



## BRITISH COLUMBIA

August 4, 2020

The Honourable Darryl Plecas  
Speaker of the Legislative Assembly  
Parliament Buildings  
Victoria BC V8V 1X4  
Email: [speaker@leg.bc.ca](mailto:speaker@leg.bc.ca)

Dear Mr. Speaker:

Please find attached a report regarding a regulation made on August 4, 2020 under the *COVID-19 Related Measures Act*, SBC 2020, c 8 (CRMA). This report is presented pursuant to subsection 4 (2) of the CRMA. For full context, it also provides details about a related regulation made on the same date under the *Emergency Program Act*, RSBC 1996, c 111 (EPA). The Solicitor General will also be providing a report on the regulations made under the EPA.

Subsection 4 (4) of CRMA requires that this report be laid before the Legislative Assembly as soon as possible.

### Background and Context:

- On March 26, 2020, the Solicitor General made Ministerial Order M086/2020 under the EPA. Effective April 15, 2020, M086/2020 was repealed and replaced by M098/2020.
- Section 2 of M098/2020 suspended every mandatory limitation period and any other mandatory time period that is established in an enactment or law of British Columbia within which a civil or family action proceeding, claim or appeal must be commenced in the Provincial Court, Supreme Court or Court of Appeal.
- Section 2 of M098/2020 also provides that this suspension does not apply to a mandatory limitation period or any other mandatory time period established under the following enactments:
  - the *Builders Lien Act*;
  - Division 5 [*Builders Liens and Other Charges*] of Part 5 [*Property*] of the *Strata Property Act*.

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- M098/2020 was set to expire on the date on which the last extension of the declaration of a state of emergency made March 18, 2020 under Section 9 (1) of the EPA expires or is cancelled.
- On July 10, 2020, M098/2020 was enacted as a “COVID-19 provision” under the CRMA by OIC 391/2020 (B.C. Reg. 172/2020). It was listed as item 7 in Schedule 2 to the CRMA. This elevated the provision to the level of statute law and also allowed for its effects to be extended beyond the end of the state of emergency.
- Under s. 3 (5) (a) of the CRMA, the effects of this suspension were set to remain in force for 90 days after the end of the state of emergency that was declared under section 9 (1) of the EPA on March 18, 2020.

Effects of Attached Regulation:

The attached regulations do the following:

- Under the authority of s. 3 (8) (a) of the CRMA, repeals Section 2 of Item 7 in Schedule 2 to the CRMA (M098/2020 – Limitation Periods (COVID-19) Order No. 2). The remainder of that item is unaffected.
- Creates a new regulation under s. 10.1 of the EPA that replicates the section repealed above but separates each level of court into its own paragraph.
- Breaking each level of court into a separate paragraph in the new regulation, as opposed to listing them all in the same sentence, will allow flexibility to set unique end dates for each level of court, as appropriate in the circumstances.
- Under the authority of s. 3 (8) (b) of the CRMA, adds this new regulation made under s. 10.1 of the EPA to Schedule 2 of the CRMA. This allows for the effects of the regulation made under s. 10.1 of the EPA to be extended beyond the end of the state of emergency declared under Section 9 (1) of the EPA on March 18, 2020.
- Under the authority of s. 3 (5) (c) of the CRMA, extends the effects of the new EPA regulation for 45 days beyond the end of the state of emergency in respect of the Court of Appeal, and for 90 days beyond the end of the state of emergency in respect of the Provincial Court and Supreme Court.

- There are no changes to the breadth of the suspension of limitation periods and other mandatory time periods. There is also no change to the exemption of the *Builders Lien Act* and Division 5 [*Builders Liens and Other Charges*] of Part 5 [*Property*] of the *Strata Property Act*. The only net effect is a change to the end date for the suspension in respect of the Court of Appeal, and an ability to set individual end dates for each level of court.

These changes were made following consultations with:

- the Chief Justice of British Columbia;
- the Chief Justice of the Supreme Court;
- the Chief Judge of the Provincial Court;
- Canadian Bar Association, BC Branch;
- Law Society of British Columbia; and
- Trial Lawyers Association of British Columbia.

Members may direct any questions to me in respect of this report and the effects of the attached regulations.

Yours truly,

A handwritten signature in black ink, appearing to be 'DEBY', written in a cursive style.

David Eby, QC  
Attorney General

Attachment