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COVID-19: Notice to Counsel/Paralegals and the Public Re: Provincial Offences Act Matters in the Ontario Court of Justice (November 25, 2020)

**This Notice supersedes previously announced notices.*

Effective Date: 19 May 2020

Revised: 25 November 2020

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1. INTRODUCTION

The Ontario Court of Justice continues to work with stakeholders to ensure all courts, including Provincial Offences courts, can return to operations in a safe manner. The Ministry of the Attorney General's Recovery Secretariat is working with the municipalities that administer Provincial Offences courts to facilitate a consistent, province-wide recovery plan for all Provincial Offences courts. To ensure that municipalities safely reopen physical courthouses to meet provincial public health standards the

Recovery Secretariat will take a leadership role in guiding a safe physical reopening of courthouses, based on provincial public health advice.

Until the in-person recovery is deemed safe, the Ontario Court of Justice will be adjourning all in-person *Provincial Offences Act* proceedings held in municipally-administered Provincial Offences courts. As a result, all in-person appearances scheduled in municipally-administered Provincial Offences courts will be adjourned until January 22, 2021.

While in-person proceedings will be adjourned, remote proceedings will continue to occur and be expanded across the province.

Beginning September 28, 2020, *Provincial Offences Act* matters may proceed remotely as described below in s. [4.1.1](#). Judicial pre-trials as described below in [s. 4.3](#) and early resolution guilty pleas described below in [s. 4.4](#) may continue to be held remotely.

The Court is working closely with its justice partners, including the Ministry of the Attorney General and representatives of Provincial Offences courts, to determine how technology can be used to increase participants' ability to access courthouse services using remote means, such as by the electronic filing of court material, remote scheduling processes, and remote hearings. The Court is also working with justice partners to plan for the eventual resumption of in-person attendances in a way that protects the health and safety of all participants.

Do not come into a courthouse if you have been advised by public health officials, your doctor, or the [Ontario Ministry of Health](#) website to self-isolate.

Please continue to check the [Ontario Court of Justice website](#) for updates to this Notice.

2. APPLICATION

This Notice applies to all *Provincial Offences Act* matters before the Ontario Court of Justice.

This Notice applies to all parties and participants in *Provincial Offences Act* proceedings, including prosecutors, defence representatives, defendants and witnesses.

3. LIMITATION PERIODS UNDER THE PROVINCIAL OFFENCES ACT

On November 25, 2020 the Chief Justice of the Ontario Court of Justice made an order pursuant to s. 85 of the *Provincial Offences Act* extending most timelines under the Act until February 26, 2021. A copy of this order is available here: <https://www.ontariocourts.ca/ocj/files/POAs85Order25Nov2020.pdf>

This order supersedes the Chief Justice's order pursuant to s. 85 of the *Provincial Offences Act* on September 10th. This order is archived and available here:

<https://www.ontariocourts.ca/ocj/files/POAs85OrderSeptember10.pdf>

If you received an Offence Notice (ticket) or Parking Infraction Notice (parking ticket) after March 1, 2020, you have until February 26th, 2021 to exercise one of the options set out on the back of the Notice. If you do not respond by February 26th, 2021 you may be deemed not to dispute the charge and a justice may enter a conviction for the offence.

Please refer to the Order for a list of all steps in a proceeding that are impacted by the extension of time.

The Government of Ontario's Order made pursuant to Ontario Regulation 73/20 under the *Emergency Management and Civil Protection Act* and the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* suspending time limitations expired September 13, 2020. This order is available here: <https://www.ontario.ca/laws/regulation/200073>

4. SCHEDULING DIRECTIVES

4.0 Overview of the Ontario Court of Justice's Scheduling Guidelines during COVID-19

The Ontario Court of Justice continues to work closely with the Ministry of the Attorney General and Provincial Offences courts to resume *Provincial Offences Act* (POA) proceedings across the province. Given the continued operational impacts of COVID-19 to court operations, the Ontario Court of Justice recognizes the need to rely on remote court options for parties and participants in POA proceedings to ensure access to justice is maintained. In recognition of this need, the Court is taking a number of steps to direct scheduling in a manner that supports remote hearings and encourages effective use of the limited capacity of in-person proceedings.

Key aspects of the Court's scheduling direction on POA proceedings:

- This notice (the COVID-19: Notice to Counsel/Paralegals and the Public Re: Provincial Offences Act Matters in the Ontario Court of Justice) continues to indicate which matters the Court is currently hearing and will continue to be updated as the Court expands its operations.
- Unless otherwise directed by the Regional Senior Justice of the Peace or the presiding judicial official, POA matters will be scheduled remotely (by audio or video conferencing) until further notice. This means that all matters will begin as remote hearings.
- Parties or participants that are unable to appear by remote means (e.g., if they do not have access to the required device or technology, or if they require a disability-related accommodation) may make a request through the court office for their appearance to be in-person, to have the matter heard in-person or for another appropriate accommodation to be made.
- In-person appearances will not begin until at least January 25, 2021*.
- It is anticipated that video appearances will begin January 25, 2021.
- Consistent with the video conferencing technology used in criminal courts, Provincial Offences courts will only use Zoom or Justice Video Network (JVN) for video appearances.
- The [Notice Regarding Public and Media Access to Ontario Court of Justice Proceedings during COVID-19 Pandemic](#) applies to POA proceedings. As a result, the public, including the media, may request access to remote court proceedings from the court office that is facilitating the proceeding.

*Please note that provincial and municipal governments are responsible for all health and safety measures required to ensure the safe resumption of in-person court operations. Once the health and safety approvals for in-person resumption have been completed, the Ontario Court of Justice has responsibility for the scheduling of all court matters in those courthouses.

4.1 Suspension of All In-Person Proceedings

Except as otherwise noted in this practice direction, all *Provincial Offences Act* (POA) in-person proceedings scheduled in a municipally-administered Provincial Offences court from Monday, March 16, 2020 through to and including Friday, January 22, 2021 will be adjourned and rescheduled to a later

date. If you have a proceeding scheduled during this time, **do not attend court in person**. This applies to all Provincial Offences courts in Ontario.

For greater clarity, until further notice no parties or court participants are permitted to attend court in person.

All court locations will continue to hear matters remotely as outlined in this notice.

A notice of the new court date will be sent to both parties by mail to the address on file with the court. For more information, please contact your local Provincial Offences court.

Contact information for all Provincial Offences courts is available here: https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/poa/

4.1.1 Remote Hearings by Audio Conference

Beginning September 28, 2020, the Ontario Court of Justice will hear non-trial POA proceedings (e.g., guilty pleas, withdrawals, judgment delivery, first appearances, and adjournments) remotely by audio conferencing. In addition, beginning October 19, 2020, the Ontario Court of Justice will hear closing submissions of trials, sentencing submissions and impose sentences remotely by audio conferencing subject to the direction of the Justice of the Peace assigned to the matter.

The Ontario Court of Justice continues to work with the Ministry of the Attorney General and Provincial Offences courts to prepare for the resumption of trials. More information about the resumption of trials in Provincial Offences courts will be forthcoming.

Recent amendments to the *Provincial Offences Act* permit most POA matters to proceed remotely. In light of these amendments, the Ontario Court of Justice will begin to schedule and hear additional POA proceedings by audio conferencing, which is the platform most Provincial Offences courts have available. Consistent with the remote proceeding provisions of the *Provincial Offences Act*, these proceedings will only be heard in locations where the electronic method (i.e., audio conferencing) is made available by the court office.

If you have a matter that will be proceeding by audio conferencing, you or your representative will receive notice of your hearing date from the court office. Please ensure your contact information is up to date with the court office where your matter is being heard.

Contact information for all Provincial Offences courts is available here: https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/poa/

4.2 POA Appeals

Provincial Offences Act appeals to a judge of the Ontario Court of Justice scheduled from Monday, March 16, 2020 through to and including Friday, January 22, 2021 will be adjourned.

If you need to update your address with the court, please contact the courthouse where the appeal is scheduled to be heard. A listing of all court addresses is available

here: https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/

4.3 Judicial Pre-Trials

Judicial pre-trials continue to be held by audio conference. Cases subject to judicial pre-trials will be determined by local protocol. Parties will be notified of the date and time of the judicial pre-trial and the information for attending the audio conference.

4.4 Early Resolution Guilty Pleas

Beginning July 6, 2020, early resolution guilty pleas pursuant to s. 5.1(8) of the *Provincial Offences Act* started proceeding before a Justice of the Peace remotely by audio conference in some of the early resolution Provincial Offences courts in the province.

Formal early resolution is only available in some jurisdictions across the province where the Offence Notice (ticket) indicates the option to request an early resolution meeting with the prosecutor. The decision to offer early resolution is a decision made by the municipalities.

These will continue to proceed remotely.

4.5 Young Persons

Provincial Offences Act matters where the defendant is a young person (individual under 16 years of age) are scheduled to appear and be heard in a provincially-administered Ontario Court of Justice. As a result, these matters will be dealt with consistent with matters in criminal court.

Up to date information about cases in criminal court, which applies to POA young person matters, is available on the Ontario Court of Justice website at <https://www.ontariocourts.ca/ocj/covid-19/>.

If you need to update your address with the court, or need information about a specific case, please contact the courthouse where the matter is scheduled to be heard. A listing of all provincially-administered court addresses are available

here: [https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court Addresses/](https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court%20Addresses/)

5. ELECTRONIC SIGNATURES

5.1 Electronic Signatures

The Ontario Court of Justice will accept electronically signed documents where a signature is required. An electronic signature consists of electronic information that identifies the signatory and the date and place of signing. For example, you may type your name as your signature.

6. FILING of POA APPEALS

6.1 Filing of POA Appeals

Until further notice only urgent POA appeals to a judge of the Ontario Court of Justice will be accepted for filing. Urgent POA appeals are limited to those where the defendant is subject to a licence suspension.

If you are subject to a licence suspension and would like to file an appeal, you may do so by emailing your Notice of Appeal to the appropriate courthouse. For a list of courthouse email addresses see: Ontario Court of Justice – Courthouse Email Addresses. If you are unable to file documents by email, contact your local courthouse by email or telephone to find out about other options that are available or information about attending your local courthouse.

If you are appealing a matter under PART III (summons offences) of the POA, you must still serve your Notice of Appeal on the prosecutor's office before you file it with the appeal court office.

More information about POA appeals is available in the Guide to Appeals in Provincial Offences Cases. The Guide is available here: <https://www.ontariocourts.ca/ocj/self-represented-parties/guide-to-appeals-in-provincial-offences-cases/guide/>.

Please note that most timelines under the *Provincial Offences Act* have been extended by an Order of the Chief Justice as described above in [s. 3](#) of this Notice.