

BC'S NEW LIMITATION ACT AND ITS APPLICATION

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LINDSAY |
LLP

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Introduction

- New Limitation Act took effect on June 1, 2013
- The intent of the new Act is to simplify the time limits for filing civil lawsuits
- Previously, there were 2, 6, and 10-year limitation periods for civil claims; and a 30 year ultimate limitation period

Overview of Limitation Periods in New Act

Type of Claim	Limitation Period
<i>Basic Limitation period (majority of claims)</i>	<i>2 years</i>
<i>Claim for contribution or indemnity</i>	<i>2 years (after being served with pleading from claimant)</i>
<i>Debts owed to government (e.g. ICBC claims for vehicle indebtedness)</i>	<i>6 years</i>
<i>Enforcement of Civil Judgments</i>	<i>10 years</i>
<i>Ultimate Limitation period</i>	<i>15 years</i>
<i>Sexual assault and sexual misconduct involving a minor</i>	<i>No limitation period</i>
<i>Assault and battery against minors, persons living in a personal or intimate relationship, or persons in a dependant relationship</i>	<i>No limitation period</i>

Discoverability: When Does the Timer Start?

- “Subject to this Act, a court proceeding in respect of a claim must not be commenced more than 2 years after the day on which the claim is discovered”
- Claim is discovered by a person on the first day on which the person knew or reasonably ought to have known all of the following:
 - 1) Injury, loss or damage had occurred;
 - 2) It was caused or contributed to by an act or omission;
 - 3) It is against the person whom the claim is or may be made;
 - 4) And a court proceeding would be an appropriate means to seek remedy

Discoverability: When Does the Timer Start?

- Demand obligations
 - A claim for a demand obligation (e.g. payment of debt) is discovered on the first day that there is a failure to perform the obligation after a demand for the performance has been made
- Discovery burden
 - The burden is on the **defendant** to show that the discovery occurred two years before the claim was made

Ultimate Limitation Period

- There is an ultimate limitation period of **15 years** on all actions
- Timer starts upon the original act or omission taking place, regardless of whether:
 - damage has yet occurred, or
 - cause of action has been discovered

Postponement of Running Time

- Running time for both basic and ultimate limitation periods is postponed in situations involving:
 1. Minors
 2. Persons while under disability
 3. Wilful concealment of facts in fraud or trust claims

Applying Old vs. New Limitation Act

- The old Limitation Act applies in cases when:
 - The act or omission occurred and was discovered when the Old Act was in force (before June 1, 2013)
- The new Limitation Act applies when:
 - The act or omission occurred during the old Act but was not discovered until **after June 1, 2013**

Act or omission occurred after	Claim discovered after June 1, 2013	Limitation Act to Apply
No	No	Old
No	Yes	New
Yes	Yes	New

Summary

- In the new Act, the majority of claims have been given a limitation period of 2 years and an ultimate limitation period of 15 years
- The timer for the limitation period begins when the claim has been “discovered”
- For the ultimate limitation period, the timer begins when the act or omission occurred
- Generally, a claim would be brought under the new Act if it was “discovered” after June 1, 2013

Thank you for your time



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