two periods is the longer.

R.S.S. 1978, c.L-15, s.24.

Settlement while statute is running

25 If the right to take proceedings to recover the land has been barred, no proceedings shall be taken by a person afterwards claiming to be entitled to the same land in respect of a subsequent estate or interest under a will or assurance executed or taking effect after the time when a right to take proceedings first accrued to the owner of the particular estate whose interest has so determined.

R.S.S. 1978, c.L-15, s.25.

Successive estates in same person

26 When:

(a) the right of any person to take proceedings to recover any land to which he may have been entitled for an estate or interest in possession entitling him to take proceedings has been barred by the determination of the period that is applicable; and

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(b) that person has at any time during the said period been entitled to any other estate, interest, right or possibility in reversion, remainder or otherwise in or to the same land;

no proceedings shall be taken by him or any person claiming through him to recover the land in respect of the other estate, interest, right or possibility, unless in the meantime the land has been recovered by some person entitled to an estate, interest or right that has been limited or taken effect after or in defeasance of the estate or interest in possession.

R.S.S. 1978, c.L-15, s.26.

Forfeiture

27 When:

(a) the right to take proceedings to recover any land first accrued to a claimant or a predecessor by reason of any forfeiture or breach of condition, in respect of an estate or interest in reversion or remainder; and

(b) the land has not been recovered by virtue of such right;

the right to take proceedings shall be deemed to have first accrued at the time when the estate or interest became an estate or interest in possession.

R.S.S. 1978, c.L-15, s.27.

LANDLORD AND TENANT

Wrongful receipt of rent

28 Where:

(a) a person is in possession of any land, or in receipt of the profits thereof by virtue of a lease in writing, by which a rent amounting to the yearly sum or value of four dollars or upwards is reserved; and

(b) 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

(c) no payment in respect of the rent reserved by the lease has afterwards been made to the person rightfully entitled thereto;

the right of the claimant or his predecessor to take proceedings to recover the land after the determination of the lease shall be deemed to have first accrued at the time at which the rent reserved by the lease was first so received by the person wrongfully so claiming, and no such right shall be deemed to have first accrued upon the determination of the lease to the person rightfully entitled.

R.S.S. 1978, c.L-15, s.28.

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Tenancy from year to year

29 Where a person is in possession of land or in receipt of the profits thereof as tenant from year to year, or other period, without a lease in writing, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued:

- (a) at the determination of the first of such years or other periods; or
- (b) at the last time, prior to his right to take proceedings being barred under any other provisions of this Act, when any rent payable in respect of the tenancy was received by the claimant or his predecessor or the agent of either;

whichever happens last.

R.S.S. 1978, c.L-15, s.29.

Tenancy at will

30(1) Where a person is in possession of any land or in receipt of the profits thereof as tenant at will, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued either:

- (a) at the determination of the tenancy; or
- (b) at the expiration of one year next after its commencement;

at which time, if the tenant was then in possession, the tenancy shall be deemed to have been determined.

(2) No mortgagor or *cestui que trust* under an express trust shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of this section.

R.S.S. 1978, c.L-15, s.30.

Concealed fraud

31(1) In every case of concealed fraud by:

- (a) the person setting up this Part as a defence; or
- (b) some other person through whom the first mentioned person claims;

the right of a person to bring an action for the recovery of land of which he or a person through whom he claims may have been deprived by the fraud, shall be deemed to have first accrued at and not before the time at which the fraud was or with reasonable diligence might have been first known or discovered.

(2) Nothing in subsection (1) enables an owner of land to bring an action for the recovery of the land, or for setting aside a conveyance thereof, on account of fraud against a purchaser in good faith for valuable consideration, who:

- (a) has not assisted in the commission of the fraud; and
- (b) 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.S. 1978, c.L-15, s.31.

Acknowledgments of title

32 When an acknowledgment in writing of the title of a person entitled to any land signed by the person in possession of the land or in receipt of the profits thereof or his agent in that behalf has been given to him or his agent prior to his right to take proceedings to recover the land having been barred under this Act, then:

- (a) the possession or receipt of or by the person by whom the 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 the acknowledgment was given at the time of giving the same; and
- (b) the right of the last mentioned person, or of any person claiming through him, to take proceedings 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.

R.S.S. 1978, c.L-15, s.32.

PART IV
Mortgages of Real and Personal Property
REDEMPTION

Where mortgagee in possession

33(1) When a mortgagee or a person claiming through a mortgagee:

- (a) has obtained the possession of any property real or personal comprised in a mortgage; or
- (b) is in receipt of the profits of any land therein comprised;

the mortgagor or any person claiming through him shall not bring an action to redeem the mortgage but within ten years next after the time at which the mortgagee or a person claiming through the mortgagee obtained such possession or first received any such profits unless prior to the expiry of such ten years an acknowledgment in writing of the title of the mortgagor or of his right to redeem is given to the mortgagor or some person claiming his estate or interest or to the agent of the mortgagor or of such person signed by the mortgagee or the person claiming through him or the agent in that behalf of either of them; and in that case, the action shall not be brought but within ten years next after the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

(2) Where there is more than one mortgagor or more than one person claiming through the mortgagor or mortgagors, the acknowledgment, if given to any of the mortgagors or persons or his or their agent, is as effectual as if it had been given to all the mortgagors or persons.

(3) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee or mortgagees, an acknowledgment signed by one or more of the mortgagees or persons or his or their agent in that behalf is effectual only as against:

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- (a) the party or parties so signing;
- (b) the person or persons claiming any part of the mortgage money or property by, through or under him or them; and
- (c) any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests;

and does not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any undivided or divided part of the money or property.

(4) Where such of the mortgagees or persons as have given the acknowledgment are:

- (a) entitled to a divided part of the property comprised in the mortgage or some estate or interest therein; and
- (b) not entitled to any ascertained part of the mortgage money;

the mortgagor or mortgagors are entitled to redeem the same divided part of the property on payment with interest of the part of the mortgage money that bears the same proportion to the whole of the mortgage money as the value of the divided part of the property bears to the value of the whole of the property comprised in the mortgage.

R.S.S. 1978, c.L-15, s.33.

FORECLOSURE OR SALE

When proceedings may be taken

34 No mortgagee or person claiming through a mortgagee shall take proceedings for foreclosure or sale under a mortgage of real or personal property or to recover the property mortgaged but:

- (a) within ten years next after the right to take the proceedings first accrued to the mortgagee; or
- (b) if the right did not accrue to the mortgagee, then within ten years after the right first accrued to a person claiming through the mortgagee.

R.S.S. 1978, c.L-15, s.34.

Payment or acknowledgment by mortgagor

35 When any person bound or entitled to make payment of the principal money or interest secured by a mortgage of property real or personal or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings for foreclosure or sale or to take proceedings to recover the property, pays any part of the money or interest to a person entitled to receive the same, or his agent, the right to take proceedings shall be deemed to have first accrued:

- (a) at and not before the time at which the payment or the last of the payments, if more than one, was made; or
- (b) if an acknowledgment of the nature described in section 32 was given at any time prior to the expiry of ten years from the accrual of the right to take proceedings, then at the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

R.S.S. 1978, c.L-15, s.35.

PART V Agreement for the Sale of Land

Actions by purchasers of land

36(1) No purchaser of land and no person claiming through him shall bring an action in respect of the agreement for the sale thereof, but:

- (a) within ten years after the right to bring the action first accrued to the purchaser; or
- (b) if the right did not accrue to the purchaser, then within ten years after the right first accrued to a person claiming through the purchaser.

(2) When, at any time prior to the expiry of ten years from the accrual of the right to bring an action in respect of an agreement for the sale of land:

- (a) a person bound or entitled to make payment of the purchase money, or his agent in that behalf, pays a part of the money payable under the agreement of sale to a person entitled to receive the same, or his agent; or
- (b) an acknowledgment in writing of the right of the purchaser or person claiming through him to the land, or to make such payment, was given to the purchaser or person claiming through him or to the agent of such purchaser or person, signed by the vendor or the person claiming through him or the agent in that behalf of either of them;

then the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment or the last of the payments, if more than one, was made, or the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

R.S.S. 1978, c.L-15, s.36.

Proceedings by vendors of land

37 No vendor of land or person claiming through him shall take any proceedings:

- (a) for cancellation, determination or rescission of the agreement for the sale of the land;
- (b) for foreclosure or sale thereunder; or
- (c) to recover the land;

but within ten years after the right to take the proceedings first accrued to the vendor, or if the right did not accrue to the vendor, then within ten years after the right first accrued to a person claiming through the vendor.

R.S.S. 1978, c.L-15, s.37.

Payments or acknowledgments by purchasers

38 When at any time prior to the expiry of ten years from the accrual of the right to take proceedings mentioned in section 37:

- (a) a person bound or entitled to make payment of the purchase money or his agent in that behalf, pays a part of the money payable under the agreement of sale to a person entitled to receive the same, or his agent; or
- (b) an acknowledgment in writing of the right of the vendor or person claiming through him to the land, or to receive the payment, was given to the vendor or person claiming through him or to the agent of such vendor or person signed by the purchaser or the person claiming through him or the agent in that behalf of either of them;

then the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment or the last of the payments, if more than one, was made, or the time at which the acknowledgment, or the last of the acknowledgments, if more than one, was given.

R.S.S. 1978, c.L-15, s.38.

PART VI

Conditional Sales of Goods

Interpretation of Part

39 In this Part:

- (a) “**buyer**” means the person who buys or hires goods by a conditional sale;
- (b) “**conditional sale**” means:
 - (i) a contract for the sale of goods under which:
 - (A) possession is or is to be delivered to the buyer; and
 - (B) the property in the goods is to vest in him at a subsequent time upon payment of the whole or part of the price or the performance of any other condition; or

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(ii) any contract for the hiring of goods by which it is agreed that the hirer shall become, or have the option of becoming, the owner of the goods upon full compliance with the terms of the contract;

(c) **“goods”** means all chattels personal other than things in action or money, and includes emblements, industrial growing crops, and things attached to or forming part of the land that are agreed to be severed before sale, or under the contract of sale;

(d) **“seller”** means the person who sells or lets to hire goods by a conditional sale.

R.S.S. 1978, c.L-15, s.39.

Proceedings by seller of goods

40 No seller shall take any proceedings for the sale of or to recover any goods the subject of a conditional sale but:

(a) within ten years after the right to take proceedings first accrued to the seller; or

(b) if the right did not accrue to the seller, then within ten years after the right first accrued to a person claiming through him.

R.S.S. 1978, c.L-15, s.40.

Payments or acknowledgments by purchaser of goods

41 When, at any time prior to the expiry of ten years from the accrual of the right to take the proceedings:

(a) a person bound or entitled to make payment of the price, or his agent in that behalf, pays a part of the price or interest to a person entitled to receive the same, or his agent; or

(b) an acknowledgment in writing of the right of the seller or person claiming through him to the goods or to receive the payment was given to the seller or person claiming through him signed by the buyer or the person claiming through him, or the agent in that behalf of either of them;

then the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

R.S.S. 1978, c.L-15, s.41.

PART VII
Trusts and Trustees

Claim against trustee

42 Subject to the other provisions of this Part, no claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of a breach of such trust, shall be held to be barred by this Act.

R.S.S. 1978, c.L-15, s.42.

Rights of trustee defendant

43(1) In this section “**trustee**” includes an executor, an administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee, and also includes a joint trustee.

(2) In an action against a trustee or a person claiming through him except where the claim is founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property or the proceeds thereof still retained by the trustee, or previously received by the trustee and converted to his use:

(a) all rights and privileges conferred by this Act shall be enjoyed in the same manner and to the same extent as they would have been enjoyed in the action if the trustee or person claiming through him had not been a trustee or person claiming through a trustee;

(b) if the action is brought to recover money or other property, and is one to which no limitation provision of this Act applies, the trustee or person claiming through him shall be entitled to the benefit of, and be at liberty to plead, the lapse of time as a bar to the action in the same manner and to the same extent as if the claim had been against him in an action for money had and received; but no limitation provisions of this Act shall begin to run against a beneficiary unless and until the interest of the beneficiary becomes an interest in possession.

(3) No beneficiary, as against whom there would be a good defence by virtue of this section, shall derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought the action and this section had been pleaded.

R.S.S. 1978, c.L-15, s.43; R.S.S. (Supp.), c.39,
s.2.

As against purchaser from express trustee

44 Where property is vested in a trustee upon an express trust, the right of the *cestui que trust* or a person claiming through him to bring an action against the trustee or a person claiming through him to recover the property shall be deemed to have first accrued at and not before the time at which it was conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against the purchaser and any person claiming through him.

R.S.S. 1978, c.L-15, s.44.

PART VIII
General

Possession

45(1) No person shall be deemed to have been in possession of land, within the meaning of this Act, merely by reason of having made an entry thereon.

(2) No continual or other claim upon or near any land preserves any right of making an entry or distress or bringing an action.

(3) The receipt of the rent payable by a tenant at will, tenant from year to year or other lessee, shall, as against the lessee or a 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.S. 1978, c.L-15, s.45.

Expiry of statutory period

46 At the determination of the period limited by this Act, to any person for taking proceedings to recover any land, rent charge or money charged on land, the right and title of such person to the land, or rent charge or the recovery of the money out of the land is extinguished.

R.S.S. 1978, c.L-15, s.46.

Title of administrator

47 for the purposes of Parts II, III and IV, an administrator claiming the estate or interest of the deceased person of whose property he has been 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.

R.S.S. 1978, c.L-15, s.47.

48 Repealed. 1983, c.80, s.13.

Defendant out of the province

49 In respect of a cause of action as to which the time for taking proceedings is limited by this Act other than those mentioned in clauses (a) and (b) subsection (1) of section 3, if a person is out of the province at the time a cause of action against him arises within the province, the person entitled to the action may bring the same within two years after the return of the first mentioned person to the province or within the time otherwise limited by this Act for bringing the action.

R.S.S. 1978, c.L-15, s.49.

Joint debtors, etc., within the province

50(1) Where a person has a cause of action against joint debtors, joint contractors, joint obligors or joint covenantors, he is not entitled to any time within which to commence such action against such of them as were within the province at the time the cause of action accrued by reason only that one or more of them were at that time out of the province.

(2) A person having such cause of action is not barred from commencing an action against a joint debtor, joint contractor, joint obligor or joint covenantor who was out of the province at the time the cause of action accrued, after his return to the province by reason only that judgment has been already recovered against such of the joint debtors, joint contractors, joint obligors or joint covenantors as were at that time within the province.

R.S.S. 1978, c.L-15, s.50.

Rules of equity

51 Nothing in this Act interferes with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act.

R.S.S. 1978, c.L-15, s.51.

Interpretation

52 This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of the provinces that enact it.

R.S.S. 1978, c.L-15, s.52.