

**This Notice has been superseded or replaced by subsequent directives published on the Ontario Court of Justice website. This is an archived version provided for reference only.**

## **COVID-19: Notice to Counsel/Paralegals and the Public Re: Provincial Offences Act Matters in the Ontario Court of Justice (Revised September 1, 2021)**

*\*This Notice supersedes previously announced notices.*

*Effective Date: 19 May 2020*

*Revised: 1 September 2021*

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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.

Remote hearings by video conference may begin as described in s. 4.1.2. This includes both trial and non-trial proceedings (guilty pleas, withdrawals, judgment delivery, first appearances, and adjournments). Remote proceedings currently being conducted by the Court, including proceedings by audio conference described in s. 4.1.1 will continue.

Once the Ontario Court of Justice is advised that a Provincial Offences court has implemented all the necessary health and safety measures, very limited in-person appearances may begin at that location as described in s. 4.2. The scheduling of in-person appearances will be consistent with the scheduling guidelines described in s. 4.0 of this directive, including the presumption of remote proceedings unless otherwise ordered by the Regional Senior Justice of the Peace or the presiding justice of the peace.

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.

**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 August 10, 2021, the Chief Justice made an Order pursuant to s. 85 of the ***Provincial Offences Act*** extending timelines until November 1, 2021 relating to POA appeals under the ***Act*** that would have expired on or after March 15, 2020.

Under this Order, the time limits relating to **Provincial Offences Act** appeal proceedings in the Ontario Court of Justice prescribed under the **Provincial Offences Act** in sections 116(2)(a), 116(3) and 135(2) of the **Provincial Offences Act**, and under sections 5(2) and 5(3) of the Rules of the Ontario Court (General Division) and the Ontario Court (Provincial Division) in Appeals under Section 116 of the **Provincial Offences Act**, O. Reg. 723/94, that would have expired on or after March 15, 2020, were extended until November 1, 2021.

A copy of this Order is available here [PLACEHOLDER INCLUDE LINK TO ORDER HERE]

This Order replaces the Order pursuant to s. 85 of the **Provincial Offences Act** made by the Chief Justice on March 31, 2021 extending certain timelines under the **Provincial Offences Act** regarding **Provincial Offences Act** appeals until September 7, 2021.

A copy of this order is available here :

<https://www.ontariocourts.ca/ocj/files/POAs85Order10Aug2021-EN.pdf>

A copy of this Order is available here:

<https://www.ontariocourts.ca/ocj/files/POAs85Order21Jan2021.pdf>

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:

Order pursuant to s. 85 of the POA (November 25, 2020)

On September 10, 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 December 1, 2020.

A copy of this Order is available here:

<https://www.ontariocourts.ca/ocj/files/POAs85OrderSeptember10.pdf?id=5f5b636e7018f>

On March 15, 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 April 23, 2020.

A copy of this Order is available here:

<https://www.ontariocourts.ca/ocj/files/POAs85OrderMarch15.pdf>

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 government's January 12, 2021 declaration of a second state of emergency and 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 very 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, or for another appropriate accommodation to be made.

- 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 Remote Hearings**

### **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.

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.

If you have received notice of an audio court appearance and will be unable to connect (e.g., if you do not have the appropriate technology or would like to request a disability-related accommodation), please contact the court office.

Contact information for all Provincial Offences courts is available

here: [https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court\\_Addresses/poa/](https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/poa/)

### **4.1.2 Remote Hearings by Video Conference**

**Provincial Offences Act** proceedings may begin by video conferencing. Both trial and non-trial proceedings (guilty pleas, withdrawals, judgment delivery, first appearances, and adjournments) may proceed by video.

Proceedings will be scheduled by video conference as soon as the court location makes the technology available and has advised the Ontario Court of Justice of their readiness to support video proceedings.

If you have a matter that will be proceeding by video 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.

If you have received notice of a video court appearance and will be unable to connect (e.g., if you do not have the appropriate technology or would like to request a disability-related accommodation), please contact the court office.

Contact information for all Provincial Offences courts is available

here: [https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court\\_Addresses/poa/](https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/poa/)

## **4.2 In-Person Proceedings**

Once the Ontario Court of Justice has been notified that the municipally-administered **POA** court has implemented the appropriate health and safety measures, very limited in-person appearances may be scheduled at that location. As the scheduling of in-person appearances is dependent on the readiness of the individual **POA** court, each court may begin in-person appearances at different times.

Consistent with the scheduling guidelines described in s. 4.0, the presumption is that proceedings will be held remotely (by audio or video conference). In locations that have appropriate health and safety measures in place, matters will only proceed in-person at the direction of the Regional Senior Justice of the Peace or the presiding justice of the peace.

If you have a matter that will be proceeding, you or your representative will receive notice of your hearing date from the court office with direction as to whether the matter will be held in-person or by audio or video conferencing. 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/](https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/poa/)

### **4.3 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 April 9, 2021 will be adjourned.

As of April 12, 2021, any **POA** Appeal that is already before the court may be scheduled for a remote hearing as per the direction of the Regional Senior Justice. No in-person **POA** Appeals will be held earlier than October 4, 2021.

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/](https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/)

### **4.4 Judicial Pre-Trials**

Judicial pre-trials continue to be held remotely (by audio or video conference). The decision with respect to the technology used (audio or video) is made locally, taking into consideration the availability of the technology at the court location.

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 or video conference.

### **4.5 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. These matters may now also proceed by video. The decision about whether to conduct these matters by audio or video will be made locally taking into consideration the availability and the capacity of the technology at the court location.

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 unless otherwise ordered by the Regional Senior Justice of the Peace or the presiding justice of the peace.

## 4.6 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_Addresses/)

## 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

On August 10, 2021, the Chief Justice made an Order pursuant to s. 85 of the **Provincial Offences Act** extending timelines until November 1, 2021 relating to POA appeals under the Act that would have expired on or after March 15, 2020.

The time limits for proceedings in the Ontario Court of Justice prescribed under the **Provincial Offences Act** in sections 116(2)(a), 116(3) and 135(2) of the **Provincial Offences Act**, and under sections 5(2) and 5(3) of the Rules of the Ontario Court (General Division) and the Ontario Court (Provincial Division) in Appeals Under Section 116 of the **Provincial Offences Act**, O. Reg. 723/94, that would have expired on or after March 15, 2020 are extended until November 1, 2021.

The timelines for filing POA Appeals have been extended until November 1, 2021. Prior to September 7, 2021, only urgent POA appeals to a judge of the Ontario Court of Justice will be accepted for filing. On September 7<sup>th</sup> **POA** appeals to a judge of the Ontario Court of Justice that are not urgent will also 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: [https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court\\_Addresses/poa/](https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/poa/)

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: [Guide to Appeals in Provincial Offences Cases | Ontario Court of Justice \(ontariocourts.ca\)](https://www.ontariocourts.ca/guide-to-appeals-in-provincial-offences-cases).

Please note that timelines regarding ***Provincial Offences Act*** appeals have been extended by an Order of the Chief Justice as described above in s. 3 of this Notice.