

CAYMAN ISLANDS



Supplement No. 10 published with Extraordinary Gazette No. 24 of 23rd March, 2018.

THE PRESCRIPTION LAW

(2018 Revision)

Cap. 131-1st January, 1964 consolidated with Law 34 of 2017.

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Cap. 131-1st January, 1964

Consolidated and revised this 28th day of February, 2018.

Note (not forming part of the Law): This revision replaces the 1997 Revision which should now be discarded.

PRESCRIPTION LAW

(2018 Revision)

ARRANGEMENT OF SECTIONS

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2. Effect of twenty years enjoyment of easements, ways, etc., over lands
3. Effect of twenty years access and use of light or air
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PRESCRIPTION LAW

(2018 Revision)

1. This Law may be cited as the Prescription Law (2018 Revision).

Short title

2. When-

Effect of twenty years enjoyment of easements, ways, etc., over lands

- (a) any profit or benefit;
- (b) any way or easement;
- (c) any water course; or
- (d) the use of any water,

a claim to which may be lawfully made at the common law, by custom, prescription or grant, has been actually enjoyed or derived upon, over or from any land or water of Her Majesty the Queen, any person or any body corporate by any person claiming right thereto, without interruption for twenty years, the right thereto shall, subject to the provisos hereinafter contained be deemed absolute and indefeasible, unless it appears that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

3. When the access and use of light or air to and for any dwelling house, workshop or other building, has been actually enjoyed therewith for twenty years without interruption, the right thereto shall, subject to the proviso hereinafter contained, be deemed absolute and indefeasible, unless it appears that the same was enjoyed by some consent or agreement expressly made or given for that purpose in writing.

Effect of twenty years access and use of light or air

4. (1) When any beach has been used by the public or any class of the public for fishing, for purposes incident to fishing or for bathing or recreation, and any road, track or pathway passing over any land adjoining or adjacent to such beach has been used by the public or any class of the public as a means of access to such beach, without interruption for twenty years, the public shall, subject to the provisos hereinafter contained, have the absolute and indefeasible right to use such beach, land, road, track or pathway, unless it appears that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

Effect of twenty years use by the public or any class of the public of a beach and of means of access thereto

(2) No act or other matter, whether submitted to or acquiesced in or not, shall be deemed to be an interruption within the meaning of subsection (1) if the same took place between the 8th February, 1954 and the 30th December, 1955.

5. The twenty year period mentioned in sections 2 to 4 shall be deemed to be the period before some action or suit wherein the claim or matter to which such

Computation of time

period may relate shall have been, or shall be brought in question; and no act or other matter shall be deemed to be an interruption within the meaning of this Law unless the same shall have been, or shall be, submitted to or acquiesced in for one year after the party interrupted shall have had or shall have notice thereof and of the person making or authorising the same.

No presumptions to be drawn from use for a less period

6. In the cases provided for by this Law 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, than for such period mentioned in this Law as may be applicable to the case and to the nature of the claim.

Provisions in cases of persons under disabilities

7. The time during which any person, otherwise capable of resisting any claim to any of the matters mentioned in sections 2 to 4 has been or shall be an infant, idiot or *non compos mentis*, shall be excluded in the computation of the periods mentioned, so that however in no case shall a claim to any of such matters be liable to be defeated, by reason of anything in this section contained after such enjoyment as is hereinbefore described for thirty years.

Provisions in case of tenancies for life, or for any term exceeding three years

8. When any land or water, upon, over or from which any such profit or benefit, way, easement, water course 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 three years from the granting thereof, the time of the enjoyment of any such profit or other matter during the continuance of such term shall be excluded in the computation of the said period of twenty years, in case the claim thereto shall within three years next after the end or sooner determination of any such term be resisted by any person entitled to any revision or remainder expectant on the determination thereof.

Procedure for establishing right under section 4

9. Where the public or any class of the public have used any beach, land, road, track or pathway in the manner specified in section 4(1) for the period mentioned in the said subsection and such user is disputed, an application may be made to the Grand Court for settlement of the dispute by -

- (a) any person concerned in the dispute; or
- (b) the statutory authority, department of Government or agency designated by Cabinet by Order, charged with responsibility for ensuring access to public beaches, on behalf of the public or any class of the public.

Production of documents of title and procedure thereafter

10. (1) Any person in possession of any document of title relating to any beach, land, road, track or pathway with respect to the user of which a plaint has been lodged under section 9 shall produce such document to the Grand Court.

(2) The Clerk of the Court shall forward a certified copy of the judgment of the Grand Court to the Public Recorder who shall forthwith record the same.

Publication in revised form authorised by the Cabinet this 13th day of March, 2018.

Kim Bullings
Clerk of the Cabinet

(Price \$ 1.60)