

CONSTRUCTION LAW CHANGES IN ONTARIO

As of July 9, 2020

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Provincial Government Bills *1st Session, 42nd Parliament*

Most Recent Sitting was July 8, 2020

Next Sitting Scheduled for July 13, 2020

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 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
- Consideration of the Bill by the Standing Committee on Social Policy March 10, June 2, 8, 9, 10., 15, 16, 2020 and reported back to the Legislature
- Third Reading debated June 17 *and July 6, 2020*
- *Third Reading carried on division, July 7, 2020*
- *Royal Assent received July 8, 2020*

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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.

- Royal Assent received March 19, 2020.

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.

- Royal Assent received March 25, 2020.

Bill 189, Coronavirus (COVID-19) Support and Protection Act, 2020

(Minister of Education)

This bill provides certain relief measures and time extensions under a variety of statutes, including time extensions for development charge by-laws under the Development Charges Act, 1997; allowing the Minister of Municipal Affairs and Housing to make regulations under the Planning Act to deal with the Covid crisis; and an extension of repayment terms under the Education Act.

- Royal Assent received April 14, 2020.

Bill 192, Protecting Small Business Act, 2020

(Minister of Municipal Affairs and Housing)

This Bill amends the Commercial Tenancies Act to prohibit certain actions by landlords if the landlord is or would be eligible to receive certain federal emergency assistance. The Bill prevents enforcement of certain writs of possession or evictions between May 1 and September 1, 2020.

- First Reading carried June 17, 2020;
- Second Reading debated and carried on division, June 17, 2020;
- Third Reading carried on division, June 17, 2020;
- Royal Assent received June 18, 2020.

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Bill 195, Reopening Ontario (A Flexible Response to COVID-19) Act, 2020
(Ontario Solicitor General)

The purpose of this Bill is to provide a transition from the current series of orders under the Emergency Management and Civil Protection Act to a series of temporary amending orders in relation to the Covid pandemic. The authorities granted to various Ministers under this Bill would cease to apply after one year.

- First Reading carried July 7, 2020.

Bill 197, COVID-19 Economic Recovery Act, 2020
(Minister of Municipal Affairs and Housing)

This Bill (115 pages in length) amends several statutes including the Building Code Act, the Occupational Health and Safety Act, the Planning Act and the Environmental Assessment Act. The changes to the Building Code Act allow the Minister of Municipal Affairs and Housing to make regulations instead of the Lieutenant Governor in Council (cabinet). The changes to the Environmental Assessment Act is more than 30 pages of amendments to a statute that was originally 23 pages in length. The longer term impact will be to replace the EA classes, e.g. GO Transit Class, Municipal Class and Waterpower Projects Class, with a series of new regulations.

- First Reading carried July 8, 2020.

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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

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

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**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

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

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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

Bill 191, Workplace Safety and Insurance Amendment Act (presumption Respecting COVID-19), 2020

(Gates, Wayne NDP - Niagara Falls)

This Bill would amend the Workplace Safety and Insurance Act, 1997 regarding workers at essential businesses under the Emergency Management and Civil Protection Act, so that if a worker at such a business receives a positive test result for COVID-19 at any time on or after January 25, 2020, it is presumed to be an occupational disease.

- First Reading carried May 19, 2020

Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

Royal Assent October 25, 2010. As of **July 9, 2020** 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 10, 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. ***Through O.Reg 270/20, the coming into force has been postponed from July 1, 2020 to January 1, 2021.***

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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. ***Through O.Reg 272/20, the coming into force has been postponed from July 1, 2020 to January 1, 2021.***

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. ***Through O.Reg 273/20, the coming into force has been postponed from July 1, 2020 to January 1, 2021.***

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.

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Ontario Regulation 82/20

EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT

This regulation, which was filed on March 24, 2020 and published in the April 10, 2020 issue of the Ontario Gazette, is the formal instrument requiring the closure of non-essential businesses. This regulation came into force on March 25, 2020. Under this regulation most construction sites were considered to be an essential business, including transit projects, hospital projects, core infrastructure projects and most residential construction projects. This regulation was subsequently amended by Ontario Regulation 119/20, 165/20 196/20 and 200/20.

Ontario Regulation 130/20

CITY OF TORONTO ACT, 2006

This regulation, which was published in the April 24, 2020 issue of the Ontario Gazette, provides an 18-month exemption from City of Toronto noise by-laws for certain construction projects associated with the healthcare sector, and any other construction project activity between 6 am and 10 pm. This regulation came into force on April 7, 2020 and is automatically revoked October 7, 2021.

Ontario Regulation 131/20

CITY OF TORONTO ACT, 2006

This regulation, which was published in the April 24, 2020 issue of the Ontario Gazette, provides an 18-month exemption from municipal noise by-laws for certain construction projects associated with the healthcare sector, and any other construction project activity between 6 am and 10 pm. This regulation came into force on April 7, 2020 and is automatically revoked October 7, 2021.

Ontario Regulation 162/20

ONTARIO COLLEGE OF TRADES AND APPRENTICESHIP ACT, 2009

This regulation, which was published in the May 9, 2020 issue of the Ontario Gazette, amends O. Reg 321/12 by extending any provisional certificates that would expire at any time between April 21 2020 and June 16, 2020 by a further 120 days. This regulation came into force on April 21, 2020.

Ontario Regulation 165/20

EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT

This regulation, which was filed on April 22, 2020 and published in the May 9, 2020 issue of the Ontario Gazette. This regulation revoked portions of a series of prior regulations under the Emergency Management and Civil Protection Act, including O.Reg. 82/20 (list of non-essential businesses). This regulation came into force on May 6, 2020.

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Ontario Regulation 196/20

EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT

This regulation, which was filed on May 1, 2020 and published in the May 16, 2020 issue of the Ontario Gazette amended portions O.Reg. 82/20 to expand the list of businesses that can resume operations including, but not limited to the following types of construction: school and educational facility construction; construction to provide logistical support, distributions warehousing, shipping or storage or that additional Information Technology or communications services his regulation came into force on May 4, 2020.

Ontario Regulation 200/20

EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT

This regulation, which was filed on May 7, 2020 and published in the May 23, 2020 issue of the Ontario Gazette amended portions O.Reg. 82/20 to expand the list of businesses that can resume operations including, but not limited to the following types of construction including condominiums that are residential or mixed use.

Ontario Regulation 209/20

BUILDING CODE ACT, 1992

This regulation, which was filed on May 11, 2020 and published in the May 30, 2020 issue of the Ontario Gazette amended portions O.Reg. 332/12 to clarify that certain time periods continue to run for a decision on a building permit application even if municipal building department offices are closed due to the Covid-19 pandemic.

Ontario Regulation 228/20

EMPLOYMENT STANDARDS ACT, 2000

This regulation, which was filed on May 26, 2020 and published in the June 12, 2020 issue of the Ontario Gazette clarifies that COVID-19 is an infectious disease for purpose of section 50.1 (Emergency Leave) of the Employment Standards Act.

Ontario Regulation 306/20

HIGHWAY TRAFFIC ACT

This regulation, which was filed on June 25, 2020 and published in the July 10, 2020 issue of the Ontario Gazette expands the types of mobile cranes that are subject to mandatory inspections. The regulation will be phased in through two stages, one effective January 1, 2021 and the second phase as of July 1, 2021.

End of Report