

REVOKED (March 29, 2021)



Practice Direction Concerning the Reinstatement of Times Prescribed in Proceedings Arising Under the *Provincial Offences Act* in the Court of Appeal for Ontario

(“Practice Direction – Reinstatement of Times Prescribed in *Provincial Offences Act* Proceedings – COVID-19”)

June 25, 2020

Given that, by O. Reg. 73/20 as amended, the Government of Ontario ordered that any provision of any statute, regulation, rule, by-law or order of the Government of Ontario establishing any period of time within which any step must be taken in any proceeding in Ontario was, subject to the discretion of the Court, suspended retroactive to Monday, March 16, 2020, and that such suspension remains in effect (the “Order”);

And given that the Court of Appeal for Ontario issued, on March 30, 2020, the “Practice Direction Concerning Extensions of Time in Matters Arising Under the *Provincial Offences Act* in the Court of Appeal for Ontario” (“Practice Direction – *Provincial Offences Act* – COVID-19”) to provide guidance to the legal profession and the public concerning the circumstances in which the Court’s discretion under the Order may be exercised in proceedings before the Court arising under the *Provincial Offences Act*, R.S.O. 1990, c. P.33, and to which the *Rules of the Court of Appeal in Appeals Under the Provincial Offences Act*, O. Reg. 721/94, apply (“POA proceedings”);

And given that, pursuant to “Practice Direction – *Provincial Offences Act* – COVID-19”, the time prescribed to take any step in respect of any POA proceeding in the Court of Appeal for Ontario was, except as otherwise set out in the Practice Direction, extended from March 16, 2020 until further direction by the Court of Appeal;

And given that, since the “Practice Direction – *Provincial Offences Act* – COVID-19” was issued, the circumstances concerning 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

times prescribed in *POA* proceedings in the Court and to revoke and replace the “Practice Direction – *Provincial Offences Act* – COVID-19” effective July 16, 2020;

And given that, pursuant to the Order, the Chief Justice of Ontario may exercise the discretion to end the suspension in respect of any or all of the proceedings before the Court of Appeal for Ontario;

The Chief Justice of Ontario and President of the Court of Appeal for Ontario directs that:

Reinstatement of Times Prescribed in Provincial Offences Act Proceedings

1. Effective July 16, 2020, and subject to paragraphs 2, 3, and 4, the times prescribed to take any step in any *POA* proceeding in the Court of Appeal for Ontario will be reinstated;

The Extension Period

2. For all *POA* proceedings in the Court of Appeal for Ontario, except as set out in paragraph 3, the period from March 16, 2020 to July 15, 2020 inclusive (the “extension period”) will not be included in calculating the time prescribed to take any step in respect of any *POA* proceeding in the Court of Appeal;
3. Paragraph 2 does not apply to:
 - a. *POA* proceedings related to COVID-19 arising under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, and any other *POA* proceedings related to public health and safety in the context of COVID-19;
 - b. *POA* proceedings in which a notice of hearing was sent and which proceedings were not adjourned before or during the extension period;
 - c. *POA* proceedings that were being case managed during the extension period;
 - d. *POA* proceedings in which the Court of Appeal approved alternative dates proposed by the parties for filing materials during the extension period;
 - e. *POA* proceedings in which a judge of the Court of Appeal directed during the extension period that any other prescribed times apply; and
 - f. *POA* proceedings in which a judge of the Court of Appeal directs after the extension period that any other prescribed times apply;

Requests for Further Extensions

4. For all *POA* proceedings in the Court of Appeal for Ontario, the Court of Appeal retains the discretion to extend the extension period in paragraph 2 beyond July 15, 2020 in

a particular case, either on its own motion or on application of a party to the proceeding. If, for reasons related to the COVID-19 emergency, a party seeks an extension of the extension in paragraph 2, the party should send a letter to the attention of the Senior Legal Officer at COA.SeniorLegalOfficer@ontario.ca. The letter should be copied to all parties and provide the following information: (i) the reason for the request; (ii) any prejudice that may flow from granting or refusing the request; (iii) the order requested; (iv) whether the parties consent to the order requested; and (v) 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;

Electronic Conduct of Proceedings

5. 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.
6. Unless otherwise directed by the Court, if hardcopy materials have already been filed in any open *POA* proceeding in the Court of Appeal for Ontario, 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, and 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;¹ 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

7. The “Practice Direction – *Provincial Offences Act* – COVID-19” is revoked and replaced effective July 16, 2020 by this “Practice Direction – Reinstatement of Times Prescribed in *Provincial Offences Act* Proceedings – COVID-19”.



June 25, 2020

Chief Justice George R. Strathy

Date

¹ Paragraph 6(a) does not apply to inmate appeals.