Cargo Claim Limitation Periods in the Common Law Provinces: AN OVERVIEW

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Introduction

A statute of limitations is a set of legislated rules that establishes deadlines after which a prospective plaintiff may no longer take steps to bring an action or commence a proceeding in order to seek a remedy from another, even though the prospective plaintiff may still have a legitimate cause of action against them. Such rules can no doubt seem draconian. They can (and often do) lead to a harsh result for prospective plaintiffs who might want to commence a proceeding but who, for whatever reason, do not do so in time.

Even though they may seem harsh, however, there are good policy reasons for having statutes of limitations. The Supreme Court of Canada has identified[1] (and recently re-affirmed[2]) three such underlying rationales.

The first rationale concerns finality. Statutes of limitations are meant to be "statutes of repose". "*There comes a time*", according to LaForest J. in the *M.(K.)*. case, "*when a potential defendant should be secure in his reasonable expectation that he will not be held to account for ancient obligations.*"[3]

The second rationale is evidentiary, and concerns the desire to shut out claims that could not be proven due to stale or disappeared evidence. "*Once the limitation period has lapsed*", wrote LaForest J., "*the potential defendant should no longer be concerned about the preservation of evidence relevant to the claim.*"[4]

Third, plaintiffs "*are expected to act diligently and not 'sleep on their rights'*". Thus, statutes of limitation are designed to encourage plaintiffs to bring their actions in a timely fashion.[5]

In light of the particularly harsh consequences that follow when an applicable limitation deadline is missed, it is essential that prospective plaintiffs (and their counsel) are aware of the various limitation periods, and other related provisions and exceptions, that have been set up from province to province and in the territories.

Further, given that the transportation industry very frequently involves inter-provincial movement of goods and travel by truck, it is also critical for industry stakeholders to have a clear understanding of the applicable limitation periods and related provisions in place from coast to coast. This is particularly true in the case of trucking cargo claims, which can arise in any province or territory, and at any time. Of course, depending on the statute of limitations in place in a particular jurisdiction, there could be a big difference in terms of when an action must be commenced in respect of such a trucking cargo claim.

With the above in mind, this article briefly surveys the various limitation periods (and a few other related provisions and concepts) currently in place in Canada's common law provincial jurisdictions,[6] as well as the applicable federal limitation periods, with respect to trucking cargo claims. Along the way, the following concepts will be addressed:

- "basic" limitation periods for trucking cargo claims
- "ultimate" limitation periods
- the "discoverability" principle
- the interplay between limitation periods and the "notice" provisions found in the various carriage of goods regulations across the country

At the outset, the reader must of course understand that this article is no substitute for actual legal advice and should be taken as a general overview of the limitation period regime across Canada only. Anyone with a potential claim in a particular jurisdiction should seek advice from knowledgeable counsel.

The "Basic" Limitation Periods

The "New Regime" Provinces

Beginning in 2000, Canadian provinces have been gradually introducing new legislation designed to simplify their limitation of action regimes. In total, six provinces (British Columbia,[7] Alberta,[8] Saskatchewan,[9] Ontario,[10] New Brunswick[11] and Nova Scotia[12]) have now passed such legislation. The most recent addition to this list is Nova Scotia, whose new legislation came into effect on September 1, 2015.

Instead of providing different limitation deadlines for various

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enumerated causes of action, the new legislation in these six provinces now provides that a court proceeding in respect of a "claim" must not be commenced more than **two years** after the day on which the "claim" was "discovered".[13] By way of example, the particular language used in Ontario is as follows:

Unless this Act provides otherwise, a proceeding shall not be commenced in respect of a claim after the second anniversary of the day on which the claim was discovered.[14]

In these provinces, a "claim" is intended to cover most causes of action for which one might contemplate commencing an action. In each of these jurisdictions, except Alberta, a "claim" is defined as a claim to remedy an injury, loss or damage that occurred as a result of an act or omission.[15]

In Alberta, a claim is defined somewhat differently as "a matter giving rise to a civil proceeding in which a claimant seeks a remedial order."[16] In turn, a "remedial order" is defined as "a judgment or an order made by a court in a civil proceeding requiring a defendant to comply with a duty or pay damages for the violation of a right."[17]

Either way, the definition of "claim" easily encompasses breach of contract situations that one would normally encounter in a carriage of goods dispute.

The "Old Regime" Provinces and Territories

In contrast, Newfoundland, Prince Edward Island, Manitoba and the Territories have not implemented more recent legislation dealing with limitation periods. Accordingly, these jurisdictions follow the older method of establishing different limitation periods for different causes of action.

Newfoundland and Labrador

In Newfoundland and Labrador, the limitation period is **two years** in respect of actions brought 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,[18] and also **two years** in respect of actions brought for damages in respect of injury to a person or property including economic loss arising from negligent representation and professional negligence whether based on contract, tort or statutory duty.[19]

This language is broad enough to encompass a cargo claim against a carrier.

Prince Edward Island

In Prince Edward Island, an action for breach of contract is not specifically provided for in its statute.[20] Accordingly, contract claims, including those in the carriage of goods context, fall under section 2(1)(g) of the statute, which provides a limitation period of **six years** for "*any other action not in this Act or any other Act specifically provided for*".

The Curious Case of Manitoba

In Manitoba, things are more complicated.

Manitoba's *Limitation of Actions Act*[21] provides, on the one hand, for a limitation period of **two years** in respect of actions "*for trespass on injury to chattels, whether direct or indirect*".[22] On the other hand, it also provides for a limitation period of **six years** for "*actions for recovery of money... whether recoverable as a debt or damages or otherwise, ... or on a simple contract, express or implied...*"[23]

So, the obvious question is: what is the applicable limitation period when one has a trucking cargo claim (based in contract) for damage to a shipment of goods? Is it **two years** or **six**?

It appears from the jurisprudence in Manitoba that even though a trucking cargo claim may be brought in contract, if the essence of the claim is for "injury to chattels" (i.e. damage to the shipment), then the claim will attract a two-year limitation period only.

Speciallaser Tech Inc. v. Specialloy Industries Inc.[24] is instructive. In that case, the plaintiff had purchased a laser and hired the defendant to assist in unloading it upon delivery. During the unloading, the laser was damaged by the defendant. The plaintiff commenced a claim over two years after the date of loss, and the defendant argued that the action was statute-barred.

The Court agreed with the defendant and dismissed the claim. Justice Morse held that true legal basis for the plaintiff's claim, whether framed in tort or in contract, was "injury to chattels" (i.e. damage to the laser) and so the plaintiff could not rely on the more general six-year limitation period for breach of contract.

Similarly, in *Pembina Consumers Co-op (2000) Ltd. v. Ainsworth Inc.*,[25] the Court refused to allow a plaintiff to amend its Statement of Claim to include a contract claim, against the third party in the action, in respect of items and equipment damaged in a fire more than two years after the date of loss. The Court held that since that aspect of the proposed amendment related to "injury to chattels", the two-year limitation period applied. This was so even though the proposed amendment was framed as a breach of contract.

Thus, it appears that in Manitoba, a prospective plaintiff (and its counsel) must be alert to the *nature* or *essence* of the cargo claim when deciding when to commence an action. If the claim involves damage or injury to the goods, however slight, then it is certainly possible that a court in Manitoba would apply a two-year limitation period. If, however, the cargo claim is for something other than "injury to chattels" – for example, if the goods were stolen or delayed – then it is arguable that a six-year limitation period would be applicable. Obviously, each case will turn on its own facts.

That said, it is almost certainly advisable, in all cases, to *proceed on*

the assumption that a cargo claim in Manitoba will be found to have a **two-year limitation period.** Given the harsh outcome that results if a limitation deadline is missed, it is simply not worth taking a chance that a court would permit a six-year period.

The Territories

In the Yukon Territory, the Northwest Territories and Nunavut, the limitation period is **six years** in respect of actions for trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence...[26]

The limitation period is also **six years** in respect of actions for the recovery of money, except in respect of a debt charged on land, whether recoverable as a debt or damages or otherwise, and whether on a recognizance, bond, covenant, or other specialty or on a simple contract, express or implied, and actions for an account or for not accounting.[27]

Thus, whether a particular claim is properly characterized as an action in respect of "*injury to chattels*" or an action "*for the recovery of money ... as damages ... on a simple contract*", the resulting limitation period is the same.

Interestingly, there is also a curious provision in each territory's statute,[28] providing that a limitation period in respect of most causes of action (including those listed above) does not begin to run if a person is "out of the territory" at the time the cause of action arises. Instead, the action may be commenced within two years of the person's "return" to the territory, or within the normal limitation period otherwise applicable. There is no indication as to how long a person needs to be "out of the territory" in order for this provision to take effect, and also no indication as to what constitutes a "return of the person" to the territory in order to start the clock on the new two-year limitation.

The Federal Limitation Period

The *Federal Courts Act*[29] provides the following with respect to limitation periods for actions brought in the Federal Court:

> **39.** (1) Except as expressly provided by any other Act, the laws relating to prescription and the limitation of actions in force in a province between subject and subject apply to any proceedings in the Federal Court of Appeal or the Federal Court in respect of any cause of action arising in that province.
>
> (2) A proceeding in the Federal Court of Appeal or the Federal Court in respect of a cause of action arising otherwise than in a province shall be taken within six years after the cause of action arose.

Although it is rarely (if ever) done, it is arguably possible to commence an action in connection with a trucking cargo claim in the Federal Court if the cargo claim is inter-provincial in nature. This is because inter-provincial trucking operations qualifies as a "federal transportation undertaking" and therefore falls under federal jurisdiction.[30] The Federal Court would therefore likely have jurisdiction by virtue of s. 23(c) of the *Federal Courts Act*, which gives the Court concurrent original jurisdiction (along with the provincial superior courts) over cases where:

> a claim for relief is made or a remedy is sought under an Act of Parilament31 or otherwise in relation to any matter coming with any of the following classes of subjects:
>
> [...]
>
> (c) works and undertakings connecting a province with any other province or extending beyond the limits of a province.

In terms of which limitation period would apply in the context of an inter-provincial trucking cargo claim brought in Federal Court, it would seem that the wisest course of action for a prospective plaintiff is, again, to *assume* that the applicable limitation period in Federal Court is the most restrictive of those found among the various provincial statutes of limitations: that is, **two years.**

That said, it might be possible to argue that the six-year limitation period set out in section 39(2) would apply. This would only be the case in circumstances where the facts underlying the particular cause of action were accepted by the court as taking place "*otherwise than in a province*". For example, one could potentially argue that in the case of a breach of contract such as a trucking cargo claim, the actual breach of contract itself is not confined to one province, or indeed any particular province. Rather, it is an intangible occurrence with no particular location, and therefore occurs "*otherwise than in a province*". There may be other arguments that would support such a finding; however, given the harsh consequences of missing the correct limitation deadline, one would certainly not recommend relying on s. 39(2) unless there was truly no other choice.

The "Discoverability" Principle

For the most part, the three underlying rationales discussed above continue to be main reasons why statutes of limitations have been enacted throughout Canada. However, those rationales sometimes yield to other considerations.

One such consideration is the notion that it would be fundamentally unfair to apply a limitation deadline to deny a plaintiff his or her right to sue another when the plaintiff is not yet even aware that such a cause of action exists. This notion has led to the inception and development of what is known as the "discoverability" principle.

While it is beyond the scope

of this article to give an exhaustive account of the "discoverability" principle and how it has developed from province to province and in the territories over the years, no article discussing limitation periods in Canada would be complete without at least a basic overview.

Essentially, the discoverability principle operates to alleviate against the strict application of a given basic limitation period in circumstances where a plaintiff is legitimately unaware that he or she in fact has a claim or a cause of action against another. In such circumstances, courts (and now several provincial legislatures) have agreed that it would be unfair to bar such a plaintiff from commencing a lawsuit, even though the basic limitation deadline may have already come and gone.

In 1986, the Supreme Court of Canada affirmed the general rule concerning the discoverability principle as follows:

> ...a cause of action arises for purposes of a limitation period when the material facts on which it is based have been discovered or ought to have been discovered by the plaintiff by the exercise of reasonable diligence...[32]

In 1997, in *Peixeiro v. Haberman*,[33] the Court added:

> Since this Court's decisions in *Nielsen v. Kamloops (City)*, [1984] 2 S.C.R. 2 (S.C.C.), and *Central & Eastern Trust Co. v. Rafuse*, [1986] 2 S.C.R. 147 (S.C.C.), at p. 224, discoverability is a general rule applied to avoid the injustice of precluding an action before the person is able to raise it. See *Sparham-Souter v. Town & Country Developments (Essex) Ltd.*, [1976] Q.B. 858 (Eng. C.A.), at p. 868 per Lord Denning. M.R., [...] :
>
> > It appears to me to be unreasonable and unjustifiable in principle that a cause of action should he held to accrue before it is possible to discover any injury, and therefore before it is possible to raise any action.[34]

The "Majority" Position

Since the above statements from the Supreme Court of Canada were handed down, almost all of the provinces have now codified the discoverability principle in some form or another.

Ontario *et al.*

In Ontario, for example, s. 5 of the *Limitations Act, 2002*, provides that:

> 5. (1) A claim is discovered on the earlier of,
>
> (a) the day on which the person with the claim first knew,
>
> (i) that the injury, loss or damage had occurred,
>
> (ii) that the injury, loss or damage was caused by or contributed to by an act or omission,
>
> (iii) that the act or omission was that of the person against whom the claim is made, and
>
> (iv) that, having regard to the nature of the injury, loss or damage, a proceeding would be an appropriate means to seek to remedy it; and
>
> (b) the day on which a reasonable person with the abilities and in the circumstances of the person with the claim first ought to have known of the matters referred to in clause (a).

The notion of when a claim is "discovered" thus ties into Ontario's basic limitation provision, which, as noted above, only bars proceedings commenced more than two years after the claim is "discovered".

British Columbia,[35] Saskatchewan,[36] Alberta,[37] Nova Scotia[38] and New Brunswick[39] all have provisions that are very similar, if not identical to Ontario's provision, above.

Newfoundland

In Newfoundland, the relevant legislation similarly provides that in "an action for property damage... the limitation period fixed by this Act does not begin to run against a person until he or she knows or, considering all circumstances of the matter, ought to know that he or she has a cause of action".[40]

The Curious Case of Manitoba (Again)

Manitoba's discoverability regime is also codified; however, its regime is somewhat different than that in other provinces with a codified discoverability regime. In Manitoba, a prospective plaintiff seeking to rely on the discoverability principle may not simply file an action out of time as in other provinces; instead, the prospective plaintiff must act diligently and first apply to the court for an extension of time in order to bring or continue an action if a limitation period has expired or will soon expire.[41] The application must be made no more than 12 months from the date the prospective plaintiff knew (or ought to have known) *"all material facts of a decisive character upon which the action is based"*.[42] Interestingly, on such an application, the prospective plaintiff must actually lead evidence that would, in the absence of any evidence to the contrary, be sufficient to establish the cause of action.[43]

Note also that in Manitoba, the operative provisions state that the court "may" grant leave to begin or continue an action under that section; accordingly, courts in Manitoba are given discretion over whether to grant the applicant relief. This is another feature particular to Manitoba.

For a helpful summary of the discoverability regime in Manitoba, see *Cahill v. Mustapha Designs, Inc.*[44]

The "Minority" Position

Prince Edward Island and the Territories

In Prince Edward Island and the

Territories, there is no discoverability provision in the applicable statute. This means that these jurisdictions continue to be governed by the common law discoverability principle established by the Supreme Court of Canada.[45]

The "Ultimate" Limitation Periods

In addition to the "basic" limitation periods discussed above, many provinces' limitations statutes also provide for what is known as an "ultimate" limitation period. This limitation period is the final date beyond which no action can be brought in respect of a claim of cause of action, whether the action was "discovered" by the claimant or plaintiff by then or not. As such, ultimate limitation periods are significantly longer than basic limitation periods.

In Nova Scotia,[46] New Brunswick,[47] Ontario,[48] Saskatchewan[49] and British Columbia,[50] the ultimate limitation period is 15 years. In Alberta, it is 10 years.[51]

Meanwhile, in Newfoundland[52] and Manitoba,[53] the ultimate limitation period is 30 years.

Prince Edward Island and the Territories have no ultimate limitation period.

Notice Provisions in the Uniform Conditions of Carriage – "Condition 12"

In addition to the above limitation deadlines, prospective plaintiffs who are contemplating commencing an action in connection with a trucking cargo claim must also bear in mind a well-known series of regulations, generally referred to as the "Uniform Conditions of Carriage", which are usually enacted pursuant to the provinces' governing highway traffic legislation. As such, the Uniform Conditions of Carriage have the force of law almost everywhere in Canada,[54] and are virtually identical from province to province.

For our purposes, "Condition 12" of the Uniform Conditions of Carriage is important. It sets up a statutory defence for a carrier that results in an outright dismissal of a plaintiff's action in circumstances where the plaintiff fails to first provide the carrier with notice of the claim by certain strict deadlines. For example, Ontario's version of Condition 12 provides:

> 12. Notice of Claim
>
> i. No carrier is liable for loss, damage or delay to any goods carried under the contract of carriage unless notice of the loss, damage or delay setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given in writing to the originating carrier or the delivering carrier **within 60 days** after delivery of the goods or, in the case of failure to make delivery, **within nine months** after the date of shipment
>
> ii. The final statement of the claim[55] must be filed **within nine months** after the date of shipment, together with a copy of the paid freight bill.

The notice periods in Condition 12 are to be taken seriously. Claims are routinely dismissed by virtue of a plaintiff's complete failure to provide the carrier with proper notice. For example, in *Quality Circle Computers v. Royal Canadian Supply Chain Inc.*,[56] a case where the plaintiffs claimed against a carrier in respect of certain industrial-sized printers that had been damaged while in transit. The Court found that the plaintiff had not given notice to the carrier with 60 days after delivery of the damaged good, as required. The claim was dismissed on that basis, among others.

Similarly, in *R & S Transportation Inc. v. 1150726 Ontario Inc.*,[57] in the context of an action by the carrier against its customer for unpaid invoices, the customer sought to establish a counterclaim against the carrier for losses suffered as a result of delayed deliveries by the carrier. The customer, however, admitted that it had not provided the carrier with notice of its claim against the carrier until two months after receiving the carrier's Statement of Claim, and at least eight months after the expiry of the 60-day notice period.

Justice Hoy dismissed the customer's counterclaim, noting:

> There is considerable authority for the proposition that where written notice of a claim for delay is not given to a carrier within the contractually-stipulated time period for such written notice, then the claim is barred.[58]

In Newfoundland, the same result was reached in the case of *Port Enterprises Ltd. v. Parsons Trucking Ltd.*,[59] where the plaintiff's action against a carrier was dismissed for failure to provide notice of its claim according to the provisions of Newfoundland's version of Condition 12. The plaintiff argued that since the defendant had failed to issue a bill of lading, it had not received notice of its requirement to provide such notice. However, the Court held that the plaintiff could not rely on that argument as the notice provisions formed part of the contract of carriage by operation of law; accordingly, the plaintiff was presumed to have knowledge of them.

That said, where a plaintiff does take steps to provide the required notice, courts have permitted claims to proceed, even where there may not have been perfect compliance. For example, in *Jumbo Transport Solutions A/S v. Trendway Transportation Services Inc.*,[60] the plaintiff claimed against the defendant for damages sustained by a section of a chimney that it hired the defendant to ship. The loss occurred on December 9, 2008.

On December 11, 2008, the plaintiff advised the defendant that it intended to make a claim. On January 29, 2009, well within the

60-day notice period prescribed by Condition 12, the plaintiff provided the defendant with further particulars of the claim, including a time loss estimate with a detailed description of the hours and amounts claimed for the work necessary to repair the damaged chimney piece.

The defendant nevertheless argued that the plaintiff had failed to provide sufficient particulars of its claim within the time required by the notice provisions. This led to a motion by the plaintiff for a declaration that Condition 12 had been complied with in the circumstances, such that the action could proceed.

Ultimately, the Court agreed with the plaintiff and permitted the action to proceed. Justice Roberts held:

> In my view, the notices provided by the plaintiffs satisfy the requirements of Condition 12: a description of the shipment, sufficient to identify it and its origin, and of the accident in question, where and [when] the loss took place, and detailed particulars of the specific amount claimed for the labour and costs expended to rectify he damages caused by the defendants carrier were provided within the prescribed deadlines.[61]

In *McColman v. Duckering's International Freight Services Inc.*,[62] the Alberta Provincial Court dealt with an action by a customer against a carrier on account of damages to a motor vehicle that he had hired the defendant to transport. The Court allowed the action to proceed in circumstances where within one month following the loss, the plaintiff had provided the defendant with an appraiser's report outlining the damage to the vehicle and also a complete damage appraisal, and also where the parties were negotiating a possible settlement by then. The Court concluded that the defendant obviously had adequate notice of the plaintiff's claim by then.

In *Shooters Production Services Inc. v. Arnold Brothers Transport Ltd./Les Freres Arnold Transport Ltée*,[63] the Court held that while the plaintiff had failed to file a statement of its claim with the carrier within 9 months of the loss, the carrier nonetheless had already had adequate notice from the plaintiff of its intention to sue and the details of the claim. The Court held that in the circumstances, there had been substantial compliance with the required notice provisions. The Court also noted that in British Columbia (as in Ontario), the term "final statement of claim" as contained in British Columbia's version of Condition 12 does not mean a formal Statement of Claim filed in court.

Conclusion

The reader who has struggled through to the end of this article will hopefully have realized three key points: 1) limitation statues and deadlines, and related concepts, are very technical and complex; 2) notice provisions in Condition 12 of the Uniform Conditions of Carriage are to be taken seriously; and 3) failure to comply with applicable limitation deadlines and notice provisions could have dire and irreparable consequences for prospective plaintiffs who wish to commence actions in connection with trucking cargo claims.

Ultimately, however, three additional points should help prospective plaintiffs stay on the right side of an applicable limitation deadline: 1) always assume that the shortest, most conservative limitation deadline is the one that will apply; 2) always commence actions in respect of trucking cargo claims as soon as possible, without waiting for the "assumed" deadline to approach; and 3) whether or not you are in doubt as to the applicable limitation deadline, always consult a lawyer before taking any action.

Endnotes

1 *M.(K.) v. M.(H.)*, [1992] 3 SCR 6, 36 ACWS (3d) 466 (SCC) [*M.(K.)*].
2 *Canadian Imperial Bank of Commerce v. Green*, 2015 SCC 60 at paragraph 57 (SCC).
3 *M.(K.)*, *supra* note 1 at paragraph 22.
4 *Ibid.*, at paragraph 23.
5 *Ibid.*, at paragraph 24.
6 That is, all of the provinces and territories except for Quebec.
7 *Limitation Act*, SBC 2012, c. 13.
8 *Limitations Act*, RSA 2000, c. L-12.
9 *The Limitations Act*, SS 2004, c. L-16.1.
10 *Limitations Act, 2002*, SO 2002, c. 24, Sched. B.
11 *Limitation of Actions Act*, SNB 2009, c. L-8.5.
12 *Limitation of Actions Act*, SNS 2014, c. 35.
13 Respectively, *supra* note 1, s. 6; *supra* note 2, s. 3(1); *supra* note 3, s. 5; *supra* note 4, s. 4; *supra* note 5, s. 5(1); and *supra* note 6, s. 8(1).
14 *Supra* note 4, s. 4.
15 *Ibid.*, s. 1.
16 *Supra* note 2, s. 1(a).
17 *Ibid.*, s. 1(i).
18 *Limitations Act*, SN 1995, c. L-16.1, s. 5(a).
19 *Ibid.*, s. 5(b).
20 *Statute of Limitations*, RSPEI 1988, c. S-7.
21 CCSM, c. L150.
22 *Ibid.*, s. 2(g).
23 *Ibid.*, s. 2(i).
24 (1998), 132 Man. R. (2d) 118, 83 ACWS (3d) 848 (MBQB).
25 2013 MBQB 81, 227 ACWS (3d) 367 (Man. Master).
26 *Limitation of Actions Act*, RSY 2002, c. 139, s. 2(1)(e); *Limitation of Actions Act*, RSNWT 1988, c. L-8, s.2(1)(e); *Limitation of Actions Act*, RSNWT(Nu) 1988, c. L-8, s.2(1)(e).
27 *Limitation of Actions Act*, RSY 2002, c. 139, s. 2(1)(f); *Limitation of Actions Act*, RSNWT 1988, c. L-8, s. 2(1)(f); *Limitation of Actions Act*, RSNWT(Nu) 1988, c. L-8, s.2(1)(f).
28 This provision is found in s. 46 of the Northwest Territories' and Nunavut's statute, and s. 47 of the Yukon Territory's statute.
29 RSC 1985, c. F-7.
30 See, e.g. *Total Oilfield Rentals Limited Partnership v. Canada (Attorney General)*, 2014 ABCA 250, 242 ACWS (3d) 799 (ABCA).
31 Here, the relevant "Act of Parliament" could be the *Motor Vehicle Transport Act*, RSC 1985, c. 29 (3rd Supp.). However, it might not even be necessary to identify an Act of Parliament due to the words "or otherwise" found in s. 23.
32 *Central & Eastern Trust Co. v. Rafuse*, [1986] 2 SCR 147 at paragraph 89, 1 ACWS (3d) 294 (SCC).
33 [1997] 3 SCR 549, 74 ACWS (3d) 117 (SCC).
34 *Ibid.* at paragraph 36.
35 *Supra* note 7, s. 8.
36 *Supra* note 9, s. 6(1).
37 *Supra* note 8, s. 3(1)(a).
38 *Supra* note 12, s. 8(2)
39 *Supra* note 11, s. 5(2).
40 *Supra* note 18, s. 14(1).
41 *Supra* note 21, s. 14(1).
42 *Ibid.*, s. 14(1)(a).
43 *Ibid.*, s. 15(2).
44 2014 MBQB 217, 248 at paras. 24-27, ACWS (3d) 193 (MBQB).
45 See, e.g., *PEI Music & Amusement Operations Assn. Inc. v. Prince Edward Island*, 2011 PECA 18, 13 CPC (7th) 156 (PEICA); *Malik Estate v. Sidat Estate*, 2009 YKSC 43, 177 ACWS (3d) 670 (YTSC); *Spur Aviation Ltd. v. Northwest Territories*, 2000 NWTSC 65, 2000 CarswellNWT 72 (NTSC); *Lapierre Estate v. Fort Simpson Hospital*, 2005 NWTSC 40, [2005] AWLD 1888 (NTSC).
46 *Supra* note 12, s. 8(1)(b).
47 *Supra* note 11, s. 5(1)(b),
48 *Supra* note 10, ss. 15(1) and 15(2).
49 *Supra* note 9, s. 7(1).
50 *Supra* note 7, s. 21(1).
51 *Supra* note 8, s. 3(1)(b).
52 *Supra* note 18, s. 22.
53 *Supra* note 21, s. 14(4).
54 Prince Edward Island, Newfoundland and the Territories have not enacted the Uniform Conditions of Carriage into law.

55 Note that the phrase "final statement of the claim must be filed" has been held in Ontario and British Columbia NOT to refer to a formal pleading or Statement of Claim that must be filed in court by the applicable deadline. Such a statement does NOT need to contain sufficient particulars to enable a carrier to draft a statement of defence. See *Jumbo Transport Solutions*, *infra* note 61 at paragraphs 10 and 13; see also *Shooters Production Services*, *infra* note 64 at paragraph 74.

56 2011 CarswellOnt 16060 (Ont. Sm. Cl. Ct.).

57 (2002), 118 ACWS (3d) 147, 30 BLR (3d) 94 (SCJ).

58 *Ibid.* at paragraph 12. See also *2318-1654 Quebec Inc. v. Valley Propane (Ottawa) Ltd.* (1993), 43 ACWS (3d) 54, 1993 CarswellOnt 2857 (Ont. Gen. Div.) where the defendant's counterclaim was also dismissed for failure to provide adequate notice.

59 (1985), 30 ACWS (2d) 28, 153 APR 199 (NLSC).

60 2010 ONSC 7100, 196 ACWS (3d) 807 (SCJ) [*Jumbo Transport Solutions*].

61 *Ibid.* at paragraph 17.

62 2007 ABPC 17, 161 ACWS (3d) 163 (ABPC).

63 2003 BCSC 92, 119 ACWS (2d) 342 (BCSC) [*Shooters Productions Services*].