



Province Introduces New Limitation Act

Today in the legislature, the Honourable Shirley Bond, Justice Minister and Attorney General introduced Bill 34, the proposed new Limitation Act. If passed, the legislation will repeal the existing Limitation Act. Many of the elements contained within the proposed new Act reflect longstanding UBCM policy requests related to civil liability reform.

For over two decades UBCM, and the Municipal Insurance Association of BC (MIABC), have worked both collaboratively, and independently, to seek reforms that would reduce the liability risks of our local government members.

Specifically we have sought:

- a reduction in the ultimate limitation period (ULP) to 10 years from 30 years;
- a ULP start time from the date an act or omission occurred, not when discovered; and
- a move to a two year basic limitation period.

The new Limitation Act, as proposed in Bill 34, addresses the following key elements that are of specific interest to local governments:

- an ultimate limitation period, or maximum limit for filing a claim, is 15 years;
- changing the commencement model of the ultimate limitation period from an "accrual" model to a model that starts the clock running on the ultimate limitation period based on an "act or omission"; and
- a single two-year basic limitation period for most claims.

While UBCM members and the MIABC have supported a reduction in the ultimate limitation period to 10 years; 15 years as proposed in the legislation, is certainly a significant improvement from the previous 30 years. The other two amendments - the ULP start time and the move to a single two-year basic limitation period - are consistent with requests made by both UBCM and MIABC members.

This Bill does not address the issue of joint and several liability; another issue on UBCM's civil liability reform agenda. UBCM would point out that joint and several liability is not contained within the *Limitation Act* but is contained within the *Negligence Act*.

UBCM and the MIABC are very supportive of the proposed new Limitation Act as it would go a long toward reducing the liability risk for our members. We would encourage the membership to contact their MLAs to make them aware of how important this new legislation is to local governments.

A copy of the provincial news release and backgrounder on this significant legislative announcement has been attached to this document for your reference.

NEWS RELEASE

For Immediate Release
2012JAG0045-000480
April 16, 2012

Ministry of Justice

Time limits for filing lawsuits to be standardized

VICTORIA – New legislation introduced today by Justice Minister and Attorney General Shirley Bond would change time limits for filing civil lawsuits – streamlining the justice system, making the law easier to understand, and aligning it with other provinces.

Bill 34, the proposed new Limitation Act covers breach of contract, wrongful dismissal, personal injury, defamation and other civil actions. It sets a single, two-year limitation period for most civil claims and reduces the maximum time limit for filing a claim to 15 years from the date the act in question occurred. The proposed reforms balance the rights of both plaintiffs and defendants, yet ensure important aspects of the current law remain unchanged.

These changes are the result of significant consultation with the public, consumer groups and business, legal and local government representatives, and they will make B.C.'s law consistent with reforms in Alberta, Saskatchewan, Ontario and New Brunswick.

Limitation periods can affect the justice system and its efficiency, the cost and availability of insurance products for all British Columbians, and how financial arrangements are structured. They can also determine how long individuals and businesses must keep records that might be required to support a legal action.

If passed, the legislation will repeal the existing act. Since the reforms will not be retroactive, a transition clause will ensure people currently involved in legal disputes can rely on existing laws and legal advice that pre-dates the new law.

Quotes:

Justice Minister and Attorney General Shirley Bond –

“Civil actions deal with everything from commercial disputes to personal injury claims. We have taken considerable time and care with these changes because it was important to strike a balance that gives both plaintiffs sufficient time to file a legal claim and defendants certainty about when their liability ends. This new act will make the limitation rules clearer and easier to apply.”

“We wanted to ensure the legislation was both fair to British Columbians and, for the sake of families and businesses dealing with disputes outside B.C., consistent with what is standard in

other provinces. Keeping pace with developments in the law and elsewhere in Canada helps B.C. businesses remain competitive.”

Greg Blue, B.C. Law Institute –

“These changes will likely provide greater certainty in numerous areas and contribute to increased harmonization within Canada concerning time bars to civil claims. They draw upon the recommendations of law reform bodies in B.C. and throughout Canada.”

Doug Hinton, P. Eng., president of the board, Association of Consulting Engineering Companies of BC –

“The Association of Consulting Engineering Companies of BC welcomes this legislation and we are pleased the government of B.C. has taken what is an important step for engineers and other professionals, including architects, dentists and accountants. This initiative will provide certainty to our profession by making B.C.’s legislation consistent with that of other provinces. As a very mobile profession that exports our expertise to other jurisdictions outside of B.C., that will make us more competitive and help protect and attract highly skilled professionals.”

Heath Slee, president, Union of B.C. Municipalities –

“We are pleased to see that the government has acted on our long-standing request for reforms to this act. These changes go a long way in reducing the liability risk for our members.”

Quick facts:

- The legislative reforms introduced today were proposed in a September 2010 white paper that resulted from three years of consultations.
- Making B.C.’s legislation consistent with other provinces aids cross-border trade and mobility by professionals. It supports internal trade agreements to which B.C. is a signatory.

Learn more:

- Limitation Act: www.leg.bc.ca/39th4th/1st_read/index.htm
- White paper on Limitation Act: www.ag.gov.bc.ca/legislation/limitation-act/white-paper.htm
- Uniform Law Conference of Canada: www.ulcc.ca/en/civil
- British Columbia Law Institute: www.bcli.org/sites/default/files/UltimateLimit.pdf

A backgrounder follows.

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BACKGROUND

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Ministry of Justice

B.C.'s proposed new Limitation Act

The law of limitations balances the interests of claimants who want to pursue their rights in law with those of defendants, who want claims against them brought in a timely fashion. Some of the key reforms under the new Limitation Act include the following:

- The act will move away from having a variety of basic limitation periods, based on the type of legal action, to a single, two-year period for most civil claims. Exceptions will include the enforcement of monetary judgments, which will have a 10-year limitation period, and any statutes that set their own limitation periods.
- Unless exempted, the maximum time limit, or ultimate limitation period, for filing a claim will change to 15 years from 30 years and be based on the date an act or omission occurred.
- The current act suspends the ultimate and basic limitation periods for minors (until they turn 19) and the basic limitation period for adults unable to manage their own affairs because of legal disability. The new legislation will also suspend the ultimate limitation period for adults under legal disability.
- The act adds exemptions for child or spousal support arrears and claims of assault and battery of a minor or of a person in an intimate and personal or dependent relationship.
- The ultimate limitation period is suspended until a claim is discovered if a defendant wilfully concealed facts about an injury, loss, damage or that they were responsible for the act or omission. It is also suspended if a defendant wilfully misled the plaintiff about whether a court proceeding was an appropriate remedy.

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