

Part 1 – Interpretation

This Part defines terms and provides some general principles of interpretation for the new *Limitation Act* (“new Act”).

Division 1 – Definitions

This Division defines terms used in the new Act.

Section 1 - Definitions

- Section 1 changes some definitions and adds others that are needed to interpret the new Act. It amends definitions from the former *Limitation Act* (“former Act”) and creates definitions necessary to support interpretation of the other sections in the legislation.

“basic limitation period”
<p>New Act definition: “basic limitation period”, in relation to a claim, means the limitation period applicable to the claim under Part 2 [<i>Basic Limitation Period</i>];</p>
<p>Former Act definition: None</p>
<p>Rationale for change:</p> <ul style="list-style-type: none"> • “basic limitation period” is a new term and is added to provide clarity to the new Act and to avoid confusion over which limitation period is being referenced. A single basic limitation period of two years will apply to all claims unless the new Act specifies otherwise, or unless the claim is subject to a limitation period found in a more specific law (see section 6 [<i>Basic Limitation Period</i>]). • The former Act used the term “limitation period” without a definition. It was used interchangeably to refer to both the basic and ultimate limitation periods, and was confusing for the reader.

“caregiver”
<p>New Act definition: “caregiver” means,</p>

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- (a) in relation to a minor, a parent, guardian or other person who usually has care and control of the minor, or
- (b) in relation to a person for whom a committee has been appointed under the *Patients Property Act*, the committee;

Former Act definition: None

Rationale for change:

- The former Act contained a definition of “guardian” that was similar to the “caregiver” definition, but it used the word “guardian” to describe who a “guardian” is within the definition, so it was changed to avoid confusion.

“claim”

New Act definition:

“claim” means a claim to remedy an injury, loss or damage that occurred as a result of an act or omission;

Former Act definition: None

Rationale for change:

- The reference to “claim” marks a departure from the former Act, which has used “action” as the basis for determining the applicable limitation period.
- A two-year basic limitation period and 15-year ultimate limitation period will apply to all claims unless the new Act specifies otherwise, or unless the claim is subject to a limitation period found in a more specific law.

“defendant”

New Act definition:

“defendant” includes a respondent;

Former Act definition: None

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Rationale for change:

- The term “defendant” includes a respondent in order to provide clarity and consistency with terms used elsewhere in British Columbia statutes.
- Each of these people could potentially defend a civil claim that is governed by the limitation periods in the new Act.

“discover”**New Act definition:**

“discover”, in relation to a claim, has the meaning set out in Divisions 2 [*Discovery of a Claim*] and 3 [*Special Discovery Rules*] of Part 2 [*Basic Limitation Period*];

Former Act definition: None

Rationale for change:

- The new Act defines “discover” to clarify the discovery rules in Part 2. This is an important concept, as time only starts to run in the basic limitation period once a claim has been discovered.
- The discovery rules apply to all claims, unless the new Act specifies otherwise.

“extraprovincial judgment”**New Act definition:**

“extraprovincial judgment” means a judgment, order or award other than a local judgment;

Former Act definition:

“extraprovincial judgment” means a judgment, order or award other than a local judgment;

Rationale for change:

- No change

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“judgment”
New Act definition: “judgment” means an extraprovincial judgment or a local judgment;
Former Act definition: “judgment” means an extraprovincial judgment or a local judgment;
Rationale for change: <ul style="list-style-type: none">• No change
“limitation period”
New Act definition: “limitation period”, in relation to a claim, means the period after which a court proceeding must not be brought with respect to the claim;
Former Act definition: None
Rationale for change: <ul style="list-style-type: none">• The definition of “limitation period” is included to clarify how long a person has before he or she must start a civil court proceeding for a legal remedy.• The new Act departs from the traditional limitations regime found in the former Act, which has historically used “action” as the basis for determining the applicable limitation period. The former Act defined “action” broadly: it includes any proceeding in a court and any exercise of a self help remedy.• Section 27 of the new Act [<i>non-judicial remedy</i>] clarifies that the consequences flowing from the expiry of a limitation period also apply to non-judicial (i.e. out-of-court) remedies.

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“local judgment”**New Act definition:**

“local judgment” means any of the following:

- (a) a judgment, order or award of
 - (i) the Supreme Court of Canada relating to an appeal from a British Columbia court,
 - (ii) the British Columbia Court of Appeal,
 - (iii) the Supreme Court of British Columbia,
 - (iv) the Provincial Court of British Columbia, or
 - (v) an arbitration to which the *Commercial Arbitration Act* applies;
- (b) an arbitral award to which the *Foreign Arbitral Awards Act* or the *International Commercial Arbitration Act* applies;

Former Act definition:

“local judgment” means any of the following:

- (a) a judgment, order or award of
 - (i) the Supreme Court of Canada relating to an appeal from a British Columbia court,
 - (ii) the British Columbia Court of Appeal,
 - (iii) the Supreme Court of British Columbia,
 - (iv) the Provincial Court of British Columbia, or
 - (v) an arbitration to which the *Commercial Arbitration Act* applies;
- (b) an arbitral award to which the *Foreign Arbitral Awards Act* or the *International Commercial Arbitration Act* applies;

Rationale for change:

- No change

“person under a disability”**New Act definition:**

“person under a disability” means an adult person who is incapable of or substantially impeded in managing his or her affairs;

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Former Act definition:

7(1) For the purposes of this section,

- (a) A person is under a disability while the person
- (i) is a minor, or
 - (ii) is in fact incapable of or substantially impeded in managing his or her affairs

Rationale for change:

- The new definition removes minors from the definition of a “person under a disability” in order to simplify the new Act. The new Act sets out separate discovery rules for minors and for persons under a disability so it is clear for the reader.
- Both minority and being under a disability will postpone the running of the basic and ultimate limitation periods.

“plaintiff”**New Act definition:**

“plaintiff” includes a claimant and a petitioner;

Former Act definition: None

Rationale for change:

- The definition includes a “claimant” and a “petitioner” in order to provide clarity and consistency with terms used elsewhere in British Columbia statutes.
- Each of these people could potentially start a civil claim that is governed by the limitation periods in the new Act.

“secured party”**New Act definition:**

“secured party” means a person who has a security interest;

Former Act definition:

“secured party” means a person who has a security interest;

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Rationale for change:

- No change

“security agreement”**New Act definition:**

“security agreement” means an agreement that creates or provides for a security interest;

Former Act definition:

“security agreement” means an agreement that creates or provides for a security interest;

Rationale for change:

- No change

“security interest”**New Act definition:**

“security interest” means an interest in collateral that secures payment or performance of an obligation;

Former Act definition:

“security interest” means an interest in collateral that secures payment or performance of an obligation;

Rationale for change:

- No change

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“ultimate limitation period”**New Act definition:**

“ultimate limitation period”, in relation to a claim, means the limitation period applicable to the claim under Part 3 [*Ultimate Limitation Period*];

Former Act definition: None

Rationale for change:

- “ultimate limitation period” is a new term and is added to provide clarity to the new Act and avoid confusion over which limitation period is being referenced.
- A single 15-year ultimate limitation period will apply to all claims unless the new Act specifies otherwise, or unless the claim is subject to a limitation period found in a more specific law (see section 21 for discussion of the ultimate limitation period).
- The former Act used the term “limitation period” without a definition. It was used interchangeably to refer to both the basic and ultimate limitation periods, and was confusing for the reader.

“writ of execution”**New Act definition:**

“writ of execution” includes an order for seizure and sale issued under the Small Claims Rules.

Former Act definition:

“writ of execution” includes an order for seizure and sale issued under the Small Claims Rules.

Rationale for change:

- No change

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The following table lists the definitions that are not carried forward from the former Act to the new Act, followed by the rationale.

"action"
Former Act definition: "action" includes any proceeding in a court and any exercise of a self help remedy;
<u>Rationale for not carrying forward:</u> <ul style="list-style-type: none">• The new Act introduces a structural shift to the law of limitations. The former Act's definition of "action" is very broad and includes "<u>any proceeding in a court or exercise of a self-help remedy</u>" (emphasis added).• The former Act set out a variety of basic limitation periods, depending on the type of legal problem or "action."• In the new Act, a single two-year basic limitation period and 15-year ultimate limitation period will apply to govern how long people have to bring <u>all</u> claims in civil court, unless otherwise specified.
"collateral"
Former Act definition: "collateral" means land, goods, documents of title, instruments, securities or other property that is subject to a security interest;
<u>Rationale for not carrying forward:</u> <ul style="list-style-type: none">• This definition is no longer necessary because "collateral" is defined in the <i>Personal Property Security Act</i>. "Collateral" means personal property that is subject to a security interest.

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“trust”**Former Act definition:**

“trust” includes an express, an implied and a constructive trust, whether or not the trustee has a beneficial interest in the trust property, and whether or not the trust arises only because of a transaction impeached, and includes the duties incident to the office of personal representative, but does not include the duties incident to the estate or interest of a secured party in collateral;

Rationale for not carrying forward:

- This definition is no longer necessary as it is defined in the *Trustee Act* to include:
 - (a) implied and constructive trusts,
 - (b) cases where the trustee has some beneficial estate or interest in the subject of the trust, and
 - (c) the duties incident to the office of personal representative of a deceased personbut does not include the duties incident to an estate conveyed by way of mortgage;

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[Division 2 – Court Proceedings and Claims to Which This Act Does Not Apply](#)

This Division provides a list of court proceedings and claims to which limitation periods in the new Act do not apply. It is meant to clarify what is and what is not governed by the new law.

[Section 2 – Exempted court proceedings](#)

- This section exempts a number of identified court proceedings from the new Act's application.
- Reforms include carrying forward many of the exemptions from the former Act and broadening the list in order to clarify what is and what is not governed by the new law.
- The new Act only applies to claims to remedy an injury, loss or damage that occurred as a result of an act or omission.
- Many of the court proceedings in section 2 are outside the application of the new Act, or have limitation periods established by other statutes. As the new Act is a default statute, it only applies where there is no other statute that sets out a specific limitation period.

The following is the rationale for including each exemption in section 2:

(1)(a) an appeal (new)

- The former Act did not clarify whether this type of court proceeding was exempted from its scope. As an appeal does not fit the definition of "claim", and as there are limitation periods governing the time by which a person must bring an appeal under other provincial statutes and in the rules of court, an appeal is outside the application of the new Act.

(1)(b) a judicial review application (revised)

- Judicial review applications are cases in which judges examine the decisions made by public bodies to ensure that they were carried out appropriately (e.g., the decision of a bureaucrat to refuse to re-issue a driver's licence).
- Section 2(c) of the former Act exempted "proceedings by way of judicial review of the exercise of statutory powers" from limitation periods. Subsection (1)(b) of the new Act carries this concept forward.

(1)(c) a court proceeding under the *Offence Act* to prosecute an offence (new)

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- The former Act did not clarify whether this type of court proceeding was exempted from its scope.
- The new Act is a law of general application that prescribes limitation periods for civil claims between private parties. It is not meant to apply to a court proceeding to prosecute an offence that is regulatory or criminal in nature, such as an *Offence Act* prosecution, where the Crown is prosecuting an individual for a breach of a law.

(1)(d) a court proceeding in which the only relief sought is to obtain a declaration (revised)

- Section 3 of the former Act exempted “a declaration as to personal status,” and “a declaration about the title to property by any person in possession of that property.”
- The new Act exempts all court proceedings in which the only relief sought is to obtain a declaration. This is where a litigant requests a court to rule on the rights and legal relationships of the parties without ordering enforcement, not because any rights have been violated, but because those rights or relationships are uncertain.

(1)(e) a court proceeding to enforce a local judgment for the possession of land (revised)

- This provision has been carried forward from section 3(4)(c) of the former Act, and revised to match the language of the new Act. It is a section that deals with real property, based on the recommendations of the former British Columbia Law Reform Commission’s 1974 *Report on Limitations* that reviewed the law of limitations in B.C.

(1)(f) a court proceeding to enforce an injunction or a restraining order (revised)

- This provision has been carried forward from section 3(4)(g) of the former Act, and revised to match the language of the new Act.
- An injunction is a court order commanding or preventing an action. A restraining order is a court order prohibiting or restricting a person from harassing, threatening or contacting another specified person.
- Both are issued before or during trial to prevent an irreparable injury from occurring before the court has a chance to decide the case, and to protect a person from harm. The ability to apply for an injunction or restraining order continues as long as the applicable activity continues.

(1)(g) a court proceeding to enforce an easement, restrictive covenant or profit à prendre (revised)

- This provision has been carried forward from section 3(4)(h) of the former Act, and revised to match the language of the new Act. It is a

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section that deals with enforcement of interests against the title of real property, based on the recommendations of the former British Columbia Law Reform Commission's 1974 *Report on Limitations* that reviewed the law of limitations in B.C.

- An easement is an interest in land owned by another person, consisting of the right to use or control the land for a specific limited purpose (e.g. to cross the land for access to a public road).
- A restrictive covenant is a private agreement that restricts the use or occupancy of real property (e.g. by specifying lot size or the uses to which the property may be put).
- A profit à prendre is a right or privilege to go on another's land and take away something of value from its soil or from the products of its soil (as by mining, logging or hunting).
- The owner of an easement, restrictive covenant or profit à prendre has an indefinite period for enforcing his or her rights. This is in accordance with the principle that reliance may be placed on the land registry records.

(2) & (3) Court proceedings based on existing aboriginal and treaty rights

Court proceedings based on existing aboriginal and treaty rights recognized and affirmed in the *Constitution Act, 1982* will be treated as though the former Act remains in force. This means that the limitation periods in the former Act and case law interpreting the former Act will continue to apply to these claims.

Section 3 – Exempted claims

- This section exempts a number of identified claims from the new Act. While section 2 exempts "court proceedings," section 3 exempts "claims."
- The new Act carries forward many of the exemptions from section 3(4) of the former Act and broadens the list in order to clarify what is and what is not governed by the new law.
- New claims include civil claims based on assault or battery of a minor or an adult living in a personal or dependent relationship, and claims for arrears of child support or spousal support payable under a judgment.
- This section also makes it clear that limitation periods in other statutes take precedence over the ones in the new Act.

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The following is the rationale for including each exemption in section 3:

3 (1) This Act does not apply to the following:
<p>New Act:</p> <p>(a) a claim that is subject to a limitation period established by an international convention or treaty that is adopted by an Act;</p>
<p>Former Act: None</p>
<p>Rationale for change:</p> <ul style="list-style-type: none"> • This provision was added to clarify the application of the new Act. As the new Act does not apply to a claim or court proceeding for which a limitation period has been established under another <u>enactment</u>, this provision was added to clarify that the new Act also does not apply to a claim for which a limitation period has been established under an international convention or treaty that is <u>adopted by an Act</u>. • The former Act did not clarify whether claims that fell within this category were exempted from its scope.
<p>New Act:</p> <p>(b) a claim for possession of land if the person entitled to possession has been dispossessed in circumstances amounting to trespass;</p>
<p>Former Act:</p> <p>...for possession of land if the person entitled to possession has been dispossessed in circumstances amounting to trespass;</p>
<p>Rationale for change:</p> <ul style="list-style-type: none"> • This provision has been carried forward from section 3(4)(a) of the former Act, and revised to match the language of the new Act. It is a section that deals with real property, based on the recommendations of the former British Columbia Law Reform Commission's 1974 <i>Report on Limitations</i> that reviewed the law of limitations in B.C. • There is a historical basis for treating real property differently, as land is never going away (it cannot be destroyed), and rights in land are long-term rights. If a person has a right to be in possession, he or she should always be able to get back into possession.

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New Act:

- (c) a claim for possession of land by a life tenant or person entitled to the remainder of an estate;

Former Act:

...for possession of land by a life tenant or person entitled to the remainder of an estate;

Rationale for change:

- This provision has been carried forward from section 3(4)(b) of the former Act, and revised to match the language of the new Act. It is a section that deals with real property, based on the recommendations of the former British Columbia Law Reform Commission's 1974 *Report on Limitations* that reviewed the law of limitations in B.C.
- This provision deals with the transfer of land using a life interest. It gives a person the right to possession of the land as long as he or she is living. Once the person dies, the person entitled to the remainder has the right to recover possession.

New Act:

- (d) a claim for possession of land by a person who has a right to enter for breach of a condition subsequent, or a right to possession arising under possibility of reverter of a determinable estate;

Former Act:

3(6) Without limiting subsection (5) and despite subsections (2) and (4), after the expiration of 6 years after the date on which right to do so arose an action may not be brought:

- (f) for the possession of land by a person who has a right to enter for breach of a condition subsequent, or a right to possession arising under possibility of reverter of a determinable estate.

Rationale for change:

- The wording of this provision has been carried forward from section 3(6)(f) of the former Act, and revised to match the language of the new Act. It was previously governed by a six-year basic limitation period.
- This provision deals with two types of future interests: right of entry for a condition broken (breach of condition subsequent) and the end of

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a determinable estate when a condition is broken (reverter of a determinable estate).

- A right to enter for a condition broken arises where land has been granted subject to a condition subsequent (e.g., where a person owns land and builds an improvement on it, which inadvertently trespasses onto Crown land. The Crown can sell that sliver of land to the person. The condition is that the person consolidate it with their existing fee simple property.) If the condition is broken and the right to enter has been exercised, the interest comes to an end.
- The end of a determinable estate arises when land has been granted subject to a specific purpose and the land is not used for that purpose (e.g., where the Crown grants land for a particular community or institutional purpose (for use as a park or school) under the Free Crown Grants program. The condition is that the community or institution use the land for the purpose that it was intended.) As soon as the condition is broken, the grantor is immediately entitled to possession of the land.

New Act:

- (e) a claim by a debtor in possession of collateral to redeem that collateral;

Former Act:

...by a debtor in possession of collateral to redeem that collateral;

Rationale for change:

- This provision has been carried forward from section 3(4)(d) of the former Act, and revised to match the language of the new Act. It is a section that deals with personal property, based on the recommendations of the former British Columbia Law Reform Commission's 1974 *Report on Limitations* that reviewed the law of limitations in B.C.

New Act:

- (f) a claim by a secured party in possession of collateral to realize on that collateral;

Former Act:

...by a secured party in possession of collateral to realize on that collateral;

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Rationale for change:

- This provision has been carried forward from section 3(4)(e) of the former Act, and revised to match the language of the new Act. It is a section that deals with personal property, based on the recommendations of the former British Columbia Law Reform Commission's 1974 *Report on Limitations* that reviewed the law of limitations in B.C.

New Act:

- (g) a claim by a landlord to recover possession of land from a tenant who is in default or over holding;

Former Act:

...by a landlord to recover possession of land from a tenant who is in default or over holding;

Rationale for change:

- This provision has been carried forward from section 3(4)(f) of the former Act, and revised to match the language of the new Act. It is a section that deals with real property, based on the recommendations of the former British Columbia Law Reform Commission's 1974 *Report on Limitations* that reviewed the law of limitations in B.C.

New Act:

- (h) a claim for the title to property by any person in possession of that property;

Former Act:

...for the title to property or for a declaration about the title to property by any person in possession of that property;

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Rationale for change:

- This provision has been carried forward from section 3(4)(j) of the former Act, and revised to match the language of the new Act. (See section 2(1)(d) of the new Act for exempted court proceeding to obtain a declaration.) The revised section deals with real property, based on the recommendations of the former British Columbia Law Reform Commission's 1974 *Report on Limitations* that reviewed the law of limitations in B.C.

New Act:

(i) a claim relating to misconduct of a sexual nature, including, without limitation, sexual assault,

- (i) if the misconduct occurred while the claimant was a minor, and
- (ii) whether or not the claimant's right to bring the court proceeding was at any time governed by a limitation period;

(j) a claim relating to sexual assault, whether or not the claimant's right to bring the court proceeding was at any time governed by a limitation period;

Former Act:

3(4)(k) for a cause of action based on misconduct of a sexual nature, including, without limitation, sexual assault,

- (i) where the misconduct occurred while the person was a minor, and
- (ii) whether or not the person's right to bring the action was at any time governed by a limitation period;

(l) for a cause of action based on sexual assault, whether or not the person's right to bring the action was at any time governed by a limitation period.

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Rationale for change:

- This provision has been carried forward from section 3(4)(k) and (l) of the former Act, and revised to match the language of the new Act.
- Civil claims based on sexual assault and misconduct of a sexual nature while the claimant was a minor will continue to be exempted from the application of the new Act. There is no change to this provision.
- The underlying policy rationale for the former Act's exemption of claims based on sexual assault and misconduct of a sexual nature while the claimant was a minor is the recognition that in certain circumstances, vulnerable individuals cannot be expected to understand the impact of what has happened to them until later in life, or have the capacity to bring a claim until many years after the abuse occurred.
- This provision relates to civil claims only and does not govern any criminal proceedings.

New Act:

(k) a claim relating to assault or battery, whether or not the claimant's right to bring the court proceeding was at any time governed by a limitation period, if the assault or battery occurred while the claimant

- (i) was a minor, or
- (ii) was living in an intimate and personal relationship with, or was in a relationship of financial, emotional, physical or other dependency with, a person who performed, contributed to, consented to or acquiesced in the assault or battery;

Former Act: None

Rationale for change:

- This reform protects vulnerable people from the operation of the reformed shorter limitation periods.
- The underlying policy rationale for the former Act's exemption of civil claims based on sexual assault and misconduct of a sexual nature while the claimant was a minor applies to civil claims based on assault or battery of a minor or of an adult in a personal or dependent relationship with the abuser. The rationale is the recognition that in certain circumstances, vulnerable individuals cannot be expected to understand the impact of what has happened to them until later in life,

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or to have the capacity to bring a claim until many years after the abuse occurred.

- This provision relates to civil claims only and does not govern any criminal proceedings.

New Act:

(l) a claim for arrears of child support or spousal support payable under

- (i) a judgment, or
- (ii) an agreement filed with the court under section 148 (2) or 163(3) of the *Family Law Act*;

Former Act: None

Rationale for change:

- The new Act exempts claims for arrears of child support or spousal support under a judgment or an agreement filed with the court. Sections 148 (2) and 163(3) of the *Family Law Act* provide that if agreements are filed with the court, certain provisions, including provisions for child and spousal support, are enforceable as if they were contained in a court order made under the *Family Law Act*.
- The new Act recognizes the underlying moral obligation of family members to be held accountable to repay arrears of support that have been ordered by the court.
- The former Act was silent with respect to claims for arrears of child support or spousal support. Case law had determined that these claims were governed by the 10-year basic limitation period for enforcement of a money judgment under section 3(4.1).
- The former scheme resulted in unfairness for recipients of support who already had a court order (or filed agreement with the court), but did not enforce the order within 10 years.

New Act:

(m) fines or penalties under the *Offence Act*.

Former Act: None

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Rationale for change:

- Fines imposed under the *Offence Act* are civil sanctions with quasi-criminal aspects. Penalties are imposed by a government (or quasi-government) official to enforce compliance with an administrative scheme. There is a public policy rationale for no limitation periods to apply to these fines or penalties.
- The effect of this exemption will be to improve certainty over what the new Act does and does not apply to.

New Act:

(2) This Act does not apply to a claim or court proceeding for which a limitation period has been established under another enactment, except to the extent provided for in the other enactment.

Former Act: None

Rationale for change:

- The new Act is a default statute. Therefore, if another statute sets out a specific limitation period, the new Act does not apply (e.g. a 10-year limitation period under the *Civil Forfeiture Act* to apply to the court for a forfeiture order).
- If there is no statute that contains a limitation period for a specific legal problem, then the new Act applies.
- This principle was not clearly communicated in the former Act, which made it confusing for laypersons and lawyers who were not familiar with its application.

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Division 3 – Application

This Division includes two sections that clarify how the new Act applies in situations involving the inter-relationship between two or more jurisdictions and their respective laws (conflict of laws), and in situations involving equitable principles.

Section 4 – Conflict of laws

- Conflict of laws rules address the inter-relationship between two or more jurisdictions (e.g., provinces or countries) and their respective laws.
- This section has been modernized to reflect that the case law on conflict of laws has evolved since the former Act was enacted in 1975. Back then, there was an ongoing debate regarding whether limitations laws were procedural (i.e., affecting a person's legal remedy, such as the *Supreme Court Civil Rules*, which set out the procedure that must be followed in B.C. Supreme Court) or substantive (i.e., affecting a person's legal right, such as the provisions in the *Motor Vehicle Act* that govern operation of a motor vehicle).
- This section reflects the case law that now considers statutes of limitations to be substantive law, while previously they were classified as procedural. It requires a B.C. court to apply the limitation period which governs the substantive issue according to the laws of the jurisdiction to which the court is directed by its choice of law rules.

(2) Application of Exemption for Sexual Assault to Conflict of Laws Provision

- Subsection (2) of the conflict of laws provision ensures that if the choice of laws rules apply to a civil claim based on sexual misconduct of a minor, sexual assault, physical assault of a minor or physical assault of an adult in a personal or dependency relationship, that a court must not apply a limitation period to the claim, despite subsection (1).
- In other words, the exemption provisions in section 3(1)(i)(j) and (k) always apply, regardless of which jurisdiction's limitation laws apply to govern the claim.
- This means that the conflict of laws provision protects plaintiffs who are seeking damages in a civil claim based on sexual assault or physical assault (of a minor or an adult in a dependency relationship) from having a limitation period apply to their claim in situations where

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the choice of laws rules say the law from the other jurisdiction is to be applied to the lawsuit.

- This could be very important because not all limitations laws exempt civil claims based on sexual and physical assault from their scope.

Section 5 – Rules of equity not overridden

- Historically, equity was a branch of English law separate from the common law (i.e., the law created through the decisions of judges). The courts of equity were developed and administered in England by the High Court of Chancery. Today, the common law and equity are no longer separate, and judges in B.C. apply the rules of equity when deciding cases.
- The limitation periods in the new Act will continue to apply to claims for equitable relief, unless specifically exempted in sections 2 and 3. Where there is no limitation period that applies to a claim for equitable relief, a defendant is able to rely on the equitable defences of acquiescence and inexcusable delay to bar the claim.
- Acquiescence is a person's silence and inaction. By doing nothing, it appears that a person is agreeing to the action.
- Inexcusable delay is a person's postponement of action during a period in which he or she must take some action.
- This section is carried forward from the former Act.

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