

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Nova Scotia (Attorney General) v. Luke*, 2017 NSSC 120

**Date:** 20170421

**Docket:** Hfx.No. 424857

**Registry:** Halifax

**Between:**

The Attorney General of Nova Scotia representing Her Majesty the Queen in Right  
of the Province of Nova Scotia

Plaintiff

v.

Rosamond Luke

Defendant

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**Judge:** The Honourable Justice Robert W. Wright

**Heard:** April 21, 2017 in Halifax, Nova Scotia

**Written Decision:** May 10, 2017

**Subject:** Crown immunity from *Limitation of Actions Act* in an action for debt.

**Summary:** The defendant took out a student loan under the Nova Scotia Student Loan Program in 2001 and defaulted in late 2002. The loan was guaranteed by the Province of Nova Scotia who, after making payment to the bank, exercised its subrogated rights to recover payment of the loan. After protracted attempts by the province to arrange a payment schedule were unsuccessful, an action was commenced in 2014. The action was defended by pleading the six year limitation period under the *Canada Student Loans Act*. The plaintiff thereupon brought a motion for summary judgment on evidence in which no genuine issue of material fact was raised by the defendant. She merely relied on the

limitation defence.

**Issue:** Does the defendant have a real chance of success in pleading a limitation of action defence, being a question of law?

**Result:** The *Canada Student Loans Act* has no application to a student loan administered under the *Student Aid Act* and *Finance Act* of Nova Scotia. Neither could the defendant avail herself of the six year limitation period under s.2(1)(e) of the *Limitation of Actions Act* of Nova Scotia because of the presumption of Crown immunity at common law, as codified in s.14 of the *Interpretation Act*. None of the exceptions to that rule applied in this case.

With the determination of that question of law, the defendant had no real chance of success in defending the action and summary judgment was granted accordingly.

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