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July 6, 2020

We first prepared this memo on April 7, to help collect together all the **emergency orders** that have been made under Ontario's **Emergency Management and Civil Protection Act** in relation to the **Declaration of Emergency (Ont. Reg. 50/20)** issued under it on March 18, 2020 (extended by **Ont. Reg. 105/20**, and later by orders of the government, including [the latest order extending the emergency](#) to **July 15, 2020**).

A lot has happened since then (and we have made a lot of edits to update this memo).

The Act is not new legislation. It has been around for more than a decade (finally fully enacted in 2006), and was preceded by other legislation intended to give broad powers to government during periods of dire emergency. But it was not until this year – literally, at no time before this year – that Emergency Orders have been issued. And this year has seen a very high number of them. In fact, it seems that significantly more than half of all the regulations published by the provincial government so far this year, have been published under this Act or under other statutes but in relation to the Emergency.

## The Framework

In addition to the emergency orders and regulations discussed below, the government of Ontario has issued other relevant guidelines and documentation. Important amongst these is "[A Framework for Reopening our Province](#)," which sets out the phased approach the government is taking.

- Phase 1 focused on protecting health and well-being.
- Phase 2 is intended to "restart" the Ontario economy. It consists of three stages, the first two of which we have seen implemented through Ont. Regs. 262/20 and 263/20.
- Phase 3 is the recovery phase, involving transition to a post-pandemic "new normal"

At the time this version of this memo is published, Ontario is in Phase 2, Stage 2. The stated aim is to "allow more people to get back to work safely while not overburdening the critical services that support families, workers and Ontario's economy." More information about Phase 2, Stage 2 can be found [here](#).

## Emergency Orders – Overview

*Note, in this memo, some regulations putting emergency orders into effect are only discussed within the paragraphs describing other regulations that they modify. The first reference to a regulation is always set out in bold lettering.*

### ONTARIO REGULATION 51/20 – CLOSURES **[REVOKED]**

Ont. Reg. 51/20 ordered the closure of a wide variety of facilities and institutions. Modifications were made to this order by several later regulations including **Ont. Regs. 78/20, 100/20, 155/20, 183/20, 244/20, 246/20, and 257/20**. This order was revoked on June 12, 2020, by **Ont. Reg. 264/20**. Other emergency orders amended and replaced many of its provisions.

### ONTARIO REGULATION 52/20 - GATHERINGS

This order, issued simultaneously with Ont. Reg. 51/20, remains in force. It originally prohibited public events of more than 50 people, including worship services. On March 28, **Ont. Reg. 99/20** was issued reducing the permitted size of gathering to 5 people, and expanding the effect of the order to include any social gathering, including events in private homes, as well as public events (such as parades) and religious services. Exceptions were specified for gatherings of "members of a single household" (note, this exemption was for *households*, not *families*; family members who reside separately would not be considered members of the same household) and for funerals provided no more than 10 persons are in attendance.

**Commencing June 12, 2020, Ont. Reg. 276/20 amended the order again to permit gatherings of up to 10 people.** The 10-person limit does not apply to places of business and business events permitted to be open or take place under the most current closure orders. The order also provides an exception for weddings, funerals and religious services, provided that the number of people in attendance is not more

than 30% of the capacity of the room in which it takes place, that all attendees maintain the 2-meter physical distancing rule, that other instructions and recommendations of public health officials are observed, and that the washrooms available for people are cleaned and disinfected “as frequently as is necessary to maintain a sanitary environment.”

Ont. Reg. 276/20 continues and amends the permission that was granted under **Ont. Regs. 222/20** and **239/20** permitting larger gatherings for religious services where people remain within their individual vehicles, provided certain restrictions are met, including: people must remain in their vehicles (other than to use a washroom or as needed for health and safety); the vehicles must be “designed to be closed to the elements”; only the members of one household may be in a vehicle; and no persons may exchange any “materials” (this, of course, restricts such rituals as the traditional Eucharist). An exception is made for people whose religious beliefs prohibit them from using motorized vehicles (such as “Old Order” Mennonites), provide they do not exit their non-motorized vehicles.

#### **ONTARIO REGULATION 66/20 - INFECTIOUS DISEASE EMERGENCY LEAVE**

While these emergency orders have been enacted, the government of Ontario has also made numerous regulatory changes under other legislation. Often, these appear to be designed to facilitate the purposes of the emergency orders, even if the changes appear as permanent additions to or deletions from existing regulations. One of interest is this regulation made under the *Employment Standards Act, 2000*, adding disease caused by a novel coronavirus, such as SARS, MERS and COVID-19, to the list of infectious diseases justifying emergency leave without pay.

#### **ONTARIO REGULATION 68/20 – CHIEF MEDICAL OFFICER’S DIRECTIONS (RETIREMENT HOMES)**

This regulation made under the *Retirement Homes Act, 2010*, requires reasonable compliance with directions and recommendations given to retirement homes by Ontario’s Chief Medical Officer.

#### **ONTARIO REGULATION 73/20 – LIMITATIONS AND DEADLINES IN PROCEEDINGS**

This order created quite a buzz in the condominium community, and a great deal of uncertainty about the status of condominium lien proceedings, essentially freezing all limitation periods and all deadlines relating to a “proceeding” or “intended proceeding” in “any statute, regulation, rule, by-law or order of the Government of Ontario.” (There emerged no absolute consensus among condominium lawyers as to whether this actually impacts deadlines associated with lien notice and registration periods set out in the *Condominium Act, 1998*, other than the perspective that, out of an abundance of caution, such deadlines should be treated as still in effect.)

**Ont. Reg. 259/20** extended the effectiveness of this order (Ont. Reg. 73/20) to September 11, 2020.

**Ont. Reg. 258/20** clarified who is entitled to exercise discretion to suspend provisions relating to time periods for steps in proceedings.

**Ont. Reg. 194/20** expanded the scope of this order to cover by-laws made by the boards of hospitals under the Public Hospitals Act that relate to the hospital’s credentialing process, which relates to the provisions of Ont. Reg. 193/20 (discussed below).

**Ont. Regs. 137/20** and **149/20** suspended the operation of this order with respect to various planning and construction related laws and statutes. **Ont. Reg. 278/20** further amended the *Planning Act* suspensions granted under Ont. Reg. 149/20.

#### **ONTARIO REGULATION 74/20 – HEALTH CARE WORKERS**

This order permits certain health service providers (including public or private hospitals, and psychiatric facilities) to ignore many regular terms of employment (such as schedules, assignments, vacations, etc.), including those set out in collective agreements (including suspending grievance processes), in order to deploy staff to help prevent or alleviate an outbreak of COVID-19 for patients. The order was amended by **Ont. Reg. 174/20** to accommodate the assignment of staff from health service providers to long-term care homes without changing their employment status with the health service provider.

#### **ONTARIO REGULATION 75/20 – DRINKING WATER AND SEWAGE SYSTEMS**

Amongst other things, this order expands and suspends restrictions on certifications for the operation of drinking water and sewage systems, and grants broad authority to their operators to handle the deployment of staff despite any otherwise applicable terms of employment, including collective agreements, in order to ensure their safe and continued operation despite the pandemic outbreak.

#### **ONTARIO REGULATION 76/20 – ELECTRONIC SERVICE**

Under this order, documents to be served on the Crown (i.e., any MP, the Attorney General, the Children’s Lawyer, the Public Guardian and Trustee, and the Director of the Family Responsibility Office) may be served electronically, other than in respect of criminal proceedings.

### ONTARIO REGULATION 77/20 – LONG-TERM CARE HOME WORKERS

The kind of authority granted to hospitals, etc., under Ont. Reg. 74/20, is in this order also given to the operators of long-term care homes, whether run by a municipality or other organization or person. **Ont. Reg. 147/20** made a minor amendment to ensure this order would be consistent with Ont. Reg. 146/20 (mentioned below). It can also be noted that **Ont. Reg. 72/20** also made various complementary changes under the *Long-Term Care Homes Act, 2007*, addressing qualifications for and regulation of employees during a pandemic.

### ONTARIO REGULATION 79/20 – LONG-TERM CARE HOME WORKERS

This regulation under the *Legislation Act, 2006*, permits electronic filing of regulatory changes, reflecting an unsurprising desire to enact greater efficiency in the process during a period of social- and physical-distancing, but not just for these times.

### ONTARIO REGULATION 80/20 – ELECTRICITY PRICING FOR RPP CONSUMERS

For consumers whose costs of electricity are controlled by a Regulated Price Plan (in place in Ontario since 2005), all rates referred to in the plan were set by this regulation at 10.1 cents per kilowatt hour. This will not affect the cost of hydro for condominiums or other consumers that have opted to pay “spot pricing” or are enrolled in a retailer contract rather than being subject to a Regulated Price Plan.

In a press conference on May 5, 2020, Ontario’s Premier Ford confirmed that this order will be extended. To that end, on May 29, 2020, **Ont. Reg. 243/20** provided that the rate to apply from June 1 until “the last instant of the day immediately preceding the day on which this Order is revoked,” is 12.8¢/kWh. Although the regulation does not provide a specific end date, the government [announced](#) that this rate would apply from June 1 to October 31, 2020.

### ONTARIO REGULATION 82/20 – CLOSURE OF NON-ESSENTIAL BUSINESSES

#### NAME CHANGE → PER ONT. REG. 262/20 – STAGE 1 CLOSURES

The introduction of **Ont. Reg. 262/20** made significant changes to this regulation. When originally introduced, Ont. Reg. 82/20 caused a lot of buzz in the twitter-verse, as it identified a list of “essential businesses” that are permitted to stay open, while all other businesses are required to be closed (subject to temporary access required by law, for inspections, maintenance or security purposes, or to access matters or materials that cannot be dealt with remotely). (For condominiums, most of their primary service providers, including condominium managers, were entitled to continue working throughout the emergency period, despite some restrictions, such as those that affected landscaping service providers, unit cleaning services, and workers on some renovation projects).

To facilitate the gradual reopening of the Ontario economy, the list of essential businesses (revised somewhat under **Ont. Regs. 119/20, 136/20, 153/20, 196/20, 200/20, 203/20, 219/20, 223/20, 238/20, 255/20** and other regulations as mentioned elsewhere in this memo) was and remains very broad, so not as many workplaces are under mandatory shut-down as could be, though many voluntarily remain closed to maintain social or physical distancing, for the safety of clients, customers and staff.

The revisions to this order gradually permitted such places as campsites, golf courses and marinas to open, subject to certain restrictions from time to time. For example, campsites were permitted to open in early May provided they were fully equipped with utility services, close all potentially shared services, are for use by only trailers and RV’s, and are only provided for people who do not have any other residence in Canada. On May 19, **Ont. Reg. 221/20** amended both this order and Ont. Reg. 51/20, to permit the reopening of some indoor recreation facilities, namely: indoor golf ranges, shooting ranges, and horse riding facilities (although locker rooms and showers in those facilities are to remain closed). There have been some complaints that the recreational opportunities that have been prioritized for reopening are typically those used by wealthier members of society, while the less wealthy are experiencing a lack of available recreation while parks and other free or affordable public activity areas remained closed. However, as of May 19, some other indoor team sport facilities as well as outdoor facilities such as baseball diamonds, soccer fields, skate parks and basketball courts also reopened, some of which are typically free or available for public use. Public libraries were reopened provided they provide only curbside pick-up and delivery of materials. Also see below in this memo regarding **Ont. Reg. 224/20**, which opens a variety of outdoor amenities, including dog parks and picnic shelters. Later new orders have reopened lodges, cabins, cottages (but not related fitness centres, pools and other facilities).

The reopening of businesses such as car dealerships, automated and self-service car washes, lawn care and landscaping services, pet-related services including training and grooming, film and music production facilities, and drive-in movie theatres, has also been dealt with, as well as the reopening of a range of construction projects and property maintenance services. The May 7 revision to this order further allows (amongst other changes) any retail business to reopen, provided (a) the store has a street-facing entrance, (b) sales are made only by delivery or curbside pick-up, and (c) the public are not permitted inside the store, except in exceptional circumstances (which are undefined). On May 19, paragraph (c) was revised

to allow a limited number of customers into the stores. Rules relating to fitting-room use were also spelled out. The May 29 regulation reopening drive-in movie theatres includes several restrictions on movement within the facility and prohibits the sale of refreshments or exchange of materials between people who are not members of the same household (other than fare for admission). (The opening of drive-in movie theaters was also supported by Ont. Reg. 246/20, which also confirmed that other kinds of theatre remain closed.)

**Ont. Reg. 262/20** not only changed the name of this regulation, as noted above, but also commenced more extensive re-openings starting June 12, 2020, within applicable jurisdictions. As of June 25, Stage 1 applied to only the Municipality of Leamington and the Town of Kingsville. The balance of the province has entered Stage 2. (Changes in the list of affected jurisdictions have been made by **Ont. Regs. 280/20, 300/20** and **303/20**.)

At Stage 1, the reopening includes public libraries and day camps for children, with certain restrictions, home childcare services, certain community centres and sports/recreational facilities, and in-person courses at universities and colleges (provided only students formally enrolled in a program and for courses required for graduation). Day camps for children were added to the list by **Ont. Reg. 300/20** effective June 24, 2020, provided they meet safety guidelines for COVID-19 for summer day camps produced by the Office of the Chief Medical Officer of Health.

#### **ONTARIO REGULATION 83/20 – LONG-TERM CARE HOME RESIDENTS**

Made under the *Long-Term Care Homes Act, 2007*, this regulation permits the discharge of residents where requested by their care-givers on account of a pandemic, and also addresses matters relating to the admission of long-term care residents to hospital. In addition, there are provisions to expedite admission to long-term care during a pandemic where hospitals experience “severe capacity pressures”.

#### **ONTARIO REGULATIONS 88/20 & 90/20 – TIME PERIODS UNDER HIGHWAY TRAFFIC ACT**

These two regulations provide for the extension of time periods for applying for new licenses and renewals of accessible parking permits.

#### **ONTARIO REGULATION 89/20 – TRAFFIC MANAGEMENT**

Under this regulation, Ministry of Transportation officers are granted police-like powers to do such things as direct traffic and close highways. The order also provides for the creation of emergency parking locations (provided the location is not a residential or farm property) and authorizes the Ministry to assign duties to its officers without regard to existing employment contracts, policies or collective agreements.

#### **ONTARIO REGULATION 92/20 – SUPPLY CHAIN MANAGEMENT**

By this regulation under the *Supply Chain Management Act (Government, Broader Public Sector and Health Sector Entities), 2019*, the Ministry of Government and Consumer Services is designated as the supply chain management entity in respect of government entities and broader public sector entities for the purpose of responding to COVID-19 and any issues related to the response to and recovery from it, and the Ministry of Health is granted the same role in relation to health sector entities. Basically, this is the “putting the government in charge” regulation.

#### **ONTARIO REGULATION 95/20 – LONG-TERM CARE HOMES**

This order relieves long term care home operators of a significant array of duties, including the duties to report changes to residents’ care plans, engage in as frequent care conferences and patient examinations, or to report complaints other than “critical incidents” and other reports considered mandatory under relevant legislation. The order does not make care homes a ‘free for all’ and does continue to require attention to the safety, well-being and consent of residents. The intention is to provide flexibility to the homes to address the needs of residents on account of the COVID-19 pandemic. Given, however, that families are now unable to as easily, if at all, visit their relatives who reside in such facilities, and the susceptibility of such facilities to outbreak, it is easy to imagine there is great concern amongst them that operations are proceeding in the best and most safe manners, despite such flexibility and relaxation of reporting and other bureaucratic requirements.

#### **ONTARIO REGULATION 98/20 – PRICE GOUGING**

We probably all remember Premier Ford expressing his disgust and contempt for companies and individuals seeking to set extraordinarily high prices on important commodities (during the outbreak) such as hand sanitizer. The order contained in Ont. Reg. 98/20 was the response to that. It prohibits “unconscionable” pricing of a range of goods deemed “necessary”, including protective masks and gloves, non-prescription medications that treat COVID-19 symptoms, disinfectant agents, and personal hygiene products (including soap and toilet paper).

#### **ONTARIO REGULATION 104/20 – OUTDOOR RECREATIONAL AMENITIES**

Consistent with the earlier closure of facilities providing indoor recreational facilities, this order closed outdoor ones – parks, sports fields, dog parks, picnic sites, etc. – until further notice. Under **Ont. Regs.**



**143/20** and **165/20** the effective date for this order was extended to May 6. However, on April 25, the Deputy Premier and Minister of Health announced that this date would be further extended to May 31. On April 27, **Ont. Reg. 175/20** amended this order to permit use of allotment and community gardens provided such use is in compliance with the advice, recommendations and instructions of public health officials. As noted above, a further amendment was made effective May 19 by **Ont. Reg. 224/20**, which opened certain outdoor sports amenities (not include pools and water parks), off-leash dog parks, and picnic sites in (though sports equipment in parks remains off-limits), provided that safe physical distancing continues to be practiced. This order was revised by **Ont. Reg. 265/20**, effective June 12, 2020, which made changes consistent with **Ont. Reg. 263/20** and **Ont. Reg. 264/20**, to ensure the provisions affecting playgrounds and other outdoor recreational amenities are dealt with consistently across all the jurisdictions set out in those memos.

#### **ONTARIO REGULATION 106/20 – EXTENSIONS AND RENEWALS OF ORDERS**

This catch-all regulation has been used and modified from time to time to extend the termination, or revocation, dates of other orders. Amendments to this regulation have been made each time the emergency period was extended, by **Ont. Regs. 138/20, 143/20, 165/20, 199/20, 220/20, 226/20, 247/20, 259/20, 264/20, 281/20, and 323/20**. **The latest amendment extended all applicable orders to July 10, 2020.**

#### **ONTARIO REGULATION 107/20 – CORPORATION MEETINGS**

This order extends or suspends requirements for corporations subject to the *Corporations Act* and *Business Corporations Act*, to hold annual general meetings, and permits directors to hold meetings by teleconference or electronic means. This order did not include condominium corporations, though most condominiums, as advised by their legal counsel, are foregoing meetings or finding alternative means of holding them. It is possible that the government opted to leave condominiums out of this order since they already have capacity to authorize remote methods of meeting by by-law; however, not all corporations have done so. On April 24, 2020, an Order in Council (**Ont. Reg. 178/20**) was passed amending this order by making further changes to the provisions of the *Corporations Act* and *Business Corporations Act*, adding substantial details with respect to what is provided to shareholders or members, and the means of voting, and also making changes to the *Co-operative Corporations Act* and the *Condominium Act, 1998*.

For co-operative corporations (including non-profit housing co-operatives), these changes mean that regardless of whether the corporation's governing documents allow it, member meetings may be held by telephonic or electronic means. A member *either voting in or linking to* the meeting is deemed to be present at the meeting. The order provides that "telephonic or electronic means" means "telephone calls or messages, facsimile messages, electronic mail, transmission of data or information through automated touch-tone telephone systems, transmission of data or information through computer networks, any other similar means or any other prescribed means," however, the order also states that for the purpose of members or owners meetings, the means used for the meeting must provide that all attendees are able to hear each other. The order provides further directions relating to board meetings by telephonic or other means, the information to be laid before members at its annual meeting, and the method of election.

For condominium corporations, the changes impact methods of meeting, the contents, timing and service of a notice of a meeting, the timing of annual general meetings. For a detailed discussion of these changes, see our other Good Advice memo, linked [here](#). (An abbreviated version listing the key changes is [here](#).)

**NOTE:** The changes made under this order have since been enacted as legislation, found [here](#). The specific impacts on the *Condominium Act, 1998*, are explained [here](#).

#### **ONTARIO REGULATION 114/20 – ENFORCEMENT OF ORDERS**

By this order, the police and other provincial offenses officers have authority to obtain the name, birthdate and address of any person reasonably believed to have committed an offense under section 7.0.11 of the Act by failing to comply with, or interfering with or obstructing anyone in the performance of a duty under, an emergency order issued under the Act. The potential consequence of such non-compliance or interference for most people is a fine of up to \$100,000 or imprisonment for up to one year. A director of a corporation is liable to a fine of up to \$500,000, and a corporation may be fined up to ten million dollars. Each day on which non-compliance occurs is considered a separate offense.

#### **ONTARIO REGULATION 115/20 – EXEMPTIONS TO ENVIRONMENTAL PROTECTION [REVOKED]**

Relying on the regulatory authority under the *Environmental Bill of Rights, 1993*, this regulation exempted new legislative proposals from Part II of that Act, which provides for public participation in government decision-making. It also exempted ministries from the requirement to take "every reasonable step to ensure that the ministry statement of environmental values is considered whenever decisions that might significantly affect the environment are made in the ministry". Various reporting deadlines under the *Environmental Protection Act* were also extended under **Ont. Reg. 218/20**. While **Ont. Reg. 115/20** was revoked on June 15, 2020, under **Ont. Reg. 277/20**, **Ont. Reg. 218/20** remains in force.

**ONTARIO REGULATION 116/20 – BOARDS OF HEALTH**

This order gives the same kind of authority over staffing matters to municipal boards of health as were given to hospitals under Ont. Reg. 74/20.

**ONTARIO REGULATION 118/20 – RETIREMENT HOMES**

Similar to the preceding order and the several prior ones respecting health care facilities, this order grants authority for the operators of licensed retirement homes to flexibly manage staffing, including foregoing “screening processes,” such as police record checks, for workers, for the sake of preventing or alleviating an outbreak of COVID-19 within the facility. This order is subject to Ont. Reg. 157/20, which requires that workers can only be employed at a single retirement home.

**ONTARIO REGULATION 120/20 – ACCESS TO INFORMATION**

This order grants authority to police, fire protection officers, paramedics and some others to obtain information about the identity and infection status of a person with respect to COVID-19, from medical officers and laboratories that have that information. The Ministry of Health is also granted authority to collect, use and disclose such information (to the said authorized persons) “as may be necessary in order to prevent, respond to or alleviate the effects of the emergency.”

**ONTARIO REGULATION 121/20 – AGENCIES SUPPORTING ADULTS WITH DEVELOPMENTAL DISABILITIES**

This order falls in line with Ont. Regs. 74/20, 75/20, 77/20, 116/20 and 118/20, now granting similar rights and authority over the conditions and requirements of employment to the operators of service agencies providing support to adults with development disabilities (including, per **Ont. Reg. 176/20**, intervenor service providers), and includes the right to alter their residential arrangements “to ensure the health and safety of persons receiving service.”

**ONTARIO REGULATION 128/20 – CANNABIS**

When the government narrowed its list of essential businesses, cannabis retailers were suddenly required to close. The stores are to remain closed to customers, but this order allows delivery and pick-up of cannabis products under certain conditions, including that the location for pick-up must be outdoors, near the store, and based on pre-payment for an order. The purchaser is also required to provide an accepted form of ID and must be the person who placed the order.

**ONTARIO REGULATION 129/20 – SIGNING WILLS AND POWERS OF ATTORNEY**

Welcome news for many solicitors, this regulation suspends the usual legal requirement for the grantor/testator and witnesses to the signing of a power of attorney or will to be all present in the same place during signing. The witnesses can observe the testator signing with the use of audio-visual equipment, provided at least one witness is a licensed lawyer or paralegal. The audio-visual equipment must allow all participants to see, hear and communicate with each other in real time.

Under **Ont. Reg. 164/20**, this order was amended to accommodate execution in counterparts (avoiding the necessity of spending time distributing the original signed copy around to make sure everyone’s signature is on the same document) and permits minor, non-substantive differences in the various signed copies (such as might arise from printing on different machines or through different programs).

**ONTARIO REGULATIONS 130/20 & 131/20 – CONSTRUCTION NOISE**

These two regulations, issued on April 7 (the date we prepared the original version of this memo), were not made under the *Emergency Management and Civil Protection Act*, though they likely could have been, and have a related purpose. Ont. Reg. 130/20 prohibits the City of Toronto from regulating noise in relation to construction projects and services in the City associated with the healthcare sector at any time of day or night, and any other construction activity provided that activity only occurs between the hours of 6 a.m. and 10 p.m. Ont. Reg. 131/20 establishes the same prohibitions for the rest of the province.

On the day these regulations were introduced, Premier Ford stated, “During this escalating crisis, we are taking immediate steps to ensure the necessary infrastructure is in place, particularly to properly care for those with severe COVID-19 symptoms and other patients who require critical care. That’s why we’re extending construction hours to allow us to build essential infrastructure faster.”

It may be noted that **Ont. Regs. 70/20** and **71/20** also permanently restricted the ability of a municipality to prohibit and regulate noise made in connection with the delivery of goods in a municipality.

**ONTARIO REGULATION 132/20 – POLICE USE OF FORCE**

With surprisingly little fanfare – in fact, with no public notice of which we are aware – on April 8, 2020, this order was issued to provide greater authority to chiefs of police throughout the province to authorize use of force and use of guns by any police officer, First Nations constable, or special constable, provided the person being authorized has completed the usual training within the 24-month period prior to the authorization being given.

**ONTARIO REGULATION 139/20 – CHILD CARE FEES [REVOKED]**

This order was revoked on June 12, 2020, by **Ont. Reg. 264/20**.

Child care services that are not permitted to stay open under Ont. Reg. 82/20 (the emergency order to close non-essential businesses) cannot charge fees and cannot penalize anyone who has not paid fees during the period of closure. Child care services that are permitted to operate can only charge fees if actually providing child care. **Ont. Reg. 206/20** amends this order to also prohibit penalizing people who withdraw their children from the provider's care.

**ONTARIO REGULATION 140/20 – HEALTH SERVICE PROVIDERS AND RETIREMENT HOMES**

This order seeks to pave the way for people to be, in effect, hospitalized within their retirement home without that impacting the status of the retirement home as a retirement home (e.g., it doesn't suddenly become a hospital), and without changing legal status in relation to the type of businesses they are, or in terms of their staff. Providing hospital type services in a retirement home does not reduce the retirement home's duties for the safety and security of their residents.

**ONTARIO REGULATION 141/20 – CONSTRUCTION OF NEW TEMPORARY HEALTH SERVICES SITES**

Months behind China, which reportedly erected a new hospital in a week when responding at the start of the COVID-19 crisis, this order reduces some of the red tape involved in getting a new, but temporary, health or residential facility constructed on an urgent basis (starting from April 10, 2020). Architectural and engineering oversight are both still required, the chief building office of the applicable municipally must have received their designs and reports, and the constructed property is still subject to inspection before occupancy. Note, a related regulation – **Ont. Reg. 144/20** – exempts these temporary structures from the application of certain articles of the Fire Code under the *Fire Protection and Prevention Act, 1997*.

Unless developed truly as temporary facilities, with no intended future uses being considered, one has to wonder what will happen to these buildings later, or what hoops owners might have to go through to prove they are good to go for future conversion to other, more permanent uses.

**ONTARIO REGULATION 142/20 – NO CAMPING [REVOKED]**

Under this order, camping on public lands was prohibited, except where the camping is protected as an Aboriginal treaty right, is essential for the operation of a business that is not ordered to close under Ont. Reg. 82/20, or is otherwise permitted by written authorization. The order did not prohibit walking through public lands or other permitted (non-camping) uses. This order was revoked on June 1, 2020, by **Ont. Reg. 247/20**.

**ONTARIO REGULATION 145/20 – SERVICES DEALING WITH VIOLENCE AGAINST WOMEN**

As with other orders that allow variations in management of staff – altering assignments, work places, vacation schedules, etc. – without regard for collective or individual employment agreements, this order acknowledges the increasing concern that domestic violence and other kinds of abuse have escalated as a result of social isolation measures, and provides for flexible work arrangements for government funded facilities that provide residential and crisis line services for women subject to violence and human trafficking.

**ONTARIO REGULATION 146/20 – LONG TERM CARE HOMES – SINGLE PLACE OF WORK**

Under this order, workers in Long Term Care facilities are required to be restricted to working in just one facility, and by midnight between April 21 and April 22, the employee must inform their employers if they have work in other facilities, and the employer must ensure that they do not (even if the facility is owned and operated by the same employer).

**ONTARIO REGULATION 149/20 – SPECIAL RULES**

Primarily, this regulation is intended to give municipalities control over the timing of development and development-related applications and processes.

Made under the *Planning Act* (by virtue of the regulatory authority granted by the *Coronavirus Support and Protection Act, 2020*) rather than the *Emergency Management and Civil Protection Act*, it provides that emergency orders under s. 7.1(2) of the *Emergency Management and Civil Protection Act* (orders that suspend and can substitute the operations of statutes, regulations or other law) made after April 15, 2020, and Ont. Reg. 73/20 (the emergency order affecting limitations and other statutory deadlines), have no effect on the provisions of the *Planning Act*, its regulations, or section 114 of the *City of Toronto Act, 2006*. The order sets out special rules relating to notices required to be given under certain sections of the *Planning Act*, including notices of decision by committees of adjustment.

The order further provides that the period of the COVID-19 emergency does not impact various deadlines or time-periods set out in the *Planning Act*, and grants that if the period of time in question ended on or after March 17 and before April 15, the time period is deemed not to have ended.

**ONTARIO REGULATION 150/20 – AUTO INSURANCE REBATES**

This regulation under the *Insurance Act* permits providers of automobile insurance to issue rebates on account of the COVID-19 emergency, without it being deemed an unfair or deceptive practice.

**ONTARIO REGULATION 154/20 – DISTRICT SOCIAL SERVICES ADMINISTRATION BOARDS**

Continuing the most common theme of the orders – that of giving power to certain kinds of employers to alter work terms of their employees in order to manage or prevent outbreaks of COVID-19 – this order provides that power to the District Social Services Administration Boards, which manage social services programs such as affordable housing, Ontario Works income support, child care subsidies and women's shelters.

**ONTARIO REGULATION 156/20 – SERVICE PROVIDER ORGANIZATIONS**

Related to the order immediately above, under this order contracted service provider organizations that provide health care and related social services, such as meals, transportation, caregiver support, “friendly visiting”, security checks, and the like – but excluding personal support, homemaking and certain other community services – are entitled to accept requests from, and provide services to, a local health integration network (as defined in the *Local Health System Integration Act, 2006*) even if any law would ordinarily prohibit it in the proposed setting. Employees of such organizations are entitled to refuse to provide the requested services.

**ONTARIO REGULATION 157/20 – EMPLOYEES OF MUNICIPALITIES**

For all municipal employees who provide certain “critical services” defined in order, the municipality is entitled making staffing and employment arrangements (again, along the lines of prior emergency orders in other employment contexts) to help prevent an outbreak of COVID-19. “Critical services” includes such things as provision of drinking water, waste management, maintenance of long-term care facilities, public transportation, child care, homeless shelters and public health services. However, this order does not apply to firefighters, paramedics and other ambulance workers, the employees of drinking- or waste-water facilities, long term care home employees or persons employed as a board of health (covered by previous orders).

**ONTARIO REGULATION 158/20 – RETIREMENT HOMES – SINGLE PLACE OF WORK**

Matching the earlier order set out in Ont. Reg. 146/20, regarding workers in Long Term Care facilities, this order requires that employees in retirement homes are required to be restricted to working in just one facility, and that by midnight between April 21 and April 22, the employee must inform their employers if they have work in other facilities, and the employer must ensure that they do not (even if the facility is owned and operated by the same employer). The order takes precedence over Ont. Reg. 118/20, which granted power to manage employment arrangements.

**ONTARIO REGULATION 159/20 – AMBULANCE WORKERS**

This regulation, made under the *Ambulance Act*, entitles operators of ambulances (on land) to employee people as advanced emergency medical care assistants who do not meet all usual educational requirements, during the period of the COVID-19 emergency.

**ONTARIO REGULATION 160/20 – RETIREMENT HOMES – SINGLE PLACE OF WORK**

Another new regulation not made under the *Emergency Management and Civil Protection Act*, this regulation temporarily (till June 30, 2020) suspends restrictions on weight loads on vehicles under the Ontario *Highway Traffic Act* in certain places and for certain types of load, including medical supplies, safety and sanitation equipment, food, paper products for emergency restocking at stores, fuel, equipment for construction of temporary housing and quarantine facilities, and farm products.

**ONTARIO REGULATION 163/20 – MENTAL HEALTH AGENCIES**

The theme of giving power to employers to alter work terms of their employees in order to manage or prevent outbreaks of COVID-19 continues, as this order addresses the employment redeployment needs of government funded, not-for-profit organizations that provide community mental health and addictions services. For-profit agencies, and any agencies that do not rely on funding from the Ministry of Health or from a Local Health Integration Network, cannot rely on the provisions of this order.

**ONTARIO REGULATION 177/20 – CONGREGATE CARE SETTINGS**

Another “single place of work” order, this order provides that, commencing April 30, 2020, staff members of several service agencies that provide residential services to specified groups, including people with developmental disabilities and women in need of shelter on account of domestic violence, will be restricted to working for just one such service agency serving the same sector. Other provisions outline steps to be taken in the event of an outbreak in a residence operated by such an agency.

**ONTARIO REGULATION 179/20 – SCHOOL DAYS**

Of interest predominantly to school administrators, teachers and parents of students, this regulation made



under the Ontario *Education Act* provides that the Minister of Education may change scheduled professional activity days and examination days to regular instructional days, where those days fall between April 27 and June 30, 2020. The deadline date for 2020-2021 school calendars to be submitted to the Ministry is also extended from May 1 to a date to be named by the Minister.

#### **ONTARIO REGULATION 190/20 – ACCESS TO PERSONAL HEALTH INFORMATION**

Under this order, personal health information may be obtained by medical health officers appointed under the Ontario *Health Protection and Promotion Act*, coroners and nurses, directly from the government's electronic health records for individuals.

#### **ONTARIO REGULATION 191/20 – GLOBAL ADJUSTMENT FOR MARKET PARTICIPANTS AND CONSUMERS [REVOKED]**

Just as Ont. Reg. 80/20 adjusted electricity pricing for RPP consumers, this order regulates pricing of electricity for non-RPP Class B market participants and consumers. **Ont. Reg. 245/20** caused this order to be revoked on May 31, 2020.

#### **ONTARIO REGULATION 192/20 – DEATH CERTIFICATES**

Nurses appointed under the *Coroners Act* are authorized to issue, copy or duplicate death certificates.

#### **ONTARIO REGULATION 193/20 – HOSPITAL WORKER CREDENTIALS**

This order provides hospitals with discretion and flexibility to appoint and reappoint various medical professionals to provide services at the particular hospital where considered "reasonably necessary to respond to, prevent and alleviate the outbreak of the Virus."

#### **ONTARIO REGULATION 195/20 – LIMITING INCREASES IN COMPENSATION**

Under this order, compensation for public sector employees in certain types of work may not be increased by more than 1% on average, excluding temporary pay for work performed in relation to COVID-19 by people employed in specified workplaces including long-term care homes, hospitals, retirement homes, correctional services, and Children's Aid.

#### **ONTARIO REGULATION 205/20 – EDUCATION SECTOR STAFF**

This unusual but likely welcome order permits staff of school boards to be redeployed to assist in hospitals, long-term care homes, residential group homes for the disabled, retirement homes, and other "congregate care settings" for non-clinical work in response to the COVID-19 outbreak. Like other orders affecting employment, the school boards are giving significant latitude with respect to reorganizing assignments, vacations, schedules, and so forth, but the school board may not, however, contravene the provisions of a collective agreement unless the bargaining agent or agency has agreed to it and the school board substantially complies with that agreement. School board staff who are redeployed to work in a congregate care setting remain employees of the school board.

#### **ONTARIO REGULATION 210/20 – MANAGEMENT ORDERS FOR LONG-TERM CARE HOMES**

Under this regulation, a Director appointed under the *Long-Term Care Homes Act, 2007*, may make an order under s. 156 of the Act to order the employment of people to assist in the management of the home if at least one resident or staff member in the long-term care home has tested positive for the coronavirus (COVID-19) in a laboratory test.

#### **ONTARIO REGULATION 228/20 – INFECTIOUS DISEASE EMERGENCY LEAVE**

This regulation under the *Employment Standards Act, 2000*, protects the employment status of employees away from work, or required to take reduced hours, due to COVID-19. Employees who meet the conditions in this regulation are protected from being laid off. Also, employers who reduced work hours or wages are protected from a determination that they have constructively dismissed their employees.

#### **ONTARIO REGULATION 240/20 – MANAGEMENT OF RETIREMENT HOMES**

The *Retirement Homes Act, 2010*, already permits the Registrar to make an order appointing a manager over a retirement home where the Registrar has reasonable grounds to believe that the licensee has contravened the Act or become unable to properly operate the home. Under this regulation, the right to make such an order is extended to include "where there is a risk of harm to residents of that home related to the coronavirus (COVID-19), if at least one resident or staff member in the retirement home has tested positive for that virus in a laboratory test." A further regulation under the *Retirement Homes Act, 2010*, (**Ont. Reg. 242/20**) requires immediate reporting of any infectious disease outbreak in a licensed retirement home.

#### **ONTARIO REGULATION 241/20 – TEMPORARY PANDEMIC PAY**

This regulation supports the government's decision to offer temporary pandemic pay of \$4 per hour over their usual wages, and \$250 monthly as a lump sum, to "frontline workers". Under this regulation, such pay is to be offered without necessity of an agreement, and despite the terms of any employment or collective agreement. Further, the offer of pandemic pay is not able to be extended to anyone whose

employment position is not specifically identified in the document, “Eligible workplaces and workers for pandemic pay,” found [here](#).

### ONTARIO REGULATION 263/20 – STAGE 2 CLOSURES

While Ont. Reg. 262/20 set out details of Stage 1 re-opening, this Stage 2 regulation (as further amended by **Ont. Regs. 279/20, 299/20, 324/20 and 344/20**) provides for (amongst other things) further openings and closures within specified jurisdictions. **As of June 25, 2020, Ont. Reg. 302/20 provides that these provisions apply to all of Ontario except the Municipality of Leamington and the Town of Kingsville:** (These are short summaries of some key points from the detailed restrictions set out in the regulation. For complete details about a particular service or industry, it is best to review the actual regulation.)

- Restaurants, bars, food trucks, etc., may open provided service is provided by take-out, drive-through or delivery service, or at an outdoor dining area that satisfies other safe-distancing requirements. No dancing or singing is permitted in the outdoor dining areas. Ont. Reg. 344/20 specifies that an outdoor dining area can be partly enclosed, but at least two sides, or the ceiling and one side, must be fully open to the outdoors. **Ont. Reg. 345/20** also provided some exemptions from Planning Act requirements to facilitate municipal by-laws authorizing the opening of patios for restaurants and bars.
- Public libraries may open provided that patrons can only enter the premises for contactless drop-off or pick-up, and to access computers, photocopiers, and similar services. Patrons cannot enter into the book stacks or other library storage areas.
- Community centers for such purposes as to provide day camps for children, to allow for outdoor sports activities (other than playgrounds and play structures), use of pools and other aquatic facilities (provided a series of restrictions related to disinfection and social distancing are satisfied), and to allow for other indoor activities and services (again, provided a series of restrictions are satisfied, including prohibitions on team sports and close contact activities). Communal kitchens and dining spaces are to remain closed.
- In regard to day camps for children, they can open provided they meet the requirements of applicable, government-issued safety guidelines.
- Fitness-centres and saunas, etc., in hotels, motels and other places providing short-term accommodations are to remain closed.
- Indoor driving ranges, shooting ranges and horse-riding facilities may open, subject to meeting physical distancing requirements. Change rooms and lockers remain closed, other than for equipment storage, access to first aid, and use of washroom facilities. Marinas, boating clubs, golf courses and outdoor driving ranges also can be opened, but have a similar range of restrictions as other facilities to ensure sanitation and distancing measures are satisfied.
- Indoor sports and recreational fitness facilities can be opened for training of and competitions for amateur or professional athletes. Team sports players are limited to practices but not games or scrimmage games. Spectators are not permitted other up to one adult family member for each player under the age of 18.
- Real estate agencies may open, but cannot host or facilitate open houses.
- Personal care services, such as hair salons and aestheticians, may open, provided they meet a variety of restrictions, including that services performed on a patron’s face are not permitted, the service provider must wear PPE’s, and the patron must wear a face covering. Steam rooms, saunas, whirlpools, etc., are not allowed, though baths, hot tubs, floating pools or sensory deprivation pods can be used for a therapeutic purpose if managed by a regulated health professional. Exceptions are provided for hair and makeup services provided in relation to the film industry and photography studios.
- Shopping malls may open, though food courts are to remain closed.
- Fitting rooms in business can be used provide sanitation and distancing requirements are met.
- Campgrounds can only open if other requirements that apply to their facilities are met, sanitation requirements are met, and every person using the campground complies with social gathering restrictions.

- Concert and theatre venues remain closed, except for drive-in cinemas and other drive-in format theatres or concert venues that meet an array of safe-distancing requirements.
- Casinos, gaming halls, horse racing tracks, amusement parks and water parks all remain closed. Museums, aquariums, zoos and other similar facilities are open provided distancing and sanitation requirements are met.
- Tour guides, including guided activities such as fishing trips, wine tours, bicycle tours and so forth, may open provided groups do not exceed 10 persons (including the guide(s)), sanitation measures are undertaken, physical distancing requirements are met, and food and beverage handling is in accordance with applicant policies and public health recommendations. Names of participants must be maintained for one month following the event.

#### **ONTARIO REGULATIONS 269/20 & 275/20 – ONTARIO FOOD TERMINAL PROTOCOLS**

Under Ont. Reg. 269/20, made under the *Ontario Food Terminal Act*, the manager of the terminal is required to develop protocols to ensure the continued operation of the terminal and the prevention of the transmissions of COVID-19 at the terminal. Ont. Reg. 275/20 requires any person entering the terminal to comply with the protocols created by the manager of the terminal.

#### **ONTARIO REGULATION 318/20 – DISEASE REPORTING**

This regulation amends Regulation 569 under the *Health Protection and Promotion Act*, in regard to information required to be included in mandatory reports by health professionals on a person who has, may have or is a carrier of a disease, by adding COVID-19 to the list of diseases, and including race, income level, household size, and language as factors to be included in the reports relating to that disease.

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**Although it appears the peak output of emergency orders has been reached, and we are well on our way down the road to reopening society, the state of emergency due to COVID-19 continues. There will undoubtedly be more orders to come. We'll continue to make the effort to update this memo regularly. In the meantime, if you have questions about how any of these orders specifically affect you or your interests, you should speak with us or other qualified legal counsel.**

*NOTE: Not every relevant regulation under a statute other than the Emergency Management and Civil Protection Act is covered here, such as the several that extend expiry dates or other procedural deadlines for specific activities, agencies, businesses and licenses, or that alter provisions relating to credentials for work during the emergency period, or that amend certain social assistance benefits, or the several that alter zoning regulations for a number of municipalities, all of which are important for specific purposes but are of less general interest than the ones we have included. There are several industry specific outlines of the impacts of various orders. For example, the Financial Services Regulatory Authority of Ontario, provides [this](#) helpful outline of many critical orders affecting the Pension Sector (in respect of which there have been numerous regulatory changes).*

See our “Parting Thoughts” on the following page.

## *Parting thoughts...*

*While we can recognize, and trust, that the reactions of our government to the COVID-19 pandemic, and each emergency order issued under the Emergency Management and Civil Protection Act, are well-intentioned, strive to protect the most vulnerable among us, and are reasonably measured, the content of these various orders should also give us pause for serious reflection.*

*These orders are a reminder that many of the things we take for granted as “rights” (such as the terms of our employment, collective agreements, mobility in and outside of our homes, and so forth) are, in fact, privileges granted at the discretion, or largesse, of the state. If nothing else, this reflection should stir in us appreciation for the liberties that we commonly enjoy, and motivate our commitment to preserve and protect those liberties during times when we are not under threat of looming tragedy, such as a pandemic or war.*

*Particularly, we should be moved to appreciation for and support of the democratic traditions and institutions that allow us to seek to put in the offices of greatest authority and trust, people who we believe will conduct themselves with consistent good faith and honesty, and never seek to abuse the extraordinary powers that are, in fact, available to them.*