

# COVID-19: ONTARIO SUSPENDS LIMITATION PERIODS AND PROCEDURAL DEADLINES

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With courts across Ontario suspending regular operations in the wake of COVID-19, the Ontario Government has now made an order suspending limitation periods and procedural deadlines in Ontario proceedings (the “**Order**”). The suspension is retroactive to March 16, 2020 and will last for the duration of Ontario’s COVID-19 state of emergency.

The Order was made on March 20, 2020 under subsection 7.1(2) of the *Emergency Management and Civil Protection Act* [1] (the “**Act**”). Subsection 7.1(2) empowers the Lieutenant Governor in Council, under certain conditions, to temporarily suspend the operation of a provision of a statute, regulation, rule, by-law or order of the Government of Ontario.

## Terms of the Order

The Order temporarily suspends the operation of any provision of a statute, regulation, rule, by-law or order of the Government of Ontario establishing any:

- i. limitation period; or
- ii. period of time within which any step must be taken in any proceeding in Ontario, including any intended proceeding, subject to the discretion of the court, tribunal or other decision-maker responsible for the proceeding.

The Order does not provide any discretion with respect to the limitation period suspension. However, the suspension of procedural deadlines is subject to the discretion of the court, tribunal or other decision-maker. Despite this discretion, procedural deadlines should be considered suspended, unless directed otherwise.

## Retroactive Suspension

The terms of the Order apply retroactively to March 16, 2020. This means that any limitation period or procedural period of time stopped running on March 16, 2020. The suspension will last for the duration of the state of emergency, which was declared under the Act on March 17, 2020 and is ongoing.

## Examples in Practice

This Order brings respite to parties with claims that are approaching the expiry of a statutory limitation period during the COVID-19 emergency. For instance, the Order suspends the running of the two-year basic limitation period to commence a claim as prescribed in the Ontario *Limitations Act, 2002*.<sup>[2]</sup> Even for claims that are not approaching the limitation period expiration, parties should be aware of the impact of this suspension when calculating the applicable limitation period.

Parties are also temporarily relieved from complying with procedural deadlines as stipulated in legislation such as the *Rules of Civil Procedure* (the “**Rules**”),<sup>[3]</sup> unless ordered otherwise. For instance, if a party was served with a claim on March 10, 2020, the twenty-day period for delivery of the statement of defence stopped running on March 16, 2020. Another example includes suspending the period of time for the parties to agree on a discovery plan, which must be done within sixty days after the close of pleadings.

It is noteworthy that from the plain reading of the Order, it does not seem to suspend periods of time agreed to between the parties. The application of the Order is limited to suspending the operation of a provision of a statute, regulation, rule, by-law or order of the Government of Ontario that establishes a period of time to take a step. For example, if parties agreed to produce affidavits of documents within thirty days from the date of the discovery plan, this Order will likely not suspend the running of those thirty days as that period of time is not established under the Rules.

Like with limitation period, parties should closely monitor the duration of this suspension and its impact on the calculation of procedural deadlines.

We are closely monitoring the evolving COVID-19 situation and will continue to provide updates when available.

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[1] RSO 1990, c E.9.[ps2id id='1' target='/']

[2] SO 2002, c 24, Sch B, s 4.[ps2id id='2' target='/']

[3] RRO 1990, Reg 194.[ps2id id='3' target='/']

## A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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