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PROPOSED *LIMITATION ACT* CHANGES

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In September 2010, the Government of British Columbia released its *White Paper on Limitation Act Reform: Finding the Balance*, which describes proposed amendments to B.C.'s *Limitation Act* with the goal of striking a better balance between preserving access to justice and ensuring certainty and finality for legal actions.

The *Limitation Act* defines the period of time within which an action must be commenced. The current Act generally prescribes time limits of 2, 6 or 10 years for various types of claims. For example, a claim for breach of contract or professional negligence is currently 6 years.

The proposed amendments provide for a basic 2-year limitation period for all civil claims, running from the time a party is aware (or should reasonably be aware) of its loss. While the commencement of the period can be postponed, claims cannot be brought after the **ultimate** limitation period.

The current Act requires that all claims be brought within a maximum of 30 years, except medical malpractice claims, which must be brought within 6 years. The White Paper recommends reducing this ultimate limitation period to 10 or 15 years without exception, creating a much-desired level playing field for all professionals who face allegations of negligence.

The White Paper also proposes a simplified method of calculating the ultimate limitation date, enabling both plaintiffs and defendants to better determine their risk in relation to a claim.

Currently, the limitation period runs from the time when all the elements of the claim are present, requiring the courts to pinpoint when the damage occurred. The proposed calculation method

instead measures the limitation period against the date of the alleged wrongful act or omission. This will enable courts to turn their focus to the ultimate determination of a claim—whether the alleged wrongful act or omission did in fact cause the damage in question.

While the proposed amendments may undergo further revision, the tenor of the White Paper suggests that plaintiffs will need to take timely action on potential claims and defendants will have some certainty that stale claims will not arise many years after a causative event occurred.