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damage appearing progressively or tardily, the period runs from the day the damage appears for the first time (art. 2926 C.C.Q.). However, a right of action arising from defamation is prescribed by one year (art. 2929 C.C.Q.).

A person can also renounce—but not in advance—prescription which has been acquired or the benefit of any time elapsed (arts. 2883 and 2898 C.C.Q.). Acknowledgement of a right also interrupts prescription (art. 2898 C.C.Q.).

### **Time limit whose expiry entails forfeiture**

Sometimes, the law requires that a prior notice be given before a right can be exercised and if the notice is not given within a prescribed time limit, the recourse is forfeited, even if it is not yet prescribed. This is the case, for example, for actions against a municipality for damages.<sup>24</sup>

With respect to latent defects, it is important to note that, without it being a time limit whose expiry entail forfeiture, a buyer who ascertains that the property is defective must give notice in writing of the defect to the seller within a reasonable time after discovering it (art. 1739 C.C.Q.). Failure to fulfill this obligation may have dire consequences for the buyer.

## **1.2**

### **Other important Québec legislation**

#### **1.2.1 The Charter of Human Rights and Freedoms**

The *Charter of Human Rights and Freedoms*<sup>25</sup> is a statute that was enacted by the National Assembly. It has supralegislative status, which means that the National Assembly cannot enact any law which would infringe a right expressly guaranteed by it.

The Québec Charter applies both to relationships between persons and the State and to relationships between one person and another, including dealings between companies and their employees or clients, and it applies to all areas falling within the province’s legislative powers.

One of the basic principles in the Québec Charter that applies to insurance is the principle that stems from section 10 which provides that no one may discriminate on the basis of race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap. However, section 20.1 provides that “[i]n an insurance or pension contract, a social benefits plan, a retirement, pension or insurance plan, or a public pension or public insurance plan, a distinction, exclusion or preference based on age, sex or civil status is deemed non-discriminatory where the use thereof is warranted and the basis therefor is a risk determination factor based on actuarial data.”

24. An individual who has suffered material loss must notify the municipality within 15 days of the date of the accident to give notice of his intention to institute a proceeding. In the event of failure to do so, expiry of the time limit entails forfeiture of the right to institute a proceeding (*Cities and Towns Act*, CQLR, c. C-19, s. 585; *Municipal Code*, CQLR, c. C-27.1, s. 1112.1). In all cases, an individual who has suffered material loss must institute his proceeding against the municipality within eight months of the accident or the day on which the right of action arose (*Cities and Towns Act*, CQLR, c. C-19, ss. 585 and 586; *Municipal Code*, CQLR, c. C-27.1, s. 1112.1). However, such notice does not apply with respect to bodily injury: art. 2930 C.C.Q. and *Doré v. Verdun (City)*, [1997] 2 SCR 862.

25. CQLR, c. C-12.

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the thing within the meaning of article 1465 C.C.Q.; in such a case, he will have the benefit of the presumption of fault. In order to rebut that presumption, Norah will have to prove that she did not commit a fault.



### 2.8.4.3 Injury caused by an animal

Lastly, pursuant to article 1466 C.C.Q., the owner of an animal is liable to reparation for injury the animal has caused, whether the animal was under his custody or that of a third person, or had strayed or escaped. Similarly, a person making use of the animal is also liable. The Civil Code creates a presumption of liability against the owner or the person who has custody of an animal. Thus, the owner cannot rebut the presumption by proving that he did not commit a fault and the victim does not have to prove that a fault was committed in order to rely on the liability for the act of an animal. The owner can avoid this liability only by proving the fault of the victim, the fault of a third party (such as the person making use of the animal) or superior force within the meaning of article 1470 C.C.Q.

#### ●●● EXAMPLE

neighbour

Youri's dog severely bites Jasmin, a ~~mailman~~, when Jasmin goes to Youri's home. Once Jasmin proves that he suffered an injury caused by Youri's dog, Youri will automatically be liable and will have to indemnify Jasmin. Youri will not be able to exonerate himself by proving that he did not commit a fault.



Table 2.3 summarizes the characteristics of the regimes of contractual liability and extracontractual liability.

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