August 5, 2020

The Honourable Darryl Plecas
Speaker of the Legislative Assembly
Parliament Buildings
Victoria BC V8V 1X4
Email: Speaker@leg.bc.ca

Dear Mr. Speaker:

This is a report regarding a regulation made on August 4, 2020, under Section 10.1 of the Emergency Program Act, RSBC 1996, c 111 (EPA). This report is presented pursuant to subsection 4 (1) of the COVID-19 Related Measures Act, SBC 2020, c 8 (CRMA). For full context, it also provides details about a related regulation made on the same date under the CRMA. My colleague, the Attorney General, will also be providing a report on the regulations made under the CRMA.

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, I 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 Effective April 15, 2020, M086/2020 was repealed and replaced by M098/2020.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;
- 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;
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- 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.

Sincerely,

Mike Farnworth,  
Minister of Public Safety  
and Solicitor General

Attachment
PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 453, Approved and Ordered August 4, 2020

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

(a) the COVID-19 (Limitation Periods in Court Proceedings) Regulation is made as set out in the attached Appendix 1, and

(b) the COVID-19 Related Measures Act, S.B.C. 2020, c. 8, is amended as set out in the attached Appendix 2, effective on the dates as set out in that Appendix.

DEPOSITED

August 4, 2020

B.C. REG. 199/2020

Minister of Public Safety and Solicitor General

Attorney General

Presiding Member of the Executive Council

Authority under which Order is made:

Act and section: Emergency Program Act, R.S.B.C. 1996, c.111, s. 10.1;
COVID-19 Related Measures Act, S.B.C. 2020, c. 8, s. 3 (5) (c) and (8) (a) and (b)

Other: M098/2020
APPENDIX 1

COVID-19 (LIMITATION PERIODS IN COURT PROCEEDINGS) REGULATION

Limitation periods in court proceedings

1 (1) Subject to subsection (2), 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 any of the following courts is suspended:
   (a) the Court of Appeal;
   (b) the Supreme Court;
   (c) the Provincial Court.

(2) Subsection (1) does not apply to a mandatory limitation period and any other mandatory time period established under the following enactments:
   (a) the Builders Lien Act;
   (b) Division 5 [Builders Liens and Other Charges] of Part 5 [Property] of the Strata Property Act.

APPENDIX 2

1 Effective on the date this regulation is deposited under the Regulations Act,

(a) section 2 of item 7 in Schedule 2 of the COVID-19 Related Measures Act, S.B.C. 2020, c. 8, is repealed, and

(b) Schedule 2 is amended by adding the following row:

| 27 | COVID-19 (Limitation Periods in Court Proceedings) Regulation |

2 Effective 45 days after 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 Emergency Program Act expires or is cancelled, section 1 (1) (a) of item 27 in Schedule 2 is repealed.

3 Effective 90 days after 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 Emergency Program Act expires or is cancelled, item 27 in Schedule 2 is repealed.