

Time Limits for an OHS Prosecution – Know The Laws Of Your Province



Ontario, the Maritimes and Quebec have the longest time window for prosecution

As with other kinds of legal proceedings, the government has only a limited amount of time to prosecute a company or individual for an OHS violation. This window is known as the 'statute of limitations,' and the longer it lasts, the greater the risks of prosecution. While 2 years is the most common statute of limitations, including in Ontario, Alberta and BC, some jurisdictions give the government only 1 year to start an OHS prosecution.

The other crucial difference is when the clock starts ticking. In most jurisdictions, the statute runs from the date the offence occurs. However, in 6 provinces'NB, NL, NS, ON, PEI, QC'the clock begins either when the offence occurs **or** the government becomes aware of it. Since it may take years for offences to be discovered, this significantly extends the limitation period. Here's a look at the rules across each part of Canada.

Statute of Limitations for OHS Prosecutions Across Canada

FEDERAL

Proceedings for OHS offence may be instituted at any time within but not later than 2 years after day on which the subject-matter of the proceedings arose (*Canada Labour Code*, Sec. 149(4))

ALBERTA

(1) AMP: Notice of administrative penalty may be given within 2 years after alleged contravention or failure to comply occurs, but not afterwards (*OHS Act*, Sec. 44(4)); **(2) Prosecution:** OHS prosecution may be commenced within 2 years after commission of the alleged offence, but not afterwards (*Act*, Sec. 48(3))

BRITISH COLUMBIA

Time limit for laying an information for an offence is 2 years after the last occurrence of the act or omission on which prosecution is based (*Workers Comp. Act*, Sec. 99)

MANITOBA

Prosecution under Act may be commenced no later than 2 years after day alleged offence was committed (*WSH Act*, Sec. 55(5))

NEW BRUNSWICK

(1) **AMP:** Notice of administrative penalty may not be issued more than 1 year after the officer first had knowledge of the contravention (*OHS Act*, Sec. 36(4)(2)); (2) **Prosecution:** Proceedings for an offence under Act may not be commenced except within the later of 2 years after the date: (a) the offence is alleged to have been committed; and (b) the Commission becomes aware of the alleged offence (*OHS Act*, Sec. 48)

NEWFOUNDLAND

OHS prosecution must be started within 2 years of whichever of the following is later: (a) the date upon which the offence is alleged to have been committed; or (b) the date upon which an assistant deputy minister or an officer of the Occupational Health and Safety Division becomes aware of the alleged offence (*OHS Act*, Sec. 70)

NOVA SCOTIA

Prosecution for an offence under the Act may not be commenced 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 (*OHS Act*, Sec. 79)

ONTARIO

No prosecution under this Act or regulations may be instituted more than 2 years 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 (*OHS Act*, Sec. 69)

PRINCE EDWARD ISLAND

Prosecution for offence under this Act must be commenced within 2 years of whichever of the following is 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 (*OHS Act*, Sec. 43.1)

QUÉBEC

Proceedings may be brought within 1 year from date on which prosecutor became aware of the commission of the offence, subject to a cap of 5 years from the date of the commission of the offence (*Industrial Accidents and Occupational*

Diseases Act, Sec. 473)

SASKATCHEWAN

No OHS prosecution may be commenced after 3 years from the day of the commission of the alleged offence (*Sask. Emp. Act, Sec. 3-82*)

NORTHWEST TERRITORIES & NUNAVUT

Proceedings for an offence under this Act may not be commenced after 1 year from the date on which the offence was reported to the Chief Safety Officer (*Safety Act, Sec. 24*)

YUKON

Prosecution under this Act may not be commenced after the expiration of 1 year after the commission of the alleged offence (*OHS Act, Sec. 46*)