

REVOKED (May 21, 2020)



**PRACTICE DIRECTION CONCERNING CRIMINAL MATTERS¹
GIVEN THE EXCEPTIONAL AND EVOLVING CIRCUMSTANCES CONCERNING
COVID-19
("Practice Direction – Criminal – COVID-19")**

March 31st, 2020

Given the exceptional and evolving circumstances concerning COVID-19, and subject to any further Practice Direction that may issue, "Practice Direction – Criminal – COVID-19" applies until May 30, 2020 and should be read in conjunction with the *Criminal Appeal Rules*, SI/93-169, Practice Direction Concerning Criminal Appeals at the Court of Appeal for Ontario ("Practice Direction"), and all applicable federal statutes:

1. For an appeal scheduled for a hearing that has not been adjourned:
 - a. The timelines in the *Criminal Appeal Rules* and "Practice Direction" continue to apply.
 - b. Should any party require an extension of time under the *Criminal Appeal Rules* or the "Practice Direction", a motion for such extension is required to be brought in writing in accordance with the "Practice Direction".
2. For a matter where a Notice of Appeal has not yet been filed, the appeal has not yet been scheduled for a hearing, or the appeal has been adjourned:
 - a. If the appellant is the Crown², the time for serving and filing a Notice of Appeal remains as provided for in the *Criminal Appeal Rules*, the "Practice Direction", or the applicable federal statute, subject to the disposition of any

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

² In Practice Direction – Criminal – COVID-19, the "Crown" includes the Attorney General for Ontario, the Minister of Justice, and the Public Prosecution Service of Canada.

motion for an extension of time that may be brought in writing in accordance with the “Practice Direction”.

- b. If the appellant is not the Crown, and the order appealed from was made on or after February 17, 2020, and the time for serving and filing the Notice of Appeal is governed by the *Criminal Appeal Rules* or the “Practice Direction”, then this “Practice Direction – Criminal – COVID-19” applies respecting serving and filing deadlines:
 - i. the time to serve and file a Notice of Appeal is extended to the date of filing as long as the Notice of Appeal is filed no later than May 30, 2020;
 - ii. the extension of time within which to serve and file a Notice of Appeal, as set out in subsection 2(b)(i), is subject to an order of the court abridging the time period, which order may arise of the court’s own motion or result from a written application, on notice to any potential parties.
 - c. Where any other material was or is required to be served or filed on or after February 17, 2020, and the time period for service or filing is governed by the *Criminal Appeal Rules* or “Practice Direction”, then this “Practice Direction – Criminal – COVID-19” applies respecting those deadlines:
 - i. the time for service or filing is extended to the date of filing provided the filing occurs no later than May 30, 2020;
 - ii. the extension of time within which to serve or file, as set out in subsection 2(c)(i), is subject to an order of the court abridging the time period, which order may arise of the court’s own motion or result from a written application brought by a party to the appeal, on notice to all parties.
 - d. On written application or of its own motion, on notice to the parties or potential parties, a single judge of the Court of Appeal for Ontario may abridge the extended timelines as provided for in subsections 2(b)(i) and 2(c)(i).
 - e. Materials filed on an application brought pursuant to this “Practice Direction – Criminal – 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; and (d) whether the parties consent to the order requested. This is subject to the court requiring more formal or detailed materials.
3. To the extent that the *Criminal Code*, R.S.C. 1985, c. C-46, the *Youth Criminal Justice Act*, S.C. 2002, c. 1, or the *Extradition Act*, S.C. 1999, c. 18, or any other

federal *Act*, contains any provisions respecting time periods for serving and filing of documents, where a Notice of Appeal has not yet been filed, appeals are not yet scheduled for a hearing, or appeals have been adjourned, and subject to subsection 2(a), the parties should expect an extension of time will be granted unless a party shows cause why an extension should not be granted.

4. Where section 3 applies, the court registry will accept the filing and forward the materials to a judge of the court for the order extending the time in accordance with "Practice Direction – Criminal – COVID-19". The filing party must identify in writing those materials that are subject to section 3 of the "Practice Direction – Criminal – COVID-19" at the time of filing. The filing party must inform the court in writing as to whether the extension of time is on consent. If not on consent, the non-filing party or parties must provide their position in writing, no more than one page in length, as to why the extension of time should not be granted. This is subject to the court requiring more formal or detailed materials.



Chief Justice George R. Strathy

March 31, 2020

Date

Effective: March 31st, 2020