

COVID-19 RESOURCE CENTER

Suspension of Limitation Periods in British Columbia

April 9, 2020

The COVID-19 pandemic has resulted in the province of British Columbia pressing “pause” on most legal proceedings in the province. As of March 18, 2020, the courts have suspended regular operations at all locations, moving forward only with urgent matters and suspending all filing deadlines under the court rules (see more on this point [here](#)).

Recognizing that the resulting delays might cause difficulties for those seeking to enforce their legal rights, the Minister of Public Safety and Solicitor General issued an order on March 26, 2020 which had the effect of suspending “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 Supreme Court, Provincial Court or Court of Appeal for British Columbia. The suspension is operational until the state of emergency declared on March 18, 2020 expires or is cancelled.

The order also held that a person, tribunal or other body that has a statutory power of decision “may waive, suspend or extend a mandatory time period relating to the exercise of that power.”

On April 8, 2020, the Minister issued an updated order (Minister Order No. M098, found [here](#) which clarified that the suspension of limitation periods and mandatory time periods does not apply to those limitation or time periods established under the *Builders Lien Act* or Division 5 of Part 5 of the *Strata Property Act* (also in relation to builders liens).

However, while time periods to commence actions are suspended (with the exception of the *Builders Lien Act* and related time periods), the Ministerial Order does not appear to suspend many mandatory timelines that are applicable in litigation. Only those mandatory time periods which limit the time within which an action must be commenced are suspended, so that time periods in relation to other obligations continue to run.

For example, while the six-month limitation period for actions against a municipality or regional district under s. 735 of the *Local Government Act* is suspended, it appears that the notice provision in s. 736, which requires notice to a municipality of damages within 2 months from the date on which the damage was sustained, is not. Similarly, the obligation under s. 19(1) of the *Property Transfer Tax Act* to mail a notice of objection to property transfer tax assessment to the minister within 90 days of the assessment still applies. Statutory “notice” provisions generally do not appear affected by the order. Neither are those

mandatory statutory requirements for filing of materials, such as the filing of a lien, where doing so is not tied to the commencement of a proceeding. Federal legislation is not affected by the provincial order and must be considered on separate footing.

Additionally, time periods in administrative proceedings are not suspended; the order only grants the decision-maker a discretion to waive, suspend or extend these time periods. The statutes of British Columbia contain many time periods of this sort, such as the time periods to file for review of driving prohibitions under the *Motor Vehicle Act* and time periods to seek reconsideration or administrative appeal of decisions under legislation ranging from the *Workers Compensation Act* to the *Agricultural Land Commission Act*.

As a result, those who are involved in or considering litigation, or who are contemplating a challenge to administrative decision-making or seeking to apply for permissions from an administrative decision-maker, should consult with a lawyer in order to determine what time periods still apply.



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