



# Prescription Act 1832

1832 CHAPTER 71 2 and 3 Will 4

An Act for shortening the time of prescription in certain cases. [1st August 1832]

Whereas the expression “time immemorial, or time whereof the memory of man runneth not to the contrary,” is now by the Law of England in many cases considered to include and denote the whole period of time from the Reign of King Richard the First, whereby the title to matters that have been long enjoyed is sometimes defeated by shewing the commencement of such enjoyment, which is in many cases productive of inconvenience and injustice;

#### Modifications etc. (not altering text)

- C1 Short title “The Prescription Act 1832” given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Act saved by [Law of Property Act 1925 \(c. 20\), s. 12](#); amended by [Commons Registration Act 1965 \(c. 64\), s. 16\(1\)](#)
- C3 Words of enactment and certain other words repealed by [Statute Law Revision \(No. 2\) Act 1888 \(c. 57\)](#) and [Statute Law Revision Act 1890 \(c. 33\)](#)
- C4 This Act is not necessarily in the form in which it has effect in Northern Ireland

[1.] **Claims to right of common and other profits a prendre, not to be defeated after thirty years enjoyment by merely showing the commencement; after sixty years enjoyment the right to be absolute, unless had by consent or agreement.**

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 lord the King, or any land being parcel of the duchy of Lancaster or of the duchy of Cornwall, or of any ecclesiastical or lay person, or body corporate, except such matters and things as are herein specially provided for, and except tithes, 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 thirty 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 thirty 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 sixty

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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.

**2 In claims of right of way or other easement the periods to be twenty years and forty years.**

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 lord the King, or being parcel of the duchy of Lancaster or of the duchy of Cornwall, 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 twenty 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 twenty 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 forty 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.

**3 Claim to the use of light enjoyed for 20 years.**

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 twenty 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.

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**Modifications etc. (not altering text)**

C5 S. 3 explained by [Rights of Light Act 1959 \(c. 56\), s. 4\(2\)](#)

**4 Before mentioned periods to be deemed those next before suits.**

Each of the respective periods of years herein-before 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 that no act or other matter shall be deemed to be an interruption, within the meaning of this statute, 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 authorizing the same to be made.

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**Modifications etc. (not altering text)**

C6 S. 4 amended by [Rights of Light Act 1959 \(c. 56\), s. 3\(6\)](#) and [Commons Registration Act 1965 \(c. 64\), s. 16\(2\)](#)

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**5 In actions on the case, the claimant may allege his right generally, as at present. In pleas to trespass and certain other pleadings, the period mentioned in this Act may be alleged. Exceptions, &c. to be replied to specially.**

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 if the same shall be denied, 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 that in all pleadings to actions of trespass, and in all other pleadings wherein before the passing of this Act 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, as is now usually done; and if the other party shall intend to rely on any proviso, exception, incapacity, disability, contract, agreement, or other matter herein-before 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.

**6 Presumption to be allowed in claims herein provided for.**

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.

**7 Proviso for infants, &c.**

Provided also, that 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, idiot, non compos mentis, feme covert, 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 herein-before mentioned, except only in cases where the right or claim is hereby declared to be absolute and indefeasible.

**8 What time to be excluded in computing the term of forty years appointed by this Act.**

Provided always, that 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 hath 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 way or other matter as herein last before mentioned, during the continuance of such term, shall be excluded in the computation of the said period of forty years, in case the claim shall within three 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.

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**[<sup>F1</sup>8A. Exclusion of time because of mediation in certain cross-border disputes**

- (1) In this section—
- (a) “Mediation Directive” means Directive [2008/52/ EC](#) of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters;
  - (b) “mediation” has the meaning given by article 3(a) of the Mediation Directive;
  - (c) “mediator” has the meaning given by article 3(b) of the Mediation Directive;
  - (d) “relevant dispute” means a dispute to which article 8(1) of the Mediation Directive applies (certain cross-border disputes).
- (2) Where a period is prescribed by this Act in relation to the subject of the whole or part of a relevant dispute, any time after the start of a mediation in relation to the relevant dispute is to be excluded in the computation of that period, but only if—
- (a) the time when the period must end by virtue of section 4 falls before the mediation ends or less than eight weeks after it ends, or
  - (b) a further mediation in relation to the relevant dispute starts less than eight weeks after the previous mediation ends, and the time when the period must end by virtue of section 4 falls before the further mediation ends or less than eight weeks after it ends.
- (3) Any time excluded under subsection (2) is also to be excluded in the computation of the second period of three years mentioned in section 8 (period within which claim is resisted).
- (4) For the purposes of this section, a mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.
- (5) For the purposes of this section, a mediation ends on the date of the first of these to occur—
- (a) the parties reach an agreement in resolution of the relevant dispute;
  - (b) a party completes the notification of the other parties that it has withdrawn from the mediation;
  - (c) a party to whom a qualifying request is made fails to give a response reaching the other parties within 14 days of the request;
  - (d) the parties, after being notified that the mediator’s appointment has ended (by death, resignation or otherwise), fail to agree within 14 days to seek to appoint a replacement mediator;
  - (e) the mediation otherwise comes to an end pursuant to the terms of the agreement to mediate.
- (6) For the purpose of subsection (5), a qualifying request is a request by a party that another (A) confirm to all parties that A is continuing with the mediation.
- (7) In the case of any relevant dispute, references in this section to a mediation are references to the mediation so far as it relates to that dispute, and references to a party are to be read accordingly.]

**Textual Amendments**

- F1** S. 8A inserted (20.5.2011) by [Cross-Border Mediation \(EU Directive\) Regulations 2011 \(S.I. 2011/1133\)](#), regs. 2, 12

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**9 Limitation.**

This Act shall not extend to Scotland . . . <sup>F2</sup>

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**Textual Amendments**

**F2** Words repealed by [Statute Law Revision Act 1874 \(c. 35\)](#)

**10, 11. ....** <sup>F3</sup>

.....  
**Textual Amendments**

**F3** Ss. 10, 11 repealed by [Statute Law Revision Act 1874 \(c. 35\)](#)

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