



The Risk Management Committee is pleased to provide this risk management tool for the members of CDBI. The Risk Management Committee of the Canadian Design Build Institute will continue to circulate articles of this nature to members as they become available. We trust this will be found to be of interest and beneficial to the members.

Is It Over Yet?

A Summary of Provincial Limitation Periods

During the CDBI Design Build Tutorials across Canada, we are frequently asked about the limitation periods for legal actions in the various Provinces. Unfortunately, there is no one common rule across Canada. Many of the Provinces have undertaken a review of their limitation legislation and changes are happening, albeit slowly. As a general trend, Provinces are enacting a 2-year limitation period in respect of a known cause of action, along with a 10 or 15-year ultimate limitation period.

The summary of Provincial legislation that follows below is a guide. However, a design-builder will need to review the applicable limitation legislation in order to determine when the risk of potential liability is truly over.

Summary of Limitation Periods by Each Province.

JURISDICTION	LEGISLATION	SECTION	RULE
Nova Scotia	<i>Limitations of Actions Act</i> (Bill 64 – proclaimed September 1, 2015)	8	General: 2 years from the date the claim was discovered Ultimate: 15 years from the day on which the act or omission occurred
Ontario	<i>Limitations Act, 2002, SO 2002, c 24, Sch B</i>	4, 15(2)	General: 2 years from the day on which the claim was discovered Ultimate: 15 years from the date on which the act or omission occurred
Alberta	<i>Limitations Act, RSA 2000, c L-12</i>	3	General: 2 years from date of discoverability Ultimate: 10 years from the date on which the right of claim arose



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British Columbia	<i>Limitation Act</i> , SBC 2012, c 13	6, 21	<p>General: 2 years after the day on which the claim was discovered</p> <p>Ultimate: 15 years from the day on which the act or omission on which the claim is based took place</p>
Saskatchewan	<i>Limitations Act</i> , SS 2004, c L-16.1	5, 7	<p>General: 2 years from the day on which the claim was discovered</p> <p>Ultimate: 15 years from the day on which the act or omission on which the claim is based took place</p>
Manitoba	<i>Limitations of Actions Act</i> , CCSM c L150	2, 14(4)	<p>General: 6 years from the date the cause of action arose for injury to real property; 2 years after the cause of action arose for actions for penalties, damages, or sums of money in the nature of penalties given by any statute; 6 years for any action not specifically named in the Act; 1 year for penalties imposed by a statute brought by any informer, or the Crown</p> <p>Ultimate: 30 years after the occurrence of the acts or omissions that gave rise to the cause of action</p>
Prince Edward Island	<i>Statute of Limitations</i> , RSPEI 1988, c S-7	2	<p>General: 2 years after the cause of action arose for actions for penalties, damages, or sums of money in the nature of penalties given by any statute to the person aggrieved; 6 years after the cause of action arose for any action not specifically made out in the Act; 1 year for penalties imposed by a statute brought by any informer, or the Crown</p> <p>Ultimate: None identified in Act</p>
Newfoundland	<i>Limitations Act</i> , SNL 1995, c L-16.1	5, 6, 14(3)	<p>General: 2 years after the date on which the right to do so arose for damages in respect of injury to a person or property, including economic loss arising from the injury whether based on contract, tort or statutory duty; 2 years for professional negligence, 6 years for other claims (likely not applicable to engineers)</p>



JURISDICTION	LEGISLATION	SECTION	RULE
			Ultimate: 10 years from the later of the date of the act or omission, or the last of a series of acts or omissions
New Brunswick	<i>Limitation of Actions Act, SNB 2009, c L-8.5</i>	5	<p>General: 2 years from the day on which the claim is discovered</p> <p>Ultimate: 15 years from the day on which the act or omission on which the claim is based occurred</p>
Quebec	<i>Civil Code of Quebec, SQ 1991, c 64</i>	Art 2925	General: 3 years from the time the right of action arises.
Yukon	<i>Limitation of Actions Act, RSY 2002, c 139</i>	2	<p>General: 6 years for damage to real property or chattels; 2 years for actions for penalties/damages or money in the nature of penalties given by any Act; 1 year for penalties imposed by a statute brought by any informer, or the Crown; 6 years for anything not enumerated in Act</p> <p>Ultimate: None identified in Act</p>
Northwest Territories	<i>Limitation of Actions Act, RSNWT 1988, c L-8</i>	2	<p>General: 6 years for damage to real property or chattels; 2 years for actions for penalties/damages or money in the nature of penalties given by any Act; 1 year for penalties imposed by a statute brought by any informer, or the Crown; 6 years for anything not enumerated in Act</p> <p>Ultimate: None identified in Act</p>
Nunavut	Same as NWT	Same as NWT	Same as NWT



General vs. Ultimate

With all limitations legislation, one key concept is the “discovery” of the cause of action that starts the limitation period running. Therefore, the term “general” applies to causes of action that have been “discovered”. However, due to circumstances, a party may not discover (until it is too late, or the party may never discover) that it had a cause of action. In those scenarios, there is always a “drop dead” or “ultimate” limitation period that applies.

So, for example, if an owner hires a design builder and the design-builder’s work has an obvious defect, or a defect that could be discovered upon reasonable investigation/review (e.g. cracked glass window), the “general” limitation period would apply from the moment it is determined that the owner’s cause of action (i.e. breach of contract) would have, or should have, been discovered by the owner. However, there may be other construction defects that are virtually impossible to find (e.g. a crimped electrical cable in behind drywall), even while exercising reasonable investigation. If this “hidden” or “impossible to find” defect is detected after the “ultimate” limitation period, then the owner would have no recourse against the design-builder for this defect.

This article is not intended to be, nor should it be taken as, legal advice. Individuals should seek independent legal advice for final determination of exposure for any specific situation

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