

Ontario's Suspension of Limitation Periods and Procedural Deadlines No Longer Applies to the Construction Act Effective April 16, 2020

Apr 17, 2020

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As of April 16, 2020, Ontario's temporary suspension of all limitation periods and procedural deadlines, made pursuant to the Order in Council made under s. 7.1 of the *Emergency Management and Civil Protection Act* ("**EMCPA**"), no longer applies to the *Construction Act*. Accordingly, all limitation periods and deadlines, including construction lien and holdback deadlines, will resume running. The relevant section of the regulation amending the Order, which can be found here, states:

Construction Act

4. On and after April 16, 2020, sections 1 and 2 do not apply to provisions of the Construction Act or of the regulations made under it if the provisions establish a limitation period or period of time within which any step must be taken in a proceeding, including an intended proceeding.

The move by the Attorney General of Ontario was no doubt in response, at least in part, to the concerns raised by industry participants in the halting of payments made on ongoing construction projects, particularly as they relate to holdback funds. While this lifting of the suspension is generally beneficial to many contractors working on construction projects, it raises a number of potential issues and concerns for parties involved in ongoing construction lien court proceedings. With Ontario courts still operating at a significantly reduced capacity, it remains to be seen whether or not parties will have the ability to meet all of their procedural and substantive deadlines under the *Construction Act*. For instance, courts in many jurisdictions are still not scheduling attendances unless they are considered urgent, and parties have very limited ability to file certain court materials electronically.

As of April 16, parties will have the same amount of time to meet a deadline that had been remaining before the suspension began on March 16, 2020.

Given the ongoing uncertainty with respect to the above and other construction-related issues, parties are encouraged to seek legal advice to ensure that they are taking the necessary steps to protect their rights relating to construction liens, holdback requirements and ongoing court proceedings.

Aird & Berlis LLP continues to monitor these changes and will provide regular updates as they become available. If you have any questions, please contact a member of our Construction Group.

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