

September 14, 2020

Time Stops Standing Still: How to Calculate Your New Limitation Periods and Procedural Deadlines

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On March 20, 2020, the Ontario government suspended all limitation periods and procedural timelines established by statute, regulation, rule, by-law, or government order, [retroactive to March 16, 2020](#).¹ This suspension has been lifted as of September 14, 2020.² Litigants and counsel must be mindful of the new deadlines for commencing actions or taking steps in a proceeding.

Calculating New Limitation Periods

In Ontario, the basic limitation period is two years from the day on which a claim is or ought to have been discovered.³

For claims discoverable before March 16, 2020, parties should calculate the limitation period by adding the number of days during which the suspension was effective to the two-year period. There are 182 days between March 16 and September 14, 2020 (not including September 14 as time periods start running on that day). Therefore, parties should calculate limitation periods by counting two years plus 182 days from the date the cause of action was discovered.

Example: A plaintiff discovered a claim on March 1, 2020. Under normal circumstances, she would have had until March 1, 2022 to commence an action. With the additional 182 days, she now has until August 30, 2022 to bring an action.

¹ [Ontario Regulation 73/20](#).

² [Ontario News Release, "Ontario Extends Orders Under the Reopening Ontario Act, 2020" 20 August 2020](#).

³ [Limitations Act, 2002, S.O. 2002, c. 24, Sched. B, s. 4](#).

For claims discoverable between March 16 and September 14, 2020, the limitation period would start to run on September 14, 2020 and expire on September 15, 2022.

Calculating Procedural Timelines

For procedural timelines that began running before March 16, 2020, parties should calculate their new deadlines by: 1) identifying the number of days remaining as of March 16, 2020 and 2) counting the remaining number of days starting September 14, 2020.

Example: A defendant residing in Ontario is served with a statement of claim on March 4, 2020. Under r. 18.01(1) of the Ontario *Rules of Civil Procedure*, he has 20 days after March 4, 2020 to serve and file a statement of defence or notice of intent to defend. The 20 days started running on March 5, 2020, and by March 16, eleven days had passed, with nine days remaining. The defendant should now count nine days starting September 14, 2020, giving him until September 22, 2020 to serve and file his defence.

For procedural timelines that would have begun running between March 16 and September 14, 2020, if not for the suspension order, parties should treat the procedural timeline as beginning to run on September 14, 2020.

Example: If the defendant in the example above had been served on March 16, 2020, he would have 20 days starting September 14, 2020 to file his statement of defence or a notice of intent to defend. Twenty days starting September 14 brings him to Saturday, October 3, 2020. The deadline for his defence would be the following Monday, October 5, 2020.

Parties and lawyers should take time to calculate their new limitation periods and procedural deadlines and to diarize those dates. This exercise is important for preserving your rights and claims or those of your clients.