

**CONSOLIDATION OF  
LIMITATION OF ACTIONS ACT  
R.S.N.W.T. 1988,c.L-8**

*(Current to: August 17, 2012)*

**AS AMENDED BY NORTHWEST TERRITORIES STATUTES:**

R.S.N.W.T. 1988,c.8(Supp.)

In force July 19, 1993: SI-008-93

S.N.W.T. 1995,c.8

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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## LIMITATION OF ACTIONS ACT

### INTERPRETATION

#### Definitions

1. In this Act,

"action" means a civil proceeding; (*action*)

"assurance" means any transfer, deed or instrument, other than a will, by which land may be conveyed or transferred; (*transfert*)

"disability" means disability as a result of being a minor or arising from unsoundness of mind; (*incapacité*)

"heirs" includes the persons entitled beneficially to the real estate of a deceased intestate; (*héritiers*)

"land" includes all corporeal hereditaments, and any share or any freehold or leasehold estate or any interest in any of them; (*bien-fonds*)

"mortgage" includes charge; (*hypothèque*)

"mortgagee" includes chargee; (*créancier hypothécaire*)

"mortgagor" includes chargor; (*débiteur hypothécaire*)

"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 an Act; (*procédure*)

"rent" means a rent service or rent reserved on a demise; (*loyer*)

"rent charge" includes all annuities and periodical sums of money charged on or payable out of land. (*rente foncière*)

## PART I

## LIMITATION PERIOD

## SPECIFIED ACTIONS

## Limitation periods

2. (1) The following actions must be commenced within and not after the following times:

- (a) actions for penalties imposed by any Act brought by an informer suing for himself or herself alone or for Her Majesty as well as for himself or herself, or by any person authorized to sue for such penalties, 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 any Act to Her Majesty or the person aggrieved, or 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, within two years after the publication of the libel or the speaking of the slanderous words, or where special damage is the gist of the action, within two years after the occurrence of the special damage;
- (d) actions for trespass to the person, assault, battery, wounding or other injury to the person, whether arising from an unlawful act or from negligence, or for false imprisonment or malicious prosecution, within two years after the cause of action arose;
- (e) actions for trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence, or for the taking away, conversion or detention of chattels, within six years after the cause of action arose;
- (f) actions for the recovery of money, except in respect of a debt charged on 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, and actions for an account or for not accounting, within six years after the cause of action arose;
- (g) actions grounded on fraudulent misrepresentation, within six years after the discovery of the fraud;
- (h) actions grounded on accident, mistake or other equitable ground of relief not specifically dealt with in paragraphs (a) to (g), within six years after the discovery of the cause of action;
- (i) actions on a judgment or order for the payment of money, within 10 years after the cause of action on the judgment or order arose;
- (j) any other action not specifically provided for in this Act or any other Act, within six years after the cause of action arose.



### Exception

(2) Nothing in subsection (1) extends to any action where the time for bringing the action is specially limited by an Act.

### Definition of "action"

**2.1.** (1) For the purposes of this section, "action" means an action for trespass to the person, assault, battery, wounding or other injury to the person where the cause of action is based on conduct of a sexual nature.

### No limitation period for sexual assault in certain situations

(2) The limitation period set out in paragraph 2(1)(d) does not apply in respect of an action where one of the parties had an intimate relationship with the aggrieved person, had a relationship of trust with the aggrieved person or was someone upon whom the aggrieved person was dependent.

### Other limitation period does not start until person capable of commencing action

(3) Where the relationship between the parties is not one of those described in subsection (2), the limitation period set out in paragraph 2(1)(d) does not commence so long as the aggrieved person is incapable of commencing the action because of his or her physical, mental or psychological condition.

### Presumption

(4) Unless the contrary is proved, an aggrieved person shall be presumed to have been incapable, because of his or her physical, mental or psychological condition, of commencing an action earlier than it was commenced.

### Prior limitation periods do not apply

(5) This section applies whether or not the right of an aggrieved person to bring the action was at any time governed by a limitation period. S.N.W.T. 1995,c.8,s.2.

### Concealed fraud

**3.** 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.

### Item in account

**4.** 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 before the commencement of the action.

### Foreign limitation does not apply

**4.1.** Where an action is one defined in subsection 2.1(1) and the court determines, in that action, that the law of a jurisdiction other than the Territories is applicable and that the law of that jurisdiction governing the limitation of actions is, for the purposes of

private international law, classified as procedural, the court shall apply the law of the Territories as set out in section 2.1. S.N.W.T. 1995,c.8,s.3.

## DISABILITIES

Person under disability

**5.** Where a person entitled to bring any action mentioned in paragraphs 2(1)(c) to (i) is under disability at the time the cause of action arises, the person may bring the action within the time limited by this Act with respect to the action or at any time within two years after the person first ceased to be under disability.

## ACKNOWLEDGMENTS AND PART PAYMENT

Subsequent acts

**6.** (1) Whenever any person who is, or would have been but for the passage of time, liable to an action for the recovery of money as a debt, or his or her agent in that behalf,

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

an action to recover any such debt may be brought within six years after 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.

Effect of written acknowledgment

(2) A written acknowledgment of a debt or a part payment on account of the principal debt or interest on the principal debt has full effect whether or not a promise to pay can be implied from that and whether or not it is accompanied by a refusal to pay.

Joint contractors and covenantors

**7.** Where there are two or more joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators of any debt or, contractor, obligor or covenantor, no such joint debtor, joint contractor, joint obligor or joint covenantor, or executor or administrator shall lose 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.

#### Recovery against those acknowledging

**8.** In actions commenced against two or more joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators referred to in section 7, if it appears at the trial or otherwise that the plaintiff, though barred by this Act, as to one or more of such 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 the plaintiff is entitled to recover, and for the other defendant or defendants against the plaintiff.

#### Endorsements of payments

**9.** No endorsement or memorandum of any payment written or made on any 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.

#### Counterclaim and set-off

**10.** This Part applies to any claim of the nature mentioned in this Part alleged by way of counterclaim or set-off on the part of any defendant.

## PART II

### CHARGES ON LAND AND LEGACIES

#### Recovery of money charged on land

**11.** (1) No proceedings shall be taken to recover

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

except within 10 years after a present right to recover it accrued to a person capable of giving a discharge for it or a release of it, unless before the expiration of the 10 years

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

and in that case, no action shall be brought except within 10 years after the payment or acknowledgment, or at the last of the payments or acknowledgements, if more than one was made or given.

### Reversion not in possession

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

### Recovery of money payable on agreement of sale

**12.** No proceedings shall be taken to recover any sum of money payable under an agreement for the sale of land except within 10 years after a present right to recover the sum of money accrued to a person entitled to receive it, or capable of giving a release of it, unless before the expiration of the 10 years

- (a) some part of the sum of money, or some interest on it, has been paid by a person bound or entitled to make a payment of it, or his or her agent in that behalf, to a person entitled to receive it or his or her agent, or
- (b) some acknowledgment in writing of the right to receive the sum of money signed by the person so bound or entitled, or his or her agent in that behalf, has been given to a person entitled to receive the sum of money or his or her agent,

and in that case, no action shall be brought except within 10 years after the payment or acknowledgment, or the last of the payments or acknowledgments, if more than one was made or given.

### Recovery of rent and interest charged on land

**13.** (1) No arrears of rent, or of interest in respect of any sum of money to which section 11 or 12 applies or any damages in respect of such arrears shall be recovered by any proceeding, except within six years after a present right to recover it accrued to a person capable of giving a discharge for it or a release of it unless, before the expiration of the six years

- (a) some part of the arrears has been paid by a person bound or entitled to make a payment of it or his or her agent in that behalf to a person entitled to receive it or his or her agent, or
- (b) some acknowledgment in writing of the right to the arrears signed by a person so bound or entitled or his or her agent in that behalf has been given to a person entitled to receive the arrears or his or her agent,

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

### Exemption

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

### Recovery where prior mortgagee in possession

**14.** Where a prior mortgagee has been in possession of land within one year 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 that 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 the term of six years.

Recovery of sums secured by express trust

**15.** (1) No action shall be brought to recover a sum of money or legacy charged on 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 those arrears, except within the time within which it would be recoverable if there were no such trust.

Saving

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

### PART III

#### LAND

#### RIGHT TO TAKE PROCEEDINGS

Definitions

**16.** In this Part,

"claimant" means the person taking the proceedings to recover land where there is no predecessor; (*demandeur*)

"predecessor" means the person to whom the right to take proceedings to recover land accrues and through whom another person claims. (*prédécesseur*)

*Land Titles Act*

**17.** This Part is subject to the *Land Titles Act*. R.S.N.W.T. 1988,c.8(Supp.),s.215.

Recovery of land

**18.** No person shall take proceedings to recover any land except

- (a) within 10 years after the time at which the right to do so first accrued to the person through whom he or she claims; or
- (b) if the right did not accrue to such a predecessor, then within 10 years after the time at which the right first accrued to the person taking the proceedings.

## SPECIAL CASES

## Accrual of right on dispossession

**19.** Where

- (a) a claimant or a predecessor has in respect of the estate or interest claimed been in possession of the land or in receipt of the profits of the land, and
- (b) while entitled to the possession or receipts has been dispossessed or has discontinued the 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.

## Accrual of right on death of predecessor

**20.** Where a claimant claims the estate or interest of a deceased predecessor who was in possession of the land or in receipt of the profits of the land in respect of the same estate or interest at the time of his or her death was the last person entitled to the estate or interest who was in 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.

## Accrual of right according to assurance

**21.** Where

- (a) the claimant claims in respect of an estate or interest in possession, granted, appointed or otherwise assured to the claimant or a predecessor by a person being in respect of the estate or interest in the possession of the land or in receipt of the profits of the land, and
- (b) 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 or her predecessor became entitled to that possession or receipt by virtue of the assurance.

## Accrual of right on forfeiture

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

## FUTURE ESTATES

When right accrues as to future estate

**23.** Where the estate or interest claimed has been an estate or interest in reversion or remainder or other future estate or interest, including in it an executory devise, and no person has obtained the possession of the land or is in receipt of the profits of the land 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 of the land have been received notwithstanding the claimant or the predecessor has at any time before the creation of the estate or estates that has determined been in the possession of the land or in receipt of the profits of the land.

Proceedings as to future estate

**24.** Where 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 of the land at the time when his or her interest determined, no proceedings to recover the land shall be taken by any person becoming entitled in possession to a future estate or interest except within 10 years after the time when the right to take proceedings first accrued to the person whose interest has so determined, or within five years 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.

Where proceedings barred

**25.** Where the right to take proceedings to recover the land has been barred, no proceedings shall be taken by any person afterwards claiming to be entitled to the same land in respect of any subsequent estate or interest under any 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.

Bar to estate in possession and future estate

**26.** When the right of a person to take proceedings to recover land to which the person may have been entitled for an estate or interest in possession entitling the person to take proceedings has been barred by the determination of the period that is applicable, and the person has at any time during that 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 the person or any person claiming through the person to recover the land in respect of that other estate, interest, right or possibility, unless in the meantime the land has been recovered by a 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.

Where right of forfeiture not claimed

**27.** When 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 the land has not been recovered by virtue of that

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.

## LANDLORD AND TENANT

When right accrues where rent wrongfully received

**28.** Where

- (a) a person is in possession of land, or in receipt of the profits of land by virtue of a lease in writing, by which a rent amounting to the yearly sum or value of at least \$4 is reserved,
- (b) the rent reserved by the lease has been received by a 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 to it,

the right of the claimant or his or her 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 claiming and no such right shall be deemed to have first accrued on the determination of the lease to the person rightfully entitled.

Accrual of right where tenant from year to year

**29.** Where a person is in possession of land or in receipt of the profits of land as a tenant from year to year, or other period, without a lease in writing, the right of the claimant or his or her predecessor to take proceedings 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, before his or her right to take proceedings being barred under any other provision of this Act, when any rent payable in respect of the tenancy was received by the claimant or his or her predecessor or the agent of either, whichever happens last.

Accrual of right where tenancy at will

**30.** (1) Where a person is in possession of land or in receipt of the profits of land as tenant at will, the right of the claimant or his or her predecessor to take proceedings 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 after its commencement, at which time, if the tenant was then in possession, the tenancy shall be deemed to have been determined.

Exception

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

Running of time where fraud concealed

**31.** (1) In every case of concealed fraud by the person setting up this Part as a defence, or by some other person through whom that person claims, the right of any person to bring an action for the recovery of land of which he or she or any person through whom he or she 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.

#### Purchaser

(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 of the land, on account of fraud against a purchaser in good faith for valuable consideration, who has not assisted in the commission of the fraud, and who, at the time that he or she made the purchase, did not know, and had no reason to believe, that the fraud had been committed.

#### Acknowledgment equivalent to possession

**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 of the land or his or her agent in that behalf has been given to him or her or his or her agent before his or her right to take proceedings to recover the land having been barred under the provisions of this Act, then 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 acknowledgment, and the right of the last mentioned person, or of any person claiming through that person, to take proceedings shall be deemed to have first accrued at and not before the time at which the acknowledgment, or at the last of the acknowledgments, if more than one, was given.

## PART IV

### MORTGAGES OF REAL AND PERSONAL PROPERTY

#### REDEMPTION

#### Where mortgagee in possession barred

**33.** (1) When a mortgagee or a person claiming through a mortgagee

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

the mortgagor or any person claiming through the mortgagor shall not bring any action to redeem the mortgage except within 10 years after the time at which the mortgagee or a person claiming through the mortgagee obtained the possession or first received any profits unless before the expiration of the 10 years an acknowledgment in writing of the title of the mortgagor or of his or her right to redeem is given to the mortgagor or a person claiming his or her estate or interest or to the agent of the mortgagor or person signed by the mortgagee or the person claiming through him or her or the agent in that behalf of either of them, in that case, the action shall not be brought except within 10 years after the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

#### More than one mortgagor

(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 her or their agent, shall be as effectual as if the acknowledgment had been given to all the mortgagors or persons.

#### Acknowledgments to one where more than one mortgagee

(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 her or their agent in that behalf shall be effectual only as against the party or parties signing, and the person or persons claiming any part of the mortgage money or property by, through or under him or her or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or her or their estate or estates, interest or interests and shall 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.

#### Where property divided

(4) Where the mortgagees or persons mentioned in this section who have given an acknowledgment are entitled to a divided part of the property comprised in the mortgage or some estate or interest in the property, and not 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.

## FORECLOSURE OR SALE

#### Foreclosure or sale

**34.** No mortgagee or person claiming through a mortgagee shall take proceedings for the foreclosure or sale under a mortgage of real or personal property or to recover the property mortgaged except within 10 years after the right to take the proceedings first accrued to the mortgagee, or if the right did not accrue to the mortgagee, then within 10 years after the right first accrued to a person claiming through the mortgagee.

#### Payment or acknowledgment by person bound or entitled

**35.** When any person bound or entitled to make payment of the principal money or interest secured by a mortgage of real or personal property, or his or her agent in that behalf, at any time before the expiration of 10 years after 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 it, or his or her agent, the right to take proceedings shall be deemed to have first accrued

- (a) at and not before the time at which the payment of the last of the payments, if more than one, was made; or

- (b) if any acknowledgment of the nature described in section 32 was given at any time before the expiration of 10 years after 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.

## PART V

### AGREEMENTS FOR THE SALE OF LAND

#### Purchaser of land

**36.** (1) No purchaser of land, or any person claiming through him or her, shall bring an action in respect of the agreement for the sale of the land except

- (a) within 10 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 10 years after the right first accrued to a person claiming through the purchaser.

#### When rights of purchaser accrue

(2) When any person bound or entitled to make payment of the purchase money, or his or her agent in that behalf, at any time before the expiration of 10 years after the accrual of the right to bring the action, pays any part of the money payable under the agreement of sale to a person entitled to receive it, or his or her agent, or if any acknowledgment in writing of the right of the purchaser or person claiming through the purchaser to the land, or to make those payments, was given before the expiration of the 10 years to the purchaser or person claiming through the purchaser, or to the agent of the purchaser or person, signed by the vendor or the person claiming through the vendor or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued

- (a) at the time at which the payment or the last of the payments, if more than one, was made; or
- (b) at the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

#### Vendor of land

**37.** No vendor of land or person claiming through him or her shall take proceedings for cancellation, determination or rescission of the agreement for the sale of the land, or for foreclosure or sale under the agreement or to recover the land, except

- (a) within 10 years after the right to take the proceedings first accrued to the vendor; or
- (b) if the right did not accrue to the vendor, then within 10 years after the right first accrued to a person claiming through the vendor.

## When rights of vendor accrue

**38.** When any person bound or entitled to make payment of the purchase money, or his or her agent in that behalf, at any time before the expiration of 10 years after the accrual of the right to take the proceedings mentioned in section 37, pays any part of the money payable under the agreement of sale to a person entitled to receive it, or his or her agent, or if, at any time before the expiration of the 10 years, any acknowledgment in writing of the right of the vendor or person claiming through the vendor to the land, or to receive the payment, was given to the vendor or person claiming through the vendor, or to the agent of the vendor or person, signed by the purchaser or the person claiming through the purchaser or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued

- (a) at, and not before, the time at which the payment or last of the payments, if more than one, was made; or
- (b) at the time at which the acknowledgment, or last of the acknowledgments, if more than one, was given.

## PART VI

## CONDITIONAL SALES OF GOODS

## Definitions

**39.** In this Part,

"buyer" means the person who buys or hires goods by a conditional sale; (*acheteur*)

"conditional sale" means

- (a) a contract for the sale of goods under which possession is or is to be delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time on payment of the whole or part of the price or the performance of any other condition, or
- (b) a 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 on full compliance with the terms of the contract; (*vente conditionnelle*)

"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; (*biens*)

"seller" means the person who sells or lets to hire goods by a conditional sale. (*vendeur*)

## Rights of seller

**40.** No seller shall take proceedings for the sale of or to recover any goods the subject of a conditional sale except

- (a) within 10 years after the right to take the proceedings first accrued to the seller; or

- (b) if the right did not accrue to the seller, then within 10 years after the right first accrued to a person claiming through the seller.

#### When rights accrue

**41.** When any person bound or entitled to make payment of the price, or his or her agent in that behalf, at any time before the expiration of 10 years after the accrual of the right to take the proceedings pays any part of the price or interest to a person entitled to receive it, or his or her agent, or if at any time before the expiration of the 10 years, any acknowledgment in writing of the right of the seller or person claiming through the seller to the goods or to receive the payment was given to the seller or person claiming through the seller signed by the buyer or the person claiming through the buyer, or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued

- (a) at, and not before, the time at which the payment or last of the payments, if more than one, was made; or
- (b) at the time at which the acknowledgment, or last of the acknowledgments, if more than one, was given.

## PART VII

### GENERAL

#### Possession of land

**42.** (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 on the land.

#### Claim on land

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

#### Receipt of rent as profits

(3) The receipt of the rent payable by a tenant at will, tenant from year to year or other lessee, shall, as against that lessee or any person claiming under him or her, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act.

#### Extinguishment of right

**43.** 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 that person to the land, or rent charge or the recovery of the money out of the land, is extinguished.

#### Administrator

**44.** For the purpose of Parts II to IV, an administrator claiming the estate or interest of the deceased person of whose property he or she 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.

#### Persons under disability

**45.** (1) When at the time at which the right to take any proceedings referred to in Part II, III or IV first accrued to a person, the person was under disability, the person or a person claiming through him or her may, notwithstanding anything in this Act, take proceedings at any time within six years after the person to whom the right first accrued first ceased to be under disability or died, whichever event first happened, except that if he or she died without ceasing to be under disability, no further time to take proceedings shall be allowed, by reason of the disability of any other person.

#### Ultimate limit

(2) Notwithstanding subsection (1), no proceedings shall be taken by a person under disability at the time the right to do so first accrued to the person or by any person claiming through him or her, except within 30 years after that time.

#### Return to Territories

**46.** 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 paragraphs 2(1)(a) or (b), if a person is out of the Territories at the time a cause of action against that person arises within the Territories, the person entitled to the action may bring the action within two years after the return of the person to the Territories or within the time otherwise limited by this Act for bringing the action.

#### Joint debtors within Territories

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

#### Joint debtors who return from outside Territories

(2) A person having a cause of action referred to in subsection (1) is not barred from commencing an action against a joint debtor, joint contractor, joint obligor or joint covenantor who was out of the Territories at the time the cause of action accrued, after his or her return to the Territories 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 Territories.

#### Right to certain uses by prescription

**48.** No right to the access and use of light or any other easement, right in gross or *profit à prendre* is acquired by any person by prescription and no such right shall be deemed to have been so acquired before April 15, 1948.

Refusing relief in acquiescence

**49.** Nothing in this Act shall be construed to interfere 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.

Urea formaldehyde

**50.** Notwithstanding any of the provisions of this Act, any action in respect of the installation of urea formaldehyde and the effects of it against a manufacturer, installer or other party must be commenced on or before December 31, 1985, or within six years after the date of installation, whichever date is later.