

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER P70

PRESCRIPTION ACT

Showing the Law as at 15 December 2006

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates Act 16/2006, in force 31 October 2006

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PRESCRIPTION ACT

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PRESCRIPTION ACT

Claims to right of common and other profits *à prendre*

1. No claim which may be lawfully made at the common law, by custom, prescription, or grant, to any right of common, or other profit or benefit, to be taken and enjoyed from or upon any land of our Sovereign Lady the Queen, Her Heirs or Successors, or of any ecclesiastical or lay person or body corporate, except such matters and things as are herein specially provided for, and except rent and services, shall, where such right, profit, or benefit shall have been actually taken and enjoyed by any person claiming right thereto, without interruption, for the full period of 30 years, be defeated or destroyed by showing only that such right, profit, or benefit was first taken or enjoyed at any time prior to such period of 30 years; but, nevertheless, such claim may be defeated in any other way by which the same is now liable to be defeated; and, when such right, profit, or benefit shall have been so taken and enjoyed as aforesaid for the full period of 60 years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was taken and enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

Claims of right of way, or other easement, or watercourse

2. 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 said 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, shall have 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 the same is now liable to be defeated; and, where such way, or other matter as herein last before mentioned, shall have been so enjoyed as aforesaid for the full period of 40 years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing.

Claim to light

3. When the access and use of light, to and for any dwelling house, workshop, or other building, shall have 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 shall appear that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

The periods to be periods before action

4. Each of the respective periods of years hereinbefore mentioned shall be deemed and taken to be the period next before some suit or action, wherein the claim, or matter, to which such period may relate shall have been, or shall be, brought into 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 1 year after the party interrupted shall have had, or shall have, notice thereof, and of the person making or authorising the same to be made.

Pleading

5. In all actions upon the case and other pleadings, wherein the party claiming may now by law allege his right generally, without averring the existence of such right from time immemorial, such general allegation shall still be deemed sufficient; and all and every the matters in this Act mentioned and provided, which shall be applicable to the case, shall be admissible in evidence to sustain or rebut such allegation, and in all pleadings to actions of trespass, and in all other pleadings wherein, before 21st September, 1882, it would have been necessary to allege the right to have existed from time immemorial, it shall be sufficient to allege the enjoyment thereof, as of right, by the occupiers of the tenement in respect whereof the same is claimed, for and during such of the periods mentioned in this Act as may be applicable to the case, and without claiming in the name or right of the owner of the fee and, if the other party shall intend to rely on any proviso, exception, incapacity, disability, contract, agreement, or other matter hereinbefore mentioned, or on any cause or matter of fact or of law not inconsistent with the simple fact of enjoyment, the same shall be specially alleged and set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general traverse or denial of such allegation.

Presumption not to be allowed in claims

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.

Proviso for infants, and others under disability

7. 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, person of unsound mind or tenant for life, or during which any action or suit shall have been pending, and which shall have 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 the cases where the right or claim is hereby declared to be absolute and indefeasible.

(Act 16/2006, s.53)

What time to be excluded in computing the term of 40 years appointed by this Act

8. When any land or water, upon, over, or from which any such way, or other convenient watercourse or use of water, shall have been, or shall be, enjoyed or derived, has been, or shall be, held under or by virtue of any term of life, or any term of years exceeding 3 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 such term, shall be excluded in the computation of the period of 40 years, in case the claim shall, within 3 years next after the end or sooner determination of such term, be resisted by any person entitled to any reversion expectant on the determination thereof.

Citation

9. This Act may be cited as the Prescription Act, Revised Statutes of Anguilla, Chapter P70.