

# Around the Provinces: How Late Is Too Late for an OHS Prosecution to Begin?



We all know that the wheels of justice move slowly, but there are limits to how long the government can take to start a prosecution against you for an OHS violation. The deadline varies by jurisdiction and is based on 2 factors:

- The length of the so-called limitations period (which is 2 years in all but 4 jurisdictions); and
- When the clock starts to run'from the date the offence allegedly took place v. from the date the offence first came to the government's attention.

Needless to say, the "first came to the government's attention" standard (which is followed in NB, NL, NS, ON and PEI) is not only vaguer but also potentially much longer than a straight calendar count.

## OHS Limitations Periods Across Canada

Jurisd.	When OHS Prosecution Must Begin
FED	No later than 2 years after the day on which the subject-matter of the proceedings arose ( <i>Can. Labour Code</i> , Sec. 149(4))

AB	Within 2 years after the commission of the alleged offence, but not afterwards ( <i>OHS Act</i> , Sec. 74(4))
BC	No later than 2 years after the last occurrence of the act or omission on which the prosecution is based ( <i>Workers Comp. Act</i> , Sec. 99(1))
MB	No later than 2 years after the day the alleged offence was committed ( <i>WSH Act</i> , Sec. 55(5))
NB	By the LATER of 2 years after: (a) the date the offence is alleged to have been committed; and (b) the date WorkSafeNB becomes aware of the alleged offence ( <i>OHS Act</i> , Sec. 48)
NL	By WHICHEVER COMES LATER: (a) 2 years after the date on which the offence is alleged to have been committed; or (b) 2 years after the date upon which an assistant deputy minister or OHS Division officer becomes aware of the alleged offence ( <i>OHS Act</i> , Sec. 70)
NS	No more than 2 years after the LATER of: (a) the date on which the offence was committed; or (b) the date on which evidence of the offence first came to the attention of an officer ( <i>OHS Act</i> , Sec. 79)
NT/NU	No later than one year from the date on which the offence was reported to the Chief Safety Officer ( <i>Safety Act</i> , Sec. 24)
ON	No more than one year after the LATER of: (a) the occurrence of the last act or default upon which the prosecution is based; or (b) the day upon which an inspector becomes aware of the alleged offence ( <i>OHS Act</i> , Sec. 69)
PEI	Within 2 years of WHICHEVER COMES LATER: (a) the date upon which the offence is alleged to have been committed; or (b) the date upon which an officer becomes aware of the alleged offence ( <i>OHS Act</i> , Sec. 43.1)

QC	3 years from the date the cause of action arises ( <i>QC Civil Code</i> )
SK	No later than 2 years from the day of the commission of the alleged offence ( <i>Sask Emp Act</i> , Sec. 3-82)
YK	No later than one year after the commission of the alleged offence ( <i>OHS Act</i> , Sec. 46(1))