

## Suspension Lifted: Limitation and Procedural Periods Are Set to Resume in Ontario on September 14, Have Already Resumed in Other Provinces

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As a result of the COVID-19 pandemic, various governments in Canada issued orders suspending limitation periods, which are generally the deadlines by which a person must commence a proceeding in respect of a claim or forever lose their right to do so, and procedural periods in which a litigant must take a step in a proceeding or intended proceeding. In an earlier article, our colleagues discussed the potential impact of such orders in the context of a franchise dispute and franchise disclosure obligations. A link to that article can be [found here](#).

In Ontario, limitation and procedural periods are set to resume on Monday, September 14, 2020.<sup>1</sup> These time periods had been suspended retroactive to March 16, 2020.<sup>2</sup> For additional context, the suspension period had been set to expire on Friday, September 11, 2020, pursuant to Ontario Regulation 106/20.<sup>3</sup> To avoid potential confusion, the Attorney General of Ontario confirmed on August 20, 2020 that the time periods would *resume* on Monday, September 14, 2020, and a regulation has now been made to that effect.<sup>4</sup> Therefore, the relevant time periods will have been suspended for 26 weeks.

Amongst the other five provinces with franchise legislation, suspension orders had been made in Alberta,<sup>5</sup> British Columbia,<sup>6</sup> and New Brunswick.<sup>7</sup> No such orders were made in Manitoba or Prince Edward Island.

In Alberta, limitation and procedural periods in a number of enactments had been suspended from March 17 to June 1, 2020 pursuant to Ministerial Order 27/2020. The suspension expired on June 1, 2020 and the limitation and procedural periods resumed on that date. The effect of this Ministerial Order was to stop the limitations clock from running in Alberta for the 75 days following March 17, 2020 until May 31, 2020, with time beginning to run again on June 1, 2020.

In British Columbia, mandatory limitation periods and other mandatory time periods in enactments or laws for commencing a civil or family action, proceeding, claim or appeal in the Supreme Court of British Columbia<sup>8</sup> are suspended pursuant to the *COVID-19 Related Measures Act*, S.B.C. 2020, c. 8 and the *COVID-19 (Limitation Periods in Court Proceedings) Regulation*, B.C. Reg. 199/2020. The suspension will end 90 days after the date the state of emergency expires or is cancelled. Filing and service timelines under the *Supreme Court Civil Rules* and the *Supreme Court Family Rules* were suspended on March 18, 2020 and began to run again on May 29, 2020.

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In New Brunswick, certain limitation and procedural periods are suspended retroactive to March 19, 2020. As at the date of this article, the Mandatory Order pursuant to which the time periods are suspended has been most recently renewed on August 20, 2020.

It will be important for litigants and potential litigants to account for the suspension periods in calculating the limitation date applicable to a particular cause of action or claim. In all cases, counsel should be consulted as soon as possible about the limitation period applicable to a claim and the calculation of that limitation period in light of the suspensions and resumptions of time periods described above.

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<sup>1</sup> However, certain time periods under specific statutes, as well as certain filing deadlines in the Ontario Court of Appeal, resumed at earlier dates.

<sup>2</sup> O. Reg. 73/20: Limitation Periods, made under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, SO 2020, c17 (formerly under *Emergency Management and Civil Protection Act*).

<sup>3</sup> Extensions and Renewals of Orders, O Reg 106/20, made under the *Emergency Management and Civil Protection Act*.

<sup>4</sup> O. Reg. 457/20: Limitation Periods, made under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, SO 2020, c17.

<sup>5</sup> Ministerial Order M.O. 27/2020, [available online](#).

<sup>6</sup> Ministerial Order No. M068, [available online](#).

<sup>7</sup> Renewed and Revised Mandatory Order, COVID-19, [available online](#), paras. 17-18.

<sup>8</sup> This excludes time periods established under the *Builders Lien Act* and Division 5 of Part 5 of the *Strata Property Act*.

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