Suspension of limitation periods and procedural timelines during COVID-19 in Canada

March 24, 2020

With court closures and social distancing measures in place across the country, issuing, serving and filing legal documents has become difficult, if not impossible. In the past week, several Canadian jurisdictions have responded to these changes by pausing limitation periods and/or certain procedural timelines in civil legal proceedings.

What you need to know (current to March 24, 2020 at noon)

- Ontario and Québec are currently the only provinces with suspended limitation periods for the duration of their states of emergency. Both provincial governments have also suspended procedural timelines in civil matters, subject to some measure of judicial discretion or urgency. For Québec, these suspensions are effective March 15 to March 29 and in Ontario from March 16 to March 31, though both provinces are likely to extend their states of emergency in the coming days.

- The Alberta and British Columbia provincial governments have yet to suspend limitation periods or civil proceeding timelines. However, the Alberta Court of Queen's Bench, British Columbia Supreme Court and British Columbia Court of Appeal have all issued judicial orders suspending their filing deadlines, aside from originating processes, until early May 2020. The Nunavut Court of Justice has done the same until June 1. The Alberta Court of Appeal has also extended filing deadlines by two months for appeals not set for hearing, if the deadlines fall between March 25 and May 4.

- In all other provinces and territories, limitation periods and procedural timelines in civil proceedings continue to be in force, though several courts have indicated they are open to receiving requests to extend procedural timelines.

- At the federal level, the Federal Court has suspended some procedural timelines until April 17, whereas the Federal Court of Appeal and Supreme Court of Canada have not followed suit.

Next steps

For anyone involved in or contemplating legal proceedings in the jurisdictions listed above, these changes will provide some protection from the strict application of limitation periods and/or procedural timelines while this emergency continues.

It is important to make sure your limitation period or procedural deadline is in fact suspended before you let it lapse. We encourage you to seek legal advice if you are unsure.

Additionally, it is important to monitor the stated duration of these suspensions. For example, Ontario and Québec have suspended their timelines until the end of their state of emergency. We have no indication from either province whether any warning will be provided prior to lifting the state of emergency, or whether a there will be a grace period afterwards.

If you had any timelines that were on the verge of lapsing when one of the above suspensions went into place, we strongly recommend that you be prepared to issue, serve and/or file your documents the moment the state of emergency lifts.

Final thoughts

The suspension of limitation periods and procedural timelines is welcome news to many who were concerned about impending deadlines. We expect that in the coming days, many of the remaining Canadians jurisdictions will consider taking steps to suspend their limitation periods and procedural timelines as the COVID-19 pandemic evolves.

For advice with respect to expiry of limitation periods and procedural timelines during COVID-19, please get in touch with our team listed below, who are ready and available to assist with navigating through these unprecedented times. BLG has also created a COVID-19 Resource Centre to assist businesses on a variety of topics, including contractual risks, public disclosure requirements, education and criminal law.

By

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