

CONSTRUCTION LAW CHANGES IN ONTARIO

As of January 26, 2021

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Provincial Government Bills

1st Session, 42nd Parliament

Most Recent Sitting was December 8, 2020

Legislature Adjourned Until February 16, 2021

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.

- Royal Assent received July 21, 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.

- Royal Assent received July 21, 2020.

Bill 204, Helping Tenants and Small Businesses Act, 2020 (Minister of Municipal Affairs and Housing)

This Bill amends several statutes including the Commercial Tenancies Act, to provide temporary eviction protection for certain commercial tenants where the landlord is eligible but has not sought assistance through the Canada Emergency Commercial Rent Assistance program.

- Royal Assent received October 1, 2020.

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Bill 222, Ontario Rebuilding and Recovery Act, 2020

(Minister of Transportation)

This Bill amends several statutes including the Building Transit Faster Act, 2020, the Public Service Works on Highways Act and the Transit-Oriented Communities Act, 2020. The amendments would allow additional projects to be designated as ‘priority transit projects’ by regulation and additional powers to require a utility company to relocate existing underground works.

- Royal Assent Received December 8, 2020.

Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020

(Minister of Finance)

This Bill amends 44 separate statutes including the Conservation Authorities Act, to reduce scope of the Authorities and increase Ministerial powers; the Employer Health Tax Act, to substantially increase the exemption threshold and reduce amounts payable; and the Ontario Energy Board Act, to broaden the board’s authority to allow persons to enter onto specified lands in relation to proposed construction, expansion or reinforcement of an electricity distribution or transmission line.

- Royal Assent Received December 8, 2020.

Bill 238, Workplace Safety and Insurance Amendment Act, 2020

(Minister of Labour, Training and Skills Development)

This Bill amends the Workplace Safety and Insurance Act 44 to create a special rule for the calculation of certain employer premiums, but only for part or all of the 2021 calendar year.

- First Reading December 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

Bill 200, Employment Standards Amendment Act (Sick Notes), 2020

(Mike Schreiner, Green Party - Guelph)

This Bill would amend the Employment Standards Act, 2000 regarding workers' entitlement to sick leave, it would allow workers to provide reasonable evidence of illness as an alternative to a certificate from a qualified health practitioner.

- First Reading carried September 14, 2020
- Second Reading debated October 21, 2020
- Second Reading carried October 21, 2020 and referred to Standing Committee on General Government

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Bill 214, Time Amendment Act, 2020

(Jeremy Roberts, PC - Ottawa West Nepean)

This Bill would amend the Time Act to make the time now called daylight saving time the standard time year-round. Construction work days between early November and early April would therefore have less daylight in the morning but more daylight in late afternoon and early evening.

- First Reading carried October 6, 2020
- Second Reading debated October 7, 2020
- Second Reading carried October 7, 2020 and referred to Standing Committee of the Legislative Assembly
- Consideration by the Standing Committee November 17 and 23, 2020
- Reported back to *the Legislature without amendment November 23, 2020*
- Third Reading carried November 25, 2020;
- Royal Assent Received November 30, 2020.

Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

Royal Assent October 25, 2010. As of **January 26, 2021**, most of the Act has not yet been proclaimed in force.

Regulations

(reflects contents of the Ontario Gazette through to **January 23, 2021**)

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.

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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, 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.

Ontario Regulation 408/19

ENVIRONMENTAL PROTECTION ACT, R.S.O. 1990

This regulation, which was filed on December 4, 2019, 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, 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,

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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 492/20

EMPLOYMENT STANDARDS ACT, 2000

This regulation, which was filed on September 3, 2020, amends Ontario Regulation 228/20 to extend the end date of the “COVID-19 period” from September 4, 2020 to September 2, 2021. O. Reg. 228/20 stipulated that during the relevant period, COVID-19 is an infectious disease for purpose of section 50.1 (Emergency Leave) of the Employment Standards Act.

Ontario Regulation 527/20

WORKPLACE SAFETY AND INSURANCE ACT, 1997

This regulation, which was filed on September 23, 2020, amends Ontario Regulation 175/98 effective January 1, 2021. The amendment removes the term “residential building instruction” and replaces it with the term “non-residential building construction” in class G of Schedule 1.

Ontario Regulation 624/20

NEW HOME CONSTRUCTION LICENSING ACT, 2017

This regulation, which was published in the November 21, 2020 issue of the Ontario Gazette, establishes the corporation known as Home Construction Regulatory Authority as the regulatory authority under the Act. The Regulation comes into force on the day that subsection 2(1) of Schedule 1 to the Strengthening Protection for Ontario Consumers Act, 2017 comes into force.

Ontario Regulation 626/20

NEW HOME CONSTRUCTION LICENSING ACT, 2017

This regulation, which was published in the November 21, 2020 issue of the Ontario Gazette, provides transitional details for persons formerly registered under the Ontario New Home Warranties Plan Act. The Regulation comes into force on the day that subsection 2(1) of Schedule 1 to the Strengthening Protection for Ontario Consumers Act, 2017 comes into force.

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Ontario Regulation 630/20

NEW HOME CONSTRUCTION LICENSING ACT, 2017

This regulation, which was published in the November 21, 2020 issue of the Ontario Gazette, provides transitional details for complaints filed with the warranty authority before the day that subsection 2(1) of Schedule 1 to the Strengthening Protection for Ontario Consumers Act, 2017 comes into force.

Ontario Regulation 631/20

NEW HOME CONSTRUCTION LICENSING ACT, 2017

This regulation, which was published in the November 21, 2020 issue of the Ontario Gazette, sets out the requirements for a person applying for a license under the Act. The Regulation comes into force on the day that subsection 2(1) of Schedule 1 to the Strengthening Protection for Ontario Consumers Act, 2017 comes into force.

Ontario Regulation 751/20

OCCUPATIONAL HEALTH AND SAFETY ACT

This regulation, which will be published in the January 2, 2021 issue of the Ontario Gazette, amends O. Reg 297/13, the Occupational Health and Safety Awareness and Training Regulation to allow for alternate methods to provide working at heights training programs. The Regulation came into effect on January 1, 2021.

Ontario Regulation 762/20

BUILDING CODE ACT, 1992

This regulation, which was published in the December 29, 2020 issue of the Ontario Gazette, amends O. Reg 332/12, the Building Code with revisions to the list of referenced standards in Table 1.3.1.2 of Division B and certain calculations in sentence 4.1.7.4.(2). The Regulation came into effect on December 16, 2020.

Ontario Regulation 775/20

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the January 8, 2021 issue of the Ontario Gazette, amends O. Reg 406/19, On-Site Excess Soil Management by adding a significant number of definitions, including but not limited to 'topsoil', 'soil processing site', 'registry', 'excess soil' and 'crushed rock'. Most of the Regulation came into effect on January 1, 2021, but sections 7 to 13 come into force on January 1, 2022.

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Ontario Regulation 776/20

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the January 8, 2021 issue of the Ontario Gazette, amends O. Reg 153/04 Records of Site Condition to adjust deadlines and requirements as a result of the COVID-19 pandemic. The Regulation came into effect on January 1, 2021.

Ontario Regulation 777/20

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the January 8, 2021 issue of the Ontario Gazette, amends O. Reg 347 to clarify that excess soil managed in accordance with O.Reg 406/19 is not regulated as a waste. The Regulation came into effect on January 1, 2021.

Current Proposals Posted on Ontario's Regulatory Registry

(A listing of current regulatory proposals that may affect business which is open for public comment)

Proposal 20-MLTSD 013

Proposed Regulation to Consolidate and Modernize Regulatory Reporting Requirements to the Ministry of Labour, Training and Skills Development under Part VII of the Occupational Health and Safety Act - Posted on December 18 2020, Impacts on Ontario Regulation 834, 851, 854, 855, 859, 861, 67/93, 231/91, 414/05 and 629/94

Open for public comments until February 12, 2021 See

<https://www.ontariocanada.com/registry/view.do?postingId=35627&language=en>

ERO Proposal 019-2848

Proposed Regulation to Revoke O.Reg 274/18, Siting Restrictions for Renewable Energy Generation Facilities - Ministry of Energy, Northern Development and Mines - Posted on December 15 2020, Impacts on Ontario Regulation 274/18

Open for public comments until February 4, 2021 See

<https://ero.ontario.ca/notice/019-2848>

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Proposal 21-MLTSD 003

Working at Heights Training Standards Five-Year Review - Ministry of Labour, Training and Skills Development under Part VII of the Occupational Health and Safety Act - Posted on January 25, 2021, Impacts on Ontario Regulation 297/13.

Open for public comments until March 11, 2021 See

<https://www.ontariocanada.com/registry/view.do?postingId=35988&language=en>

End of Report