

Protecting Limitation Periods During COVID-19

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The last two weeks have been unprecedented for every person and business in Canada. Courts across Canada have been shutting down many of their operations in order to respond to COVID-19. This development could have a significant impact on subrogation claims with an impending limitation period. If not already done, we strongly recommend to our clients that they assign their subrogation claims to counsel right away. That way, counsel can properly review the matter, determine the necessary defendants, and issue Claims in order to protect against any upcoming limitation periods. Below is a summary of the current ability to issue Claims in all Canadian provinces.

ONTARIO: Limitation periods and deadlines in civil matters suspended retroactively to March 16, 2020

- The Superior Court of Justice suspended all regular operations on March 17, 2020, until further notice.
- All limitation periods are suspended for the duration of the emergency, retroactively to March 16, 2020.
- Any period of time within which any step must be taken in any proceeding in Ontario is suspended for the duration of the emergency, retroactively to March 16, 2020.
- Courthouses currently remain open. Filings may continue to occur at courthouses.

It is currently unknown what extension of time will be granted when the suspension is over. For all matters with limitation periods that were to expire on or after March 16, 2020 and during the declaration of emergency, it would be prudent to ensure that statements of claims can readily be filed once the declaration of emergency ceases to be in effect.

<https://www.ontariocourts.ca/scj/covid-19-suspension-fam/>

<https://lawsocietyontario.azureedge.net/media/iso/media/news-events/emcpa-order-eng.pdf>

QUEBEC: Deadlines for extinctive prescription in civil matters suspended until the end of the declaration of emergency

Order No. 2020-4251 of the Chief Justice of Quebec and the Minister of Justice, dated March 15, 2020

- Deadlines for extinctive prescription in civil matters are suspended until the end of the declaration of emergency (currently until March 23, 2020).
- The deadlines for civil proceedings are suspended during this period, except for cases deemed urgent by the courts.
- In the event of renewal of the declaration of state of health emergency, the measures provided for in this order are renewed for an equivalent period.
- Order effective immediately, as of March 15, 2020.

http://www.tribunaux.qc.ca/c-quebec/Actualites/2020/Arrete_n_2020-4251.pdf

It is currently unknown what extension of time will be granted when the suspension is over. For all matters with limitation periods that were to expire on or after March 15, 2020 and during the declaration of emergency, it would be prudent to ensure that statements of claims can readily be filed once the declaration of emergency ceases to be in effect.

ALBERTA: Limitation periods suspended from March 17, 2020 to June 1, 2020

- By Order issued on March 30, 2020, limitation periods (including under the Limitations Act) are suspended from March 17, 2020 to June 1, 2020. The limitation period resumes running on June 1, 2020 and the temporary suspension period shall not be counted.
- The Alberta Court of Queen's Bench is limiting hearings to emergency or urgent matters only.
- Law firms and lawyers with existing fax filing accounts or law firms and lawyers wishing to open a fax filing account are now permitted to file documents (including a statement of claim) in their local judicial centre.
- Filing documents at a court registry (i.e. in person) remains possible. However, lawyers are urged to make use of expanded access to email and fax filing in order to better manage traffic at courthouse counters.

<https://files.constantcontact.com/3744a7b8601/78bca1d4-f437-415e-963b-24c04525b329.pdf>

<https://www.albertacourts.ca/qb/resources/announcements/email-filing-of-court-documents>

<https://www.albertacourts.ca/qb/resources/announcements/covid-19-suspension-of-sittings>

<https://www.albertacourts.ca/qb/court-operations-schedules/pandemic-operations/COVID19-Announcements/notice-to-the-public-and-legal-profession-restricted-access-to-courthouses>

BRITISH COLUMBIA: Limitation periods for civil matters suspended on March 26, 2020

- Every mandatory limitation period and any other mandatory time period that is established in an enactment or law of British Columbia within which a civil or family action, proceeding, claim or appeal must be commenced in the Provincial Court, Supreme Court or Court of Appeal is suspended (effective March 26, 2020).
- All regular operations of the Supreme Court of British Columbia at all of its locations are suspended. While regular operations are suspended, the Court will hear only essential and urgent matters.
- Electronic filing is available.

http://www.bclaws.ca/civix/document/id/mo/mo/2020_m086

https://www.bccourts.ca/supreme_court/

MANITOBA: No change to limitation periods at this time

- The Court of Queen's Bench is currently limiting scheduled matters to either emergency or urgent matters.
- The Registry remains open for filing.

<http://www.manitobacourts.mb.ca/news/covid-19-updates-and-notices/>

SASKATCHEWAN:

Regular operations of the Saskatchewan Court of Queen's Bench are suspended. Until further notice, only urgent and emergency civil matters will be heard by the Court in chambers.

Documents to be filed should be placed in an envelope and delivered either to a drop box located in the hallway (where available) or on the local registrar counter. All documents delivered will be date stamped and issued on the delivery date unless the documents are insufficient.

Until further notice lawyers or other parties who have a deposit account with the Court may file documents by email at the local registrar's official email address where appropriate.

<https://sasklawcourts.ca/index.php/home/court-of-queen-s-bench/covid-19-update>

NEW BRUNSWICK: No change to limitation periods at this time. The ability to file electronic documents is being considered urgently.

- The offices of the Clerk of the Court of Queen's Bench remain open at reduced capacity to allow for the filing of documents.
- The ability to file documents electronically is an option being considered urgently and further directives will follow.

<https://www.courtsnb-coursnb.ca/content/cour/en.html>

NOVA SCOTIA: No change to limitation periods at this time.

- The Courts are continuing to sit but are hearing urgent matters only.
- Counsel and the public are advised there may be delays in processing paperwork at some courthouses, depending on staffing levels.
- We have been advised by the Court, upon inquiry, that a statement of claim can be faxed for filing, with the fees paid over the phone

<https://www.courts.ns.ca/>

- **PRINCE-EDWARD ISLAND:**
- All non-essential matters are adjourned.
- Courthouses remain open for filing of documents.
- Practice Direction issued on March 20, 2020 temporary allows for electronic filing. Any document, including originating process, may be filed by way of email or facsimile.
- Documents received during regular business hours of the Court will be filed as of the date of receipt. Any documents received after the close of business will be filed on the next business day.

<https://www.courts.pe.ca/supreme-court>

<https://www.courts.pe.ca/sites/www.courts.pe.ca/files/2020-03/Practice%20Note%2046.pdf>

NEWFOUNDLAND & LABRADOR: No change to limitation periods at this time. Electronic filings are accepted.

- The Supreme Court has suspended normal operations. Applications are limited to urgent and emergency matters only.
- The Court registry will accept electronic filings (via email or fax) where a statutory deadline, or limitation period under the Limitations Act is imminent.
- Electronically filed documents will be issued as of the date they are received by the Court.

<https://court.nl.ca/supreme/>

<https://court.nl.ca/supreme/pdf/2020%2003%2020%20-%20Notice%20to%20the%20Profession%20and%20General%20Public%20-%20COVID-19%20Preventative%20Measures.pdf>

This is a fluid situation and could change at any time. If you require any assistance with having Claims issued, please do not hesitate to contact us.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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