

**Bill #64  
Limitation of Actions Act**

CHANGES RECOMMENDED TO THE LAW AMENDMENTS COMMITTEE

**PAGE 3** - add after Clause 12 the following Clauses:

13 A claim to recover damages on account of injury to persons or damage to property occasioned by or arising out of a defendant's ownership, maintenance, operation or use of a motor vehicle may be brought against the defendant no later than three years after the day on which the claim is discovered.

14 (1) In this Section, "limitation period" means a limitation period established by

- (a) clause 8(1)(a) or Section 13; or
- (b) any enactment other than this Act.

(2) This Section applies only to claims brought to recover damages in respect of personal injuries.

(3) Where a claim is brought without regard to the limitation period applicable to that claim, and an order has not been made under subsection (4), the court in which the claim is brought, upon application, may disallow a defence based on the limitation period and allow the claim to proceed if it appears to the court to be just having regard to the degree to which

(a) the limitation period prejudices the claimant or any person whom the claimant represents; and

(b) any decision of the court under this Section would prejudice the defendant or any person whom the defendant represents, or any other person.

(4) Where a limitation period has expired, a person who wishes to invoke the limitation period, upon giving at least 30 days' notice to any person who may have a claim, may apply to the court for an order terminating the right of the person to whom such notice was given from commencing the claim and the court may issue such order or may authorize the commencement of the claim only if it is commenced on or before a day determined by the court.

(5) In making a determination under subsection (3), the court shall have regard to all the circumstances of the case and, in particular, to

(a) the length of and the reasons for the delay on the part of the claimant;

(b) any information or notice given by the defendant to the claimant respecting the limitation period;

(c) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the claimant or the defendant is or is likely to be less cogent than if the claim had been brought within the limitation period;

(d) the conduct of the defendant after the claim was discovered, including the extent, if any, to which the defendant responded to requests reasonably made by the claimant for information or inspection for the purpose of ascertaining facts that were or might be relevant to the claim;

(e) the duration of any disability of the claimant arising after the date on which the claim was discovered;

(f) the extent to which the claimant acted promptly and reasonably once the claimant knew whether or not the act or omission of the defendant, to which the injury was attributable, might be capable at that time of giving rise to a claim; and

(g) the steps, if any, taken by the claimant to obtain medical, legal or other expert advice and the nature of any such advice the claimant may have received.

(6) A court may not exercise the jurisdiction conferred by this Section if the claim is brought more than four years after the expiry of the limitation period applicable to that claim.

(7) This Section does not apply to a claim for which the limitation period is 10 years or more.

**PAGES 3 to 7, Clauses 13 to 30 - renumber as 15 to 32.**

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