

TVA | The Legal Outsourcing Network

TABLE OF LIMITATION PERIODS: LIMITATIONS ACT, 2002

Amended to 2019, c. 17, Sch. 2, s. 15

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Any limitation period prescribed under any statute*, and any period of time within which any step must be taken in a proceeding**, were **suspended** retroactively to March 16, 2020. Effective **September 14, 2020**, the suspensions are revoked, and limitation and time periods will resume running as of that date.

*except the Niagara Escarpment Planning and Development Act (resumed April 9, 2020), the Construction Act (resumed April 16, 2020), and the Family Responsibility and Support Arrears Enforcement Act, 1996 (resumed June 8, 2020)

**subject to the discretion of the court

Statutory Limitation Periods Referenced in the Schedule to the *Limitations Act, 2002* (Section 19)

| STATUTE | PROVISION | SECTION(S) | LIMITATION PERIOD(S) |
|------------------------------------|---|----------------|--|
| Arbitration Act, 1991 | Application to enforce award | 52(3) | Later of 10 yrs & Dec 31, 2018 |
| Assignments and Preferences Act | Contestation of claim | 26(2) & 27(2) | 30 days & 10 days |
| Business Corporations Act | Bar right to examine books | 157(2) | 15 days |
| | Fix value of shares | 185(18) & (19) | 50 days & 20 days |
| | Security-takeover/issuer bid | 188(9) | 30 days |
| | Fix value-takeover/issuer | 188(13),(14) | 20 days & 20 days |
| | Fix value- acquire securities | 189(5) | 90 days |
| City of Toronto Act, 2006 | Application to quash by-law | 214(4) | one year |
| | Application to quash debenture by-law | 250(2) | 3 months |
| | Action for unpaid tax, penalty or interest | 270(4) | 4 years & 6 years |
| | Entitlement to proceeds of sale paid into court | 351(5) | 90 days after pymt & within 10 years of pymt |
| Civil Remedies Act, 2001 | Forfeiture of property; conspiracy proceeding | 3(5) & 13(7) | 15 years & 15 years |
| Commodity Futures Act | Proceedings under Act | 60.4 | 6 years |
| Construction Act | Motion for leave for JR of adjudicator's decision | 13.18(2) | 30 days |
| | Filing adjudicator's decision to enforce as court order | 13.20(2) | 2 years |
| | Preserve lien | 31 | 45 days (60 days*) |
| | Perfect lien | 36 | 45 days (90 days*) |
| Corporations Act | Shareholder liability-decreased capital | 37(2) | 6 months & 2 years |
| Creditors' Relief Act, 2010 | Object to sheriff's distribution | 12(1) | 8 days |
| Drainage Act | Damages or injunctions –notice | 111(1) | 10 days notice |
| | Filing of Notice | 111(2) | 2 years |
| Education Act | Declaration of board vacancy | 218(2) | 90 days |
| | Declaration of vacancy (French-Language Board) | 11(3)-Sch 1 | 90 days |
| Election Act | Contest validity of election | 99(4) | 90 days |
| Environmental Bill of Rights, 1993 | Contravention causing harm | 102 | 2 years |
| Estates Act | Allow contested claim | 44(2) & 45(2) | 30 days (3 months with leave) |
| | Claim barred by Trustee Act | 47 | 3 months |
| Estates Administration Act | Order to distribute estate | 17(5) | 3 years |
| Expropriations Act | Quash or set aside proceeding | 43 | 30 days |
| Family Law Act ¹ | Equalization net family property | 7(3) | 2 years, 6 years, 6 mos |

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|---|--|----------------------------------|--|
| Fines and Forfeitures Act | Interest in forfeited personal property | 6(2) | 60 days |
| Forestry Workers Lien for Wages Act | Enforce lien | 8(1) | 30 days |
| | Distribution after lien payment | 26(1) | 30 days |
| Fuel Tax Act | Right to possession of fuel | 8(13) | 30 days |
| Gasoline Tax Act | Right to possession of fuel | 5(13) | 30 Days |
| Income Tax Act | Directors' liability | 38 | 2 years |
| Insurance Act ² | Claim for fire insurance | 148 (con. 14) | 1 year |
| | Damage to automobile | 259.1 | 1 year |
| | Accident benefits dispute | 280(2) IA & 56 SABS | 2 years ³ |
| International Commercial Arbitration Act, 2017 | Application for recognition and/or enforcement of award | 10 | Later of 10 years & Dec 31, 2018 |
| Libel and Slander Act | Libel in newspaper or broadcast | 6 | 3 months |
| Liquor Licence and Control Act, 2019 | Application to possess seized liquor | 59(4) | 30 days |
| Mortgages Act | Building mortgage | 21(2) | 1 year |
| | Tenant's right to re-occupy | 54(2) | 210 days |
| Municipal Act, 2001 | Quash by-law (not debenture by-law) | 273(5) | 1 year |
| | Proceeds of sale-payment | 380(5) | 90 days after pymt & within 10 years of pymt |
| | Quash debenture by-law | 415(2) | 3 months |
| Municipal Conflict of Interest Act | Contravention of disclosure duty etc. | 8(2) & 8(6) [effective Mar 1/18] | 6 weeks & 6 years |
| Municipal Elections Act, 1996 | Recounts – clerk & judicial | 58(2) & 63(1) | 30 days & 15 days |
| | Validity of election | 83(2) | 90 days |
| | Enforce provisions of Act | 18 | 6 years |
| Ontario Home Ownership Savings Plan Act [still appears on Schedule but entire Act was repealed in 2009] | Crown action for recovery of the cost of health care benefits, damages caused by an opioid-related wrong | 6(1) | 15 years from coming into force of Act |
| Opioid Damages and Health Care Costs Recovery Act, 2019 | Entitlement to compensation; Set aside compensation decision | 44(13) & (14) | 90 days & 30 days |
| Personal Property Security Act | Payment & forfeiture; Pay into Court or preserve property | 4(5) & 6(6) | 15 years & 15 years |
| Prohibiting Profiting from Recounting Crimes Act, 2002 | Compensation for deficiency of land | 34(3) | 5 years |
| Public Lands Act | Registration of judgment | 2(1) | 6 years |
| Reciprocal Enforcement of Judgments Act | Registration of judgment | Sch: art 3, p1, | 6 years |
| Reciprocal Enforcement of Judgments (U.K.) Act | All proceedings (except where otherwise provided) | 129.1 | 6 years |
| Securities Act | Civil proceedings-rescission | 136(6) & 138 | 90 days notice, 180 days |
| | Civil proceedings-other than rescission | 138 | 180 days or 3 years |
| | Misrepresentation, failure to disclose | 138.14 | 6 months and 3 years |

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|--|---|---------------|----------------------|
| Securities Act | Order for support of dependants | 61 | 6 months |
| Succession Law Reform Act | Director's liability to withhold tax | 139(4) | 2 years |
| Taxation Act, 2007 | Quash by-law | 2(3) | 4 weeks |
| Tile Drainage Act | Action for tobacco related wrong | 6(1) | 2 years |
| Tobacco Damages and Health Care Costs Recovery Act, 2009 | Right to possession of seized tobacco | 6(10) & 24(5) | 30 days |
| Tobacco Tax Act | Actions by or against deceased's estate | 38(3) | 2 years |
| Trustee Act | | | |

The table lists the statutes in the Schedule to Ontario's Limitations Act, 2002, and the corresponding limitation periods. This table is intended as a guideline only. The statutory provisions listed must be consulted.

Note: This table does not cover either (a) the Real Property Limitations Act, R.S.O. 1990, c. L.15, which should be consulted for limitation periods dealing with real property, or (b) limitation periods that are set out in any federal legislation.

No Limitation Periods⁴ Pursuant to Section 16 of the *Limitations Act, 2002*, there are no limitation periods in respect of the following proceedings:

| Topic | Description | Section |
|-------------------------------|--|---------------------------|
| Civil Remedies | Forfeiture order under s. 8 (property) or 11.2 (vehicle) of the <i>Civil Remedies Act, 2001</i> | 16(1)(e) |
| Collateral | Debtor/creditor in possession of collateral to redeem/realize it | 16(1)(f), (g) |
| Court order | Enforcement of a court order | 16(1)(b) |
| Crown | Recovery of money owing to the Crown re. fines, taxes, penalties and interest | 16(1)(i), (j) (2) and (3) |
| Declaration | Declaration, if not seeking consequential relief | 16(1)(a) |
| Disability | See Crown above re. Ontario Disability Support Program Act, 1997 | 16(1)(j)(ii) and (2) |
| Economic Development | See Crown above re. economic development loans | 16(1)(j), (2) and (3) |
| Environmental | Undiscovered environmental claims | 17 |
| Health Programs | See Social Assistance below | 16(1)(j), (2) and (3) |
| Medical Resident Loans | Recovery of money owing re. loans, awards or grants under the <i>Ministry of Training, Colleges and Universities Act</i> , the <i>Canada Student Financial Assistance Act</i> or the <i>Canada Student Loans Act</i> | 16(1)(k) |
| Sexual Assault | Any claim for sexual assault | 16(1)(h) |
| Sexual Misconduct | Where the victim was a minor or the relationship between the parties meets certain criteria | 16(1)(h.1) |
| Assault | Where the victim was a minor, or the parties were in an 'intimate relationship', or the victim was dependant on the defendant | 16(1)(h.2) |
| Social Assistance | See Crown above re. reimbursement of money paid re. social, health or economic programs or policies as a result of fraud, misrepresentation, error or inadvertence | 16(1)(j), (2) and (3) |
| Student Loans | See Medical Resident Loans above | 16(1)(k) and (3) |
| Support | Obtaining or enforcing support under the <i>FLA</i> or domestic contract | 16(1)(c) |
| Welfare | See Crown above re. <i>Ontario Works Act, 1997</i> | 16(1)(j)(ii), (2) and (3) |

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Download: Rules of Civil Procedure Amendments Table & SABS Time Periods charts at www.virtualassociates.ca

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¹ See *McConnell v. Huxtable*, 2014 CarswellOnt 1152, 2014 ONCA 86, [2014] O.J. No. 477 (C.A.) in which the Ontario Court of Appeal clarifies the relationship between the *Limitations Act, 2002* and the *Real Property Limitations Act* in the context of unjust enrichment claims between common law spouses. The Court of Appeal had to decide: (a) whether the two year limitation period in the *Limitations Act, 2002* applied, thus rendering the action statute barred; (b) whether the ten year limitation period under s. 4 of the *Real Property Limitations Act* applied, thus rendering the action 'safe' as having been commenced on time; or (c) whether neither Act applied, leaving a 'legislative gap' such that there is no statutory limitation period. Rosenberg J.A. agreed with the motions judge that clearly the claim was an 'action' to 'obtain' a right to the property, and that the language of s. 4 of the *Real Property Limitations Act* is broad enough to encompass an equitable claim for property based on the remedy of constructive trust.

² See the case of *Boyce v. Co-operators General Insurance Co.*, 2013 CarswellOnt 5736, 2013 ONCA 298, 228 A.C.W.S. (3d) 834, 116 O.R. (3d) 56, 307 O.A.C. 28, 22 C.C.L.I. (5th) 1, [2013] O.J. No. 2568 (C.A.) for clarification of the enforceability of contracts of insurance which purport to shorten the two year limitation period set out in s. 4 of the *Limitations Act, 2002*. The Court of Appeal clarifies s. 22 of the *Limitations Act, 2002*, which is the general rule (and exceptions to it) which forbids "contracting out" of the general two year limitation provision found at s. 4. The Appeal Court held firstly that a term purporting to shorten the limitation period must "in clear language" describe the limitation period, identify the scope of the application of it, and exclude the operation of other limitation periods. Unless the term is in the contract and meets those requirements, the two year limitation period will apply. Secondly, the "business agreement" exception will not apply to persons defined as "consumers" in the *Consumer Protection Act, 2002*, who enter into agreements for personal, family or household purposes. In those situations, the two year limitation will apply. Note, leave to appeal to the Supreme Court of Canada was refused: 2013 CarswellOnt 14166; [2013] S.C.C.A. No. 296 (S.C.C.).

Kassburg v. Sun Life Assurance Co. of Canada, [2014] O.J. No. 6222, 2014 ONCA 922 (C.A.) is a decision of the Ontario Court of Appeal which applied *Boyce, supra* to determine whether a contractual limitation period failed for uncertainty/ambiguity. The Court of Appeal agreed with the motions judge that the one year limitation period in an LTD insurance policy was ambiguous and thus unenforceable, as it expressed the limitation period differently in two different places. The Contract Document provided that time started to run from "the end of the time period in which proof of the claim is required", and the Booklet provided it ran from "after the date [the insurer] must receive [the insured's] claim forms". The insurer further argued that the limitation period began to run in 2008 when the plaintiff was first denied her benefits, and thus the claim (issued in 2012) was statute-barred no matter which limitation period applied. Again, the appeal court found no reason to disagree with the conclusion of the motions judge that the two year limitation period began to run when the plaintiff was advised, in 2011, that her claim for benefits was denied at the "third and final appeal level".

Also of note, the Supreme Court of Canada in *Lombard General Insurance Company of Canada v. Schmitz*, [2014] S.C.C.A. No. 143 dismissed the application for leave to appeal the decision of the Ontario Court of Appeal in *Schmitz (Litigation guardian of) v. Lombard General Insurance Co. of Canada*, [2014] O.J. No. 531, 2014 ONCA 88, 315 O.A.C. 187, 31 C.C.L.I. (5th) 1, 118 O.R. (3d) 694, 237 A.C.W.S. (3d) 484, 2014 CarswellOnt 1177. This case involved the underinsured coverage under OPCF 44R. At issue on appeal was whether the 12 month limitation period applied as per s. 17 of OPCF 44R, or whether the two year period applied as per s. 4 of the *Limitations Act, 2002*. Also at issue was when the period of time commenced. The motion judge held that the period of two years applied, and that it commenced when the claimant made a request for the compensation provided for by OPCF 44R. The Court of Appeal dismissed the insurer's appeal, but made a minor amendment to the Order, holding that the time began to run the day after the demand for indemnification is made, as the insured only suffers a loss once the insurer has failed to satisfy its legal obligation.

³ See *Tomec v. Economical Mutual Insurance Company*, 2019 ONCA 882 which, although decided under predecessor legislation (the former s. 281.1(1) of the *Insurance Act* and s. 51(1) of the *Statutory Accident Benefits Schedule – Accidents on or After November 1, 1996*), is arguably applicable to the identical current legislation (s. 280(2) of the *Insurance Act* and s. 56 of the *Statutory Accident Benefits Schedule – Effective September 1, 2010*). The case held that the hard two-year limitation period outlined in those sections is subject to the discoverability rule.

⁴ It is a common misconception that a claim grounded in fraud has no limitation period. Civil litigators who should ever have occasion to represent a plaintiff bringing a fraud action - as well as those representing a defendant on the receiving end of a fraud action - should know that the two year limitation applies to these cases. Of course, the very nature of fraudulent activity means that the actions of the wrongdoer were at one point being deliberately concealed. Thus, the discoverability principles will likely be in play when determining the commencement of the limitation period. For some appellate level cases on this issue, see: *Dynamic Fuel Systems Inc. v. Synergic Distribution Inc.*, [2013] O.J. No. 2708, 2013 ONSC 4081, 2013 CarswellOnt 7897, 229 A.C.W.S. (3d) 95 (Div. Ct.) and *Portuguese Canadian Credit Union Ltd. (Liquidator of) v. Pires*, [2012] O.J. No. 2215, 2012 ONCA 335, 2012 CarswellOnt 6250, 216 A.C.W.S. (3d) 473 (C.A.).

Special Circumstances Until the Ontario Court of Appeal's decision in *Joseph v. Paramount Canada's Wonderland* (2008), 90 O.R. (3d) 401 (C.A.), many lawyers in Ontario thought they could still rely on the common law doctrine of special circumstances, which gave the Court the discretion to extend a limitation period after its expiration, if special circumstances existed. The Court of Appeal in *Joseph* has unequivocally pronounced that the doctrine no longer applies under the new *Limitations Act, 2002*. For a full article on this case, please visit <http://www.virtualassociates.ca>

Discoverability & Pleadings See the case of *Collins v. Cortez*, [2014] O.J. No. 4753, 2014 ONCA 685 (C.A.) in which the Court of Appeal confirmed that plaintiffs do not have to anticipate a limitations defence by pleading the material facts relevant to discoverability in the statement of claim

See the Supreme Court of Canada's recent decision in *Pioneer Corp. v. Godfrey*, 2019 SCC 42, a class action case brought under the *Competition Act*, R.S.C. 1985, c. C-34, which clarifies that the discoverability rule is not a universally applicable rule of limitations, but a rule of construction to aid in the interpretation of statutory limitation periods. It can therefore be displaced by clear legislative language.

The Appropriate Means As part of discoverability, keep in mind s. 5(1)(a)(iv) of the *Limitations Act, 2002* which states that a claim may be 'discovered' when the plaintiff first knew that a proceeding would be an appropriate means to remedy the injury, loss, or damage. Most recently, this argument was successful in *Presley v. Van Dusen*, 2019 ONCA 66. The Ontario Court of Appeal in that case held that the plaintiff homeowners, who had a septic system installed by the defendant contractors in 2010 and noticed problems with it as early as 2011, were entitled to rely on the expertise of the contractor, who attempted to remedy the problem over the years, before determining that a lawsuit was required to properly remedy the problem. It was held that the claim, commenced in 2015, was not statute-barred.