

CONSTRUCTION LAW CHANGES IN ONTARIO

As of March 26, 2020

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Provincial Government Bills
1st Session, 42nd Parliament

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.

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. 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.

- 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.

Bill 132, Better for People, Smarter for Business Act, 2019

(Associate Minister of Small Business and Red Tape Reduction)

This bill (consisting of more than 100 pages) amends dozens of separate statutes including the Municipal Act (to ensure that former railway lands are fenced from farms, the Mining Act, the Environmental Protection Act (re administrative penalties), the Ontario Water Resources Act (re administrative penalties) and the Building Code Act (to allow notices to be served by email).

- Royal Assent received December 10, 2019.

Bill 138, Plan to Build Ontario Together Act, 2019

(Minister of Finance)

This bill (consisting of more than 155 pages) amends more than 38 separate statutes. Many, but not most, of the amendments related to electronic changes to documents, permits and licenses instead of paper records, e.g. the Off-Road Vehicles Act, the Dangerous Goods Transportation Act and the Highway Traffic Act.

- Royal Assent received December 10, 2019.

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Bill 171, Building Transit Faster Act, 2020

(Minister of Transportation)

This bill is intended to expedite the planning and construction of 4 rail transit projects, namely the Ontario Line (formerly referred to as the downtown relief line), the Scarborough Subway Extension (to Scarborough Town Centre), the Yonge Subway extension (to Richmond Hill) and the Eglinton Crosstown West Extension (from the unfinished western terminus of Mt. Dennis station to the Toronto International Airport). The bill would exempt the projects from certain development permit requirements within the respective corridors so that things that pose a danger to construction can be removed immediately, things that pose an obstruction to construction can be removed more quickly. The Bill will also eliminate the need for certain expropriation hearings that would otherwise impede the projects.

- First Reading carried February 18, 2020
- Second Reading debated February 24, **25, 26, March 3, 2020,**
- **Second Reading Carried on division March 3, 2020 and ordered referred to Sanding Committee on Social Policy.**

Bill 186, Employment Standards Amendment Act (Infectious Disease Emergencies), 2020

(Minister of Labour, Training and Skills Development)

This bill (consisting of only 4 pages) amends the Employment Standards Act, 2000 to grant the right to workers to have a leave of absence without pay due to being ordered to remain in isolation or quarantine due to the Covid-19 pandemic, or if the worker is needed to provide care or assistance to prescribed individuals or any other reason prescribed by the regulations. The regulations can have a retroactive impact. The statute came into full force and effect as of March 19, 2020.

- *First Reading carried March 19, 2020*
- *Second Reading carried March 19, 2020*
- *Ordered for third reading and carried March 19, 2020*
- *Royal Assent received March 19, 2020.*

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Bill 188, Economic and Fiscal Update Act, 2020

(Minister of Finance)

This bill provides specific forms of financial assistance to Ontario businesses and residents, including: raising the threshold upon which Employer Health Tax is paid from \$400,000 to \$1,000,000 for the 2020 fiscal year. This Act came into force on March 25, 2020.

- ***First Reading carried March 25, 2020;***
- ***Second Reading carried March 25, 2020;***
- ***Third Reading carried March 25, 2020;***
- ***Royal Assent received December 10, 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

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

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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

(Gelinas, 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

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

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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, fi 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

Bill 169, Home Warranties to Protect Families Act, 2019

(Rakocevic, Tom NDP - Humber River -Black Creek)

This Bill would amend the Ontario New Home Warranties Plan Act to discontinue the current warranty plan under the Act by the Tarion Warranty Corporation with a multi-provider system of new home warranty providers, having prescribed qualifications. Providers would compete with each other for homeowner business.

- First Reading carried December 12, 2019

Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

Royal Assent October 25, 2010. As of **March 23, 2020** most of the Act has not yet been proclaimed in force.

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EMERGENCY DECLARATIONS

Pursuant to the Emergency Management and Civil Protection Act, R.S.O.1990, c. E.9

On March 20, 2020, the provincial government made an order under s. 7.1 of the Emergency Management and Civil Protection Act suspending limitation periods and procedural time periods. The suspension is retroactive to March 16, 2020. What this means for OGCA members is that if they had a deadline on or after March 16, 2020 to commence or defend a lien claim or start or defend a civil action or almost any other deadline for a legal proceeding, that deadline is suspended until such time as the emergency declaration is lifted. The "deadline countdown" will resume without regard to the lapse of time between March 16, 2020 and when this emergency is lifted.

Pursuant to the Emergency Management and Civil Protection Act, R.S.O.1990, c. E.9

On March 23, 2020 the Ontario Premier ordered the closure of all non-essential workplaces effective March 25, 2020. The Province issued a list of what it considers to be 'essential workplaces' being workplaces that are not required to be closed on or after March 25, 2020. The list of 74 workplaces includes the following:

- 28. Construction work and services, including demolition services, in the industrial, commercial, institutional and residential sectors;*
- 29. Construction work and services that supports health and safety environmental rehabilitation projects;*
- 38. Businesses that ensure global continuity of the supply of aggregates to support critical infrastructure repairs and emergency response requirements;*
- 41. Utilities and Business that support the provision of utilities and community services, including by providing products, materials and services needed for the delivery of utilities and community services, including: e. Road construction and maintenance; and*
 - 1. Businesses that supply other essential businesses or essential services with the support, supplies, systems or services ... necessary to operate.*

Consequently, most construction work places as well as the suppliers of construction materials, are considered to be 'essential workplaces' for purposes of the March 23, 2020 order.

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Regulations

(reflects contents of the Ontario Gazette through to **March 21, 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.

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 came into force on January 1, 2020 and a limited number of other changes which will come into force as of January 1, 2022.

Ontario Regulation 406/19

ENVIRONMENTAL PROTECTION ACT, R.S.O. 1990

This regulation, which was filed on December 4, 2019 but has not yet been published in the Ontario Gazette, establishes a new regulatory framework for the management (including the sampling, testing, handling, storing, transporting, treatment and placement) of excavated soils and the conditions under which such soils are or are not regulated as a waste. The new regulation is also part of the establishment and operation of an excavated soil registry accessible by the public which will allow searches of registered soil movements and the sites from which such soils originated. As the majority of construction sites involve some form of excavation, the new regulatory framework for excavated fill and soils will, as it is phased into force, with several sections coming into force on July 1, 2020 and other sections coming into force on January 1, 2022, January 1, 2025 and January 1, 2026.

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Ontario Regulation 408/19

ENVIRONMENTAL PROTECTION ACT, R.S.O. 1990

This regulation, which was filed on December 4, 2019 but has not yet been published in the Ontario Gazette, amends the General Waste Management Regulation, Ontario Regulation 347 to establish new definitions for the terms “excess soil” and “liquid soil”. These amendments are an integral part of the Ontario government’s establishment of a new regulatory framework for the management (including the sampling, testing, handling, storing, transporting, treatment and placement) of excavated soils and the conditions under which such soils are or are not regulated as a waste. This Regulation comes into force on July 1, 2020.

Ontario Regulation 409/19

ENVIRONMENTAL PROTECTION ACT, R.S.O. 1990

This regulation, which was filed on December 4, 2019 but has not yet been published in the Ontario Gazette, amends Registration of Waste Management Systems Regulation, Ontario Regulation 351/12. These amendments are an integral part of the Ontario government’s establishment of a new regulatory framework for the management (including the sampling, testing, handling, storing, transporting, treatment and placement) of excavated soils and the conditions under which such soils are or are not regulated as a waste. When excavated soils are managed in a prescribed manner, they are exempted from certain sections of the Environmental Protection Act. This regulation comes into force on July 1, 2020.

Ontario Regulation 449/19

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

This regulation, which was published in the January 3, 2020 issue of the Ontario Gazette, amends the Control of Exposure to Biological or Chemical Agents Regulation O. Reg 833 (R.R.O. 1990) and comes into force on July 1, 2020.

Ontario Regulation 34/20

ONTARIO COLLEGE OF TRADES AND APPRENTICESHIP ACT, 2009

This regulation, which was published in the March 21, 2020 issue of the Ontario Gazette, provides transition provisions for composition and operation of the Board of Directors of the College of Trades as they proceed with Wind-up of the College of Trades. This regulation came into force (retroactively) as of March 1, 2020.

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Ontario Regulation 66/20

EMPLOYMENT STANDARDS ACT, 2000

This regulation, which has not yet been published in the Ontario Gazette, was made on March 19, 2020. It identifies any novel coronavirus, including SARS and COVID-19 as triggers to the rights granted under Bill 186, and stipulates that such rights are retroactive to January 25, 2020.

End of Report