

CONSTRUCTION LAW CHANGES IN ONTARIO

As of July 28, 2019

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The Ontario Legislature is not scheduled to resume sittings until Monday October 28, 2019

Provincial Government Bills
1st Session, 42nd Parliament

Bill 2, Urgent Priorities Act, 2018

(Minister of Energy, Northern Development and Mines)

This Bill is essentially three separate pieces of legislation in which the only subject matter in common is that each item is deemed by the current government to be priority legislation.

SCHEDULE 1 - Hydro One Accountability Act, 2018

SCHEDULE 2 -White Pines Wind Project Termination Act, 2018

SCHEDULE 3 - Back to Class Act (York University), 2018

- Royal Assent July 25, 2018

Bill 4, Cap and Trade Cancellations Act, 2018

(Minister of the Environment, Conservation and Parks)

- Royal Assent received on October 31, 2018

Bill 5, Better Local Government Act, 2018

(Minister of Municipal Affairs and Housing)

- Royal Assent received August 14, 2018

Bill 31, Efficient Local Government Act, 2018

(Minister of Municipal Affairs and Housing)

This Bill is essentially identical to Bill 5 with the additional clause to overcome the Superior Court of Justice Ruling on September 10, 2018 that the Act as it affects the City of Toronto violates the Canadian Charter of Rights and Freedoms and is therefore null and void.

- Second Reading debated September 17, 2018.

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Bill 34, Green Energy Repeal Act, 2018

(Minister of the Energy, Northern Development and Mines)

- Royal Assent received December 6, 2018.

Bill 47, Making Ontario Open for Business Act, 2018

(Minister of Economic Development, Job Creation and Trade)

- Royal Assent Received November 21, 2018

Bill 57, Restoring Trust, Transparency and Accountability Act, 2018

(Minister of Finance)

- Royal Assent Received December 6, 2018

Bill 66, Restoring Ontario's Competitiveness Act, 2018

(Minister of Economic Development, Job Creation and Trade)

- Royal Assent, April 3, 2019

Bill 100, Protecting What Matters Most Act (Budget Measures), 2019

(Minister of Finance)

This is an omnibus bill consisting of more than 170 pages that amends more than 60 separate statutes ranging from the Condominium Act to the Vital Statistics Act. One of the most significant changes, from an OGCA perspective is the proposed repeal of the Proceedings Against the Crown Act, which is the statute that governs any civil claims against the Ontario government, whether based on negligence or breach of contract. This could have far reaching impacts to immunize the Ontario government and government agencies against any liability for its wrongdoings. A hint of the type of consequences of this Bill might be Schedule 2 of Bill 2, which essentially outlawed any claims against the Ontario government for cancellation of the White Pines Wind Farm projects which by some estimates were about 80% complete. Amended statutes include but are not limited to the Employment Standards Act, 2000, the Labour Relations Act, 1995, and the Planning Act.

One of the more controversial changes is allowing some development in the Province's Greenbelt. Another controversial change is the relaxation of drinking water sources protection measures. See the Regulations section of this report regarding impact to the Operating Engineers Regulation.

- Royal Assent Received May 29, 2019.

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Bill 107, Getting Ontario Moving Act (Transportation Statute Law Amendment), 2019

(Minister of Transportation)

This bill is a part of the uploading of rapid transit projects from the City of Toronto to the Province.

- Royal Assent Received June 6, 2019.

Bill 108, More Homes, More Choice Act, 2019

(Minister of Municipal Affairs and Housing)

This bill (consisting of more than 90 pages) amends 13 separate statutes including the Planning Act, the Environmental Assessment Act, the Development Charges Act, 1997, the Endangered Species Act, 2007 and the Ontario Heritage Act to fast track residential housing development and related infrastructure in the Province and remove a number of administrative and regulatory measures.

- Royal Assent Received June 6, 2019.

Private Members' Bills

1st Session, 42nd Parliament

Bill 33, Rea and Walter Act (Truss and Lightweight Construction Identification), 2018

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

This Bill is identical to Bill 105 introduced on March 9, 2017 and progressed through to Second Reading and which was reintroduced on March 27, 2018. 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 September 19, 2018
- Second Reading debated October 4, 2018
- Second Reading carried October 4, 2018 and referred to Standing Committee on Regulations and Private Bills

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Bill 62, Protecting Vulnerable Road Users Act, 2018

(Bell, Jessica, NDP, University -- Rosedale)

This Bill would amend the Highway Traffic Act to stiffen the penalties of vehicle drivers who seriously injure or kill vulnerable road users such as pedestrians, cyclists and construction workers.

- First reading November 21, 2018

Bill 70, Registered Professional Planners Act, 2019

(Coe, Lorne, PC -- Whitby)

This Bill would impact Professional Planners by repealing the Ontario Professional Planners Institute Act, 1994, a private statute dating back to 1994, with a new public statute to regulate the planning profession. The new public statute would mandate a disciplinary investigation and sanction process for members, in a manner similar to the regulation of other professions such as architects.

- First Reading carried February 19, 2019
- Second Reading debated and carried February 28, 2019 and ordered referred to Standing Committee on General Government

Bill 71, Paris Galt Moraine Conservation Planners Act, 2019

(Schreiner, Mike, Green Party -- Guelph)

This Bill would establish additional protection against any land development that might cause an adverse environmental impact within a defined region known as the Paris Galt Moraine. The legislation would also require official plan amendments for certain municipalities and municipal planning authorities.

- First Reading carried February 20, 2019
- Second Reading debated March 7, 2019
- Second Reading carried March 7, 2019 and ordered referred to the Standing Committee on General Government

Bill 92, Labour Relations Amendment Act (Replacement Workers), 2019

(Gelinias, France NDP - Nickel Belt)

This Bill would restore certain provisions of the 1992 version of the state that were repealed in 1995, namely to restrict business from replacing striking or locked-out workers with replacement workers.

- First Reading carried March 28, 2019

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Bill 111, Speaking Out About Workplace Violence and Workplace Harassment Act, 2019

(Gelinas, France NDP - Nickel Belt)

This Bill would amend the Occupational Health and Safety Act to provide better protection for workers against reprisals for speaking out about workplace violence and workplace harassment. The amendments provide that a reprisal is any measure taken against a worker that adversely affects the worker's employment.

- First Reading carried May 7, 2019

Bill 119, Respecting Injured Workers Act (Workplace Safety and Insurance Amendment), 2019

(Gates, Wayne NDP - Niagara Falls)

This Bill would amend the Workplace Safety and Insurance Act, 1997 to ensure that any deemed earnings from suitable and available work would actually be suitable and available to the worker unless the worker refuses such employment in bad faith.

- First Reading carried May 27, 2019

Bill 128, Ontario Water Resources Amendment Act, 2019

(Dunlop, Jill PC - Simcoe North)

This Bill would amend the Ontario Water Resources Act to provide an exemption for water taking permits where such permits is associated with the constructing, operating, altering, improving or repairing a dam, if the dam is associated with the production of electricity and the activity has been approved by a Minister's order under the Lakes and Rivers Improvement Act.

- First Reading carried June 5, 2019

Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

Royal Assent October 25, 2010. As of **July 28, 2019** most of the Act has not yet been proclaimed in force.

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Regulations

(reflects contents of the Ontario Gazette through to **July 27, 2019**)

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 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.

Operating Engineers Regulation - Ontario Regulation 219/01

TECHNICAL STANDARDS AND SAFETY ACT, 2000

Changes to the Technical Standards and Safety Act, 2000 that were included in Bill 66 (which received Royal Assent on April 3, 2019) included authorization to amend the Operating Engineers Regulation to allow for an alternate risk-based regulatory framework. Under this approach, businesses employing operating engineers would have the option to either comply with the alternate rules or continue adhering to requirements in the current regulation. The TSSA has published an online survey at https://engagetssa.org/oeregreview?tool=survey_tool&tool_id=consultation-survey#tool_tab, which will allow interested parties to submit comments on the proposed changes up until May 5, 2019. The alternate rules will come into effect at a date to be communicated by TSSA and the Ministry.

Ontario Regulation 88/19

BUILDING CODE ACT, 1992

This regulation, which was published in the May 18, 2019 issue of the Ontario Gazette, implements a large number (139 pages) of amendments to the Ontario Building Code. Most of the changes came into effect on May 2, 2019 however several others are phased to come into force on January 1, 2020 and a limited number of other changes which will come into force as of January 1, 2022.

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Ontario Regulation 109/19

CONSTRUCTION ACT, R.S.O. 1990

This regulation, which was published in the June 8, 2019 issue of the Ontario Gazette, amends O. Reg 306/18 by amending certain requirements for any person that might otherwise be an adjudicator under the Act. y limited number of changes for farm buildings which involve the handling or storage of cannabis and related products. The changes come into force on the date that subsection 62(2) of the Construction Lien Amendment Act, 2017 comes into force, which is currently expected to be October 1, 2019.

Ontario Regulation 111/19

CONSTRUCTION ACT, R.S.O. 1990

This regulation, which was published in the June 8, 2019 issue of the Ontario Gazette, amends O. Reg 303/18 dealing with forms to be used under the Act. Most of the Regulation comes into force on May 23, 2019 and the balance on October 1, 2019.

Ontario Regulation 112/19

CONSTRUCTION ACT, R.S.O. 1990

This regulation, which was published in the June 8, 2019 issue of the Ontario Gazette, amends O. Reg 304/18 dealing with publication of a non-payment of a holdback and certain other amendments related to giving a notice of a claim for lien to a municipality. The changes come force on October 1, 2019.

Ontario Regulation 185/19

OCCUPATIONAL HEALTH AND SAFETY ACT, R.S.O. 1990

This regulation, which was published in the June 29, 2019 issue of the Ontario Gazette, amends O. Reg 833, RRO 1990, by updating some of the requirements and standards associated with air respirators and related equipment to protect against exposure from chemical and other harmful agents. The changes come force on January 1, 2020.

Ontario Regulation 189/19

OCCUPATIONAL HEALTH AND SAFETY ACT, R.S.O. 1990

This regulation, which was published in the June 29, 2019 issue of the Ontario Gazette, amends O. Reg 490/09 dealing with the care and maintenance of air respirators and related equipment to protect against exposure from chemical and other harmful agents. The changes come force on January 1, 2020.

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Ontario Regulation 190/19

OCCUPATIONAL HEALTH AND SAFETY ACT, R.S.O. 1990

This regulation, which was published in the June 29, 2019 issue of the Ontario Gazette, amends the Construction Projects Regulation O. Reg 213/91 dealing with the registration and notices to be submitted by each employer and constructor engaged in certain construction projects. The changes come force on July 1, 2019.

Ontario Regulation 191/19

OCCUPATIONAL HEALTH AND SAFETY ACT, R.S.O. 1990

This regulation, which was published in the June 29, 2019 issue of the Ontario Gazette, amends the Occupational Health and Safety Awareness Training Regulation O. Reg 297/13 dealing with awareness of controlled substances. The changes come force on July 1, 2019.

Ontario Regulation 237/19 - Closure of the White Pines Wind Facility

ENVIRONMENTAL PROTECTION ACT, R.S.O. 1990

This regulation, which was published in the July 20, 2019 issue of the Ontario Gazette, takes the unusual step of fully cancelling a Wind Turbine project that was almost 80% complete when the current government was elected in June 2018. The project consisted of 9 large capacity wind turbines located in and near Prince Edward County. The Regulation came into force on July 2 2019.

Ontario Regulation 241/19 - Greenhouse Gas Emissions Performance Standards

ENVIRONMENTAL PROTECTION ACT, R.S.O. 1990

This regulation, which was published in the July 20, 2019 issue of the Ontario Gazette, establishes performance standards and registration obligations for prescribed facilities, which generally includes facilities which release at least 50,000 equivalent tonnes of CO₂ per year. The Regulation came into force on July 4 2019.

Ontario Regulation 242/19 - Greenhouse Gas Emissions: Quantification, Reporting and Verification

ENVIRONMENTAL PROTECTION ACT, R.S.O. 1990

This regulation, which was published in the July 20, 2019 issue of the Ontario Gazette, establishes reporting obligations for the same facilities covered by O. Reg 241/19 above. The Regulation came into force on July 4 2019.

End of Report