
END OF COVID-19 EMERGENCY IN ONTARIO UNDER NEW REOPENING LEGISLATION

July 30, 2020

Ontario's *Bill 195, Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* (the "*Reopening Ontario Act*")¹ came into force on July 24, 2020. The *Reopening Ontario Act* ends the COVID-19 declared emergency in Ontario.² However, a number of emergency orders previously made under sections 7.0.2 and 7.1 of the *Emergency Management and Civil Protection Act* (the "EMCPA"),³ in response to COVID-19, are continued under the *Reopening Ontario Act* for 30 days (the "Continued Orders").⁴ A comprehensive list of the Continued Orders is set out in the following pages, and includes, for example, Orders respecting Stage 1, 2 and 3 rules, and limitations periods.

Where any Continued Orders have not been revoked by the Lieutenant Governor in Council during the initial 30-day period, the *Reopening Ontario Act* allows the Lieutenant Governor in Council to extend those Continued Orders for additional periods of up to 30 days,⁵ and also amend the Continued Orders in a way that would have been authorized under section 7.0.2 of the EMCPA if the COVID-19 declared emergency were still in effect. This is, however, subject to the provisions of the *Reopening Ontario Act*, which provides that the amendment must either require persons to act in compliance with any advice, recommendation or instruction of a public health official, or must relate to i) closing or regulating any

¹ *Bill 195, Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, 1st Sess, 42nd Leg, Ontario, 2020 (assented to 21 July 2020), S.O. 2020, c. 17, online: <https://www.ontario.ca/laws/statute/20r17>

² *Ibid*, s 17, refers to the emergency declared pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on 17 March 2020 pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*.

³ R.S.O. 1990, c. E.9, online: <https://www.ontario.ca/laws/statute/90e09>

⁴ *Supra* note 1, s 3(1).

⁵ *Ibid*, s 3(2).

place, whether public or private, including any business, office, school, hospital or other establishment or institution; ii) providing for rules or practices that relate to workplaces or the management of workplaces, or authorizing the person responsible for a workplace to identify staffing priorities or to develop, modify and implement redeployment plans or rules or practices that relate to the workplace or the management of the workplace, including “credentialing processes” in a health care facility; or iii) prohibiting or regulating gatherings or organized public events.⁶

The following is a list of Continued Orders that may be amended by Lieutenant Governor in Council under the *Reopening Ontario Act*:

- O. Reg. 364/20 Rules for Areas in Stage 3
- O. Reg. 363/20 Stages of Reopening
- O. Reg. 263/20 Rules for Areas in Stage 2
- O. Reg. 205/20 Education Sector
- O. Reg. 195/20 Treatment of Temporary Covid-19 Related Payments to Employees
- O. Reg. 193/20 Hospital Credentialing Processes
- O. Reg. 177/20 Congregate Care Settings
- O. Reg. 163/20 Work Deployment Measures For Mental Health and Addictions Agencies
- O. Reg. 158/20 Limiting Work to a Single Retirement Home
- O. Reg. 157/20 Work Deployment Measures For Municipalities
- O. Reg. 156/20 Deployment of Employees of Service Provider Organizations
- O. Reg. 154/20 Work Deployment Measures For District Social Services Administration Boards
- O. Reg. 146/20 Limiting Work to a Single Long-Term Care Home
- O. Reg. 145/20 Work Deployment Measures For Service Agencies Providing Violence against Women Residential Services and Crisis Line Services
- O. Reg. 121/20 Service Agencies Providing Services and Supports to Adults with Developmental Disabilities and Service Providers Providing Intervenor Services
- O. Reg. 118/20 Work Deployment Measures In Retirement Homes
- O. Reg. 116/20 Work Deployment Measures For Boards of Health
- O. Reg. 98/20 Prohibition on Certain Persons Charging Unconscionable Prices for Sales of Necessary Goods
- O. Reg. 95/20 Streamlining Requirements for Long-Term Care Homes
- O. Reg. 82/20 Rules for Areas in Stage 1
- O. Reg. 77/20 Work Deployment Measures In Long-Term Care Homes

⁶ *Ibid*, s 4. The term “credentialing process” is defined under subsection 4(4) as “the activities, processes, procedures and proceedings for appointing and reappointing health care staff and determining the nature and scope of privileges assigned to them.” Further, subsection 4(6) states that, for greater certainty, an amendment to an emergency order may impose more onerous or different requirements, including in different parts of the Province or extend the application of the order being amended, including the geographic scope of the order and the persons it applies to. Subsection 4(7) provides that an amendment may be retroactive.

- O. Reg. 74/20 Work Redeployment for Certain Health Services Providers
- O. Reg. 73/20 Limitation Periods

However, the following Continued Orders *may not* be amended by Lieutenant Governor in Council under the *Reopening Ontario Act*:⁷

- O. Reg. 75/20 Drinking Water Systems and Sewage Works
- O. Reg. 76/20 Electronic Service
- O. Reg. 80/20 Electricity Price for RPP Consumers
- O. Reg. 114/20 Enforcement of Orders
- O. Reg. 120/20 Order Under Subsection 7.0.2 (4) of the Act — Access to COVID-19 Status Information by Specified Persons
- O. Reg. 129/20 Signatures in Wills and Powers of Attorney
- O. Reg. 132/20 Use of Force and Firearms in Policing Services
- O. Reg. 141/20 Temporary Health or Residential Facilities
- O. Reg. 190/20 Access to Personal Health Information by Means of the Electronic Health Record
- O. Reg. 192/20 Certain Persons Enabled to Issue Medical Certificates of Death
- O. Reg. 210/20 Management of Long-Term Care Homes in Outbreak
- O. Reg. 240/20 Management of Retirement Homes in Outbreak
- O. Reg. 241/20 Special Rules Re Temporary Pandemic Pay
- O. Reg. 345/20 Patios

The powers of the Lieutenant Governor in Council to extend or amend the Continued Orders will cease to apply on the first anniversary of the day the orders are continued under the *Reopening Ontario Act*.⁸ As well, the Lieutenant Governor in Council may revoke any Continued Orders under the *Reopening Ontario Act*.⁹

Provisions of the EMCPA regarding the scope and application of emergency orders, including provisions regarding the collection and use of personal information, are also extended to the Continued Orders.¹⁰ As well, the *Reopening Ontario Act* contains enforcement provisions, including penalties for failure to comply with any Continued Orders similar to the penalties available under the EMCPA.¹¹

⁷ *Ibid*, s 4(5).

⁸ *Ibid*, s 8(1). Subsection 8(2) provides that the Legislative Assembly may, by resolution, extend this one year period for additional periods of no more than one year. Sections 11-13 provide reporting requirements on the Premier, or a Minister to whom the Premier delegates the responsibility, to regularly report to the public and the Legislative Assembly.

⁹ *Ibid*, s 5.

¹⁰ *Ibid*, s 7.

¹¹ *Ibid*, ss 9-10.

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