

# LAW REFORM COMMISSION OF BRITISH COLUMBIA

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## Backgrounder

### LRC 112—Report on the Ultimate Limitation Period: Limitation Act, Section 8

Date: March 1990

Section 8 of the *Limitation Act* sets out the ultimate limitation period in the province. In most circumstances, once a potential plaintiff is aware of a cause of action, he or she has a certain amount of time to bring a lawsuit. In some contexts a person may not act on a cause of action due to a delayed chronic industrial disease, or their status as a minor. In some circumstances the law will delay the start of the limitation period to remedy these issues. Legislation has set the ultimate limitation period at 30 years in order to allow people in those situations to bring a valid cause of actions while preventing a person from “sitting on their rights.”

The purposes of limitation periods generally are to ensure finality, quality of evidence, fairness in the litigation process, and stable economic activity. In recent case law, the courts have suspended the running of the limitation period until the point the plaintiff discovered the material facts, or ought to have discovered them with reasonable diligence. The Commission recommends that even in light of these facts the limitation period should be retained, and, it is argued, it should continue to operate in relation to personal injury claims despite calls for reform.

The Commission argues that while the ultimate limitation period should be retained, it should be reduced to 10 years except in cases of fraud or willful concealment. The limitation period would commence from the date of the act, omission or breach of the legal duty, or from the last of a series of related acts. In the case of minors, the Commission recommends that the limitation period should extend to six years from the time they reach the age of majority. While their guardians may litigate in their place, concerns were raised about relying on a parent who may not have the knowledge or resources to begin a proceeding. To protect creditors a confirmation, which is a payment by a debtor, would reset the ultimate limitation period. No special classes of people or occupations should be exempt from the 10-year limitation period. The commission contends that medical professionals, who have a special six-year limitation period, would be adequately protected by a 10-year period.

Recommendations, the *Limitations Act*, R.S.B.C. 1979, c. 236, and draft amendments to the legislation are all included in the report.

### **Further Developments**

The report's recommendations have not been implemented by legislation.