



Practice Direction Concerning the Reinstatement of Times Prescribed in Criminal Proceedings¹ in the Court of Appeal for Ontario

("Practice Direction – Reinstatement of Times Prescribed in Criminal Proceedings – COVID-19")

June 25, 2020

Given that the Court of Appeal for Ontario issued, on March 31, 2020, the "Practice Direction Concerning Criminal Matters Given the Exceptional and Evolving Circumstances Concerning COVID-19" ("Practice Direction – Criminal – COVID-19"), which extended times prescribed by the *Criminal Appeal Rules*, SI/93-169 and the "Practice Direction Concerning Criminal Appeals at the Court of Appeal for Ontario" ("Practice Direction"), and provided guidance to the legal profession and the public concerning the Court's approach to granting extensions of time for times prescribed by the *Criminal Code*, R.S.C. 1985, c. C-46, or any other federal statute;

And given that the Court of Appeal issued, on May 21, 2020, the "Amended Practice Direction Concerning Criminal Matters Given the Exceptional and Evolving Circumstances Concerning COVID-19" ("Practice Direction – Criminal – COVID-19 – Amended May 2020"), which revoked and replaced the previous "Practice Direction – Criminal – COVID-19";

And given that, since the "Practice Direction – Criminal – COVID-19" and the "Practice Direction – Criminal – COVID -19 – Amended May 2020" were issued, the circumstances surrounding COVID-19 have continued to evolve and the Court of Appeal for Ontario has adapted its operations such that it is now desirable to reinstate the times prescribed by the *Criminal Appeal Rules* and the "Practice Direction", to provide further guidance concerning times prescribed by the *Criminal Code* and other federal statutes, and to revoke and replace the "Practice Direction – Criminal – COVID-19 – Amended May 2020" effective July 16, 2020;

¹ This "Practice Direction – Reinstatement of Times Prescribed in Criminal Proceedings – COVID-19" does not apply to matters arising under the *Provincial Offences Act*, R.S.O. 1990, c. P.33. "Practice Direction – Reinstatement of Times Prescribed in *Provincial Offences Act* Proceedings – COVID-19" applies to those matters.

And subject to any further Practice Direction that may issue:

Reinstatement of Times Prescribed in Criminal Proceedings

1. The extension of times prescribed under the *Criminal Appeal Rules* and the “Practice Direction” and the direction on anticipated extensions of time under the *Criminal Code* and other federal statutes provided for in “Practice Direction – Criminal – COVID-19 – Amended May 2020” and its predecessor “Practice Direction – Criminal – COVID-19” will terminate on July 15, 2020.

2. Beginning on July 16, 2020, unless otherwise directed or approved by the Court, the regular prescribed times will apply to all criminal appeals. Parties should have regard to the *Criminal Code* and any other applicable federal statute, the *Criminal Appeal Rules*, the “Practice Direction”, and, to the extent they are applicable, “Practice Direction – Criminal – COVID-19 – Amended May 2020” and its predecessor “Practice Direction – Criminal – COVID-19” in determining the applicable prescribed times.

3. For greater certainty, unless otherwise directed or approved by the Court, the period from March 16, 2020 to July 15, 2020, will not be considered by the Court in calculating prescribed times, if the prescribed time was or would have been subject to an extension under the “Practice Direction – Criminal – COVID-19 – Amended May 2020” or its predecessor “Practice Direction – Criminal – COVID-19”.

Requests for Further Extensions of Time

4. As of July 16, 2020, if, for reasons related to the COVID-19 emergency, a party to an appeal believes that an extension of time is required in respect of any prescribed time, that party or any other party to the appeal may apply to the Court for an extension of time.

5. Materials filed on an application under paragraph 4 of this “Practice Direction – Reinstatement of Times Prescribed in Criminal Proceedings – COVID-19” may be by way of a letter to the attention of the Senior Legal Officer at COA.SeniorLegalOfficer@ontario.ca. The letter should be copied to all parties or potential parties and must address: (a) the reason for the application; (b) any prejudice that may flow from the granting or refusing of the order requested; (c) the order requested; (d) whether the parties consent to the order requested; and (e) whether the matter is subject to case management, and if so, the name of the case management judge. If not on consent, the non-filing party or parties must provide their position in writing as to why the extension of time should not be granted. This is subject to the Court requiring more formal or detailed materials.

6. An application for an extension of time under paragraph 4 will be referred to a single judge of the Court of Appeal for Ontario, who may order the extension of some or all of the regular prescribed times.

7. Parties seeking an extension of time for reasons unrelated to COVID-19 should not bring an application under paragraph 4, but rather should bring a motion in writing in accordance with usual practice as set out in the “Practice Direction”.

8. Short extensions of time, if on consent of the parties, may not require a formal motion or application under paragraph 4. If the matter is being case managed, the need for an extension should be raised with the case management judge before bringing a motion for an extension.

Electronic Conduct of Proceedings

9. Parties are required to comply with the [Practice Direction Regarding the Electronic Conduct of Matters During the COVID-19 Emergency](#) and the [Guidelines for Filing Electronic Documents at the Court of Appeal for Ontario](#), as from time to time amended, in making electronic filings, including materials on an application under paragraph 4 of this “Practice Direction – Reinstatement of Times Prescribed in Criminal Proceedings – COVID-19”. Pursuant to paragraph 4 of the Practice Direction Regarding the Electronic Conduct of Matters During the COVID-19 Emergency, all documents that are required for the hearing of any matter are to be filed in electronic format only.

10. Unless otherwise directed by the Court, if hardcopy materials have already been filed in any open criminal proceeding, the parties must file electronic copies of all materials necessary for the hearing of the matter as soon as reasonably possible and in accordance with the following:

- a. electronic copies of the appeal book, transcripts, appellant’s factum, and any other materials necessary for the hearing of the appeal (e.g. an application to admit fresh evidence) must be filed at least 45 days before any scheduled hearing;² and
- b. electronic copies of the respondent’s materials must be filed in accordance with the applicable prescribed times.

Revocation of Prior Practice Direction and Notice

11. “Practice Direction – Criminal – COVID-19 – Amended May 2020” is revoked and replaced effective July 16, 2020 by this “Practice Direction – Reinstatement of Times Prescribed in Criminal Proceedings – COVID-19”.



June 25, 2020

Chief Justice George R. Strathy

Date

² Paragraph 10(a) does not apply to inmate appeals.