

CONSTRUCTION LAW CHANGES IN ONTARIO

As of May 6, 2018

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On March 15, 2018 Premier Kathleen Wynne announced that the Legislature would be prorogued and that a new speech from the throne would be read on Monday March 19, 2018. The result of this proceeding is to cancel all bills that had not received Royal Assent prior to March 15, 2018.

A speech from the throne was read on March 19, 2018, the first day for resumed sittings after the prorogation of the Legislature.

Provincial Government Bills *2nd Session, 41st Parliament*

Bill 194 Fairness in Procurement Act, 2018

(Eleanor McMahon, President of the Treasury Board)

This Bill if passed would enable the Provincial government to respond to unreasonable pro-American procurement policies by offending American jurisdictions by imposing additional restrictions on the procurement of by the Ontario government of goods and/or services from US jurisdictions.

- Royal Assent received on March 8, 2018

3rd Session 41st Parliament

Bill 3, Pay Transparency Act, 2018

(Flynn, Hon Kevin, Minister of Labour)

This Bill is identical to Bill 203 introduced in the prior sitting of the Legislature on March 6, 2018 but did not progress beyond first reading.

This Bill is of general interest and not specific to the construction industry. If passed, it would require employers to disclose compensation ranges for both current and prospective employees and also require employers to prepare and file reports on pay transparency and equity.

- First reading March 20, 2018
- Second reading carried April 12, 2018
- Ordered referred to Standing Committee on Social Policy April 12, 2018
- Considered by the Standing Committee on April 17, 18 **and 23, 2018**
- **Third reading debated April 25, 2018**
- **Third reading carried April 26 2018**

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Bill 53, Government Contract Wages Act, 2018

(Flynn, Hon Kevin, Minister of Labour)

The purpose of this Bill, if passed, would require all contractors and suppliers providing construction or maintenance goods or services affecting government owned buildings, roads, watermains, sewers, bridges and other specified projects, to ensure that the wages paid to workers are not less than the prescribed minimums. Employers will also be required to record and report certain wage information regarding all workers involved in such projects.

The minimum wage levels are likely to be similar to those for unionized construction workers in various sectors. It is not yet clear whether municipalities would be subject to the Bill. The Bill would come into force on the day that it receives Royal Assent. Ontario and various municipalities already have fair wage policies intended to ensure that workers wage rates are not being used by some contractors to undercut their competitors.

- *First reading April 17, 2018*
- *Second reading debated April 24, 25, 26 and 30, 2018*

Private Members' Bills

3rd Session 41st Parliament

Bill 14, Personal Information Protection Act, 2018

(Takhar, Harinder, Liberal, Mississauga--Erindale)

If passed, this Bill would create a new statute to provide additional protection to personal information, not otherwise protected through statutes such as the Freedom of Information and Protection of Privacy Act. Such information would include certain employee personal information obtained by employers.

- First reading March 21, 2018
- Second reading March 22, 2018
- Ordered referred to Standing Committee on Justice Policy March 22, 2018

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Bill 19, Ontario Forestry Revitalization Act (14 Storey Wood Frame Buildings), 2018

(Fedeli, Victor, PC, Nipissing)

This Bill is identical to Bill 143 introduced in the prior sitting of the Legislature on October 18, 2017. That bill did not progress beyond first reading. If passed, this Bill would amend the Building Code Act, 1992 to allow wood frame structures up to 14 storeys in height, subject to certain other Building Code requirements. Unlike the current Bill 19, the former Bill 143 was restricted to structures up to 12 storeys in height.

- First reading March 22, 2018
- ***Second reading carried April 26, 2018***
- ***Ordered referred to the Standing Committee on Finance and Economic Affairs April 26, 2018***

Bill 23, Aggregate Recycling Promotion Act, 2018

(Jones, Sylvia, PC, Dufferin -- Caldeon)

This Bill would prohibit any person from refusing to consider or a bid or enter into a contract for construction work for the sole reason that any part the work would use aggregates that are not newly produced.

- First reading March 27, 2018

Bill 25, Rea and Walter Act (Truss and Lightweight Construction Identification), 2018

(Pettapiece, Randy, PC, Perth -- Wellington)

This Bill is identical to Bill 105 introduced in the prior sitting of the Legislature on March 9, 2017 and progressed through to Second Reading. If passed, this Bill would amend the Building Code Act, 1992 regarding the identification of truss (wooden) and lightweight construction in specified buildings that are under construction or to be constructed. A new section 15.8.1 will require a truss identification emblem to be affixed to a building in prescribed size and location.

- First reading March 27, 2018

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**Bill 34, Labour Relations Amendment Act (Replacement Workers), 2018
(Gelinas, France, Randy, NDP, Nickel Belt)**

This Bill is identical to a series of Bills introduced by various NDP MPPs since before 2008 in an attempt to restore certain sections of the Labour Relations Act, 1995 which were originally put in place in 1992 by the NDP government, but which were amended in 1995 under the Mike Harris PC government.

- First reading March 29, 2018

Bill 56, Designated Administrative Authorities Accountability and Transparency Act, 2018

(McDonell, Jim, PC, Stormont–Dundas–South Glengarry)

This Bill, if passed, would impact quasi-government authorities such as the Technical Standards and Safety Authority and the Condominium Authority of Ontario by shifting the authority to appoint board members from the relevant Minister to the Lieutenant Governor in Council (cabinet). The Act would also require the public disclosure of certain salaries and financial transactions.

- First reading April 18, 2018

***Bill 62, Non-Disclosure Provisions in Agreements Act (Wind Turbines), 2018
(Nicholls, Rick, PC, Chatham-Kent–Essex)***

This Bill, if passed, would negate any confidentiality provision or obligation in the event of a settlement of any claim arising out of the construction or operation of a wind turbine.

- *First reading April 25, 2018*

***Bill 63, Restoring Planning Powers to Municipalities Act, 2018
(Nicholls, Rick, PC, Chatham-Kent–Essex)***

This Bill, is identical to Bill 25 introduced by the same MPP on September 27, 2016 as Bill 25. This Bill, if passed, would repeal the existing Planning Act exemptions and allow normal and varied municipal zoning, setbacks and other restrictions to apply to wind turbines and other green energy projects.

- *First reading April 26, 2018*

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Bill 66, Asbestos Use Prohibition Act, 2018

(Bailey, Robert, NDP, Sarnia–Lambton)

This Bill, is identical to Bill 88 introduced by the same MPP on December 8, 2016 as Bill 88. This Bill, if passed, would not only ban the use, reuse import, transport or sale of asbestos in Ontario, it would require the Minister of Labour to establish a province wide registry of all provincially owned or leased buildings containing asbestos.

- First reading April 30, 2018

Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

Royal Assent October 25, 2010. As of ***May 4, 2018*** most of the Act has not yet been proclaimed in force.

Construction Lien Amendment Act, 2017

The statute will come into force on July 1, 2018 and at the same time change the name of the statute from the Construction Lien Act to the 'Construction Act'.

Regulations

(reflects contents of the Ontario Gazette through to ***May 5, 2018***)

Ontario Regulation 349/17

WORKPLACE SAFETY AND INSURANCE ACT, 1997

This regulation was published in the September 16, 2017 edition of the Ontario Gazette. It amends O.Reg. 175/98 to postpone the revocation of certain existing non-construction industry exemptions of certain classes of workers by one year from January 1, 2019 to January 1, 2020.

Ontario Regulation 84/18

CONDOMINIUM ACT, 1998

This regulation was published in the March 24, 2018 edition of the Ontario Gazette. It amends O.Reg. 49/01 in specifying how an instrument, such as a construction lien, that affects all or some of the common elements is to be registered on title to that property and any tied lands. The regulation came into force as of March 7, 2018.

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Ontario Regulation 117/18

FAIRNESS IN PROCUREMENT ACT, 2018

This regulation was published in the April 14, 2018 edition of the Ontario Gazette. It designates suppliers of certain construction services and supplies from the state of New York as being subject to reciprocal restrictions to provide services to government agencies in the Province of Ontario, a response to restrictive legislation passed by the State of New York which prohibits certain construction services and materials originating outside of the US. The regulation will come into force upon the date that the Fairness in Procurement Act, 2018 is proclaimed into force.

Ontario Regulation 152/18

ENVIRONMENTAL ASSESSMENT ACT

This regulation was published in the April 14, 2018 edition of the Ontario Gazette. It requires the use of a specific form by any person who chooses to seek a Part II Order (form of appeal) for certain classes of infrastructure projects carried out by municipal or provincial proponents. Until this time, there was no standardized application form in place. The regulation will come into force as of July 1, 2018.

Ontario Regulation 274/18

ELECTRICITY ACT, 1998

This regulation was published in the May 5, 2018 edition of the Ontario Gazette. It requires imposes additional consultation, contracts and other requirements for renewable energy generation facilities (primarily wind turbines) sited on 'Reserves' within the meaning of the federal Indian Act. The regulation will come into force as of July 1, 2018.