

CONSTRUCTION LAW CHANGES IN ONTARIO

As of June 8, 2021

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Provincial Government Bills

1st Session, 42nd Parliament - *Most Recent Legislature Sitting was June 3, 2021. Sittings expected to resume September 13, 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.

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.

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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, 2021

(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.

- Royal Assent received April 14, 2021.

Bill 257, Supporting Broadband and Infrastructure Expansion Act,

(Minister of Infrastructure)

While this Bill does include measures to expand broadband telecommunications (internet) access through the Building Broadband Faster Act, 2021, Bill 257 also amends several other statutes, namely the amends the Ontario Energy Board Act, 1998 and the Planning Act and also provides a limited exemption to portions of the Underground Infrastructure Notification System Act, 2012 allowing a contractor to excavate without receiving a locate response from utilities.

- Royal Assent Received April 12, 2021

Bill 269, Protecting the People of Ontario Act (Budget Measures), 2021

(Minister of Finance)

This is the statute intended to carry forward the measures announced in the March 24, 2021 Provincial Budget (37 pages). Budget measures include, but are not limited to, a new temporary Ontario Jobs Training Tax Credit for 2021, an additional \$2.8 billion to expand broadband (internet access) services, and additional funding for health care.

- Royal Assent Received April 27, 2021

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Bill 276, Supporting Recover and Competitiveness Act, 2021

(Associate Minister of Small Business and Red Tape Reduction)

This is an omnibus Bill which amends 28 separate statutes including: the Planning Act, Ontario Immigration Act, 2015, Ontario Energy Board Act, 1998, Not-for-Profit Corporations Act, 2010, the Modernizing Ontario for People and Businesses Act, 2020, the Employment Standards Act, 2000 and the Electricity Act, 1998. The Bill does not appear to have any provisions that are aimed at or would have a unique impact on the construction industry.

- First Reading April 15, 2021,
- Second Reading debated April 19 and 22, 2021
- Second Reading carried on division April 26 and referred to the Standing Committee on General Government April 26, 2021
- *Consideration by Standing Committee May 13, 17, 18, 19 and 28, 2021*
- *Reported back to Legislature as amended May 31, 2021*
- *Third Reading debated June 2, 2021*
- *Third Reading carried on division June 3, 2021*
- *Royal Assent Received June 3, 2021.*

Bill 284, COVID-19 Putting Workers First Act, 2021

(Minister of Labour. Training and Skills Development)

This Bill is the government's response for paid leave for employees impacted by Covid-19 and is an amendment to the Employment Standards Act, 2000. The employer is required to provide up to three paid days of leave for specified Covid-19 situations and the employer, in turn, is entitled for reimbursement from the WSIB, provided that they make the application within 120 days of when the payment is actually made to the employee. Part days are not permitted, any leave must be taken as a full day and counts towards the limit of three. The wages per day are capped at \$200 per day, the program came into force as of April 29, 2021 ends as of January 25, 2022.

- Royal Assent received April 29, 2021.

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Bill 288, Building Opportunities in the Skilled Trades Act, 2021

(Minister of Labour, Training and Skills Development)

This Bill attempts to modernize and streamline apprenticeship training and certification and the continuation of the Ontario College of Trades. It appears that most of the detailed impacts will be set out in regulations which have not yet been passed. The Ministry is also proceeding with online public consultation at <https://www.ontario.ca/page/skilled-trades-panel-consultations>.

- First Reading carried May 6, 2021
- Second Reading debated May 10, and 11, 2021
- Second Reading carried May 12, 2021 and Ordered referred to Standing Committee on Finance and Economic Affairs
- Consideration by the Committee May 21, 25 **and 28**, 2021
- ***Third Reading debated June 1, 2021***
- ***Third Reading carried on division June 2, 2021***
- ***Royal Assent Received June 3, 2021***

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 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 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

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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, 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

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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

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.

- Royal Assent Received November 30, 2020.

Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

Royal Assent October 25, 2010. As of **June 8, 2021**, most of the Act has not yet been proclaimed in force.

Regulations

(reflects contents of the Ontario Gazette through to **June 5, 2021**)

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.

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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 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.

Ontario Regulation 234/21

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the April 17, 2021 issue of the Ontario Gazette, amend O. Reg 63/16 to allow the Province to publish any water taking data related to a water taking permit, including construction dewatering.

Ontario Regulation 241/21

NEW HOME CONSTRUCTION LICENSING ACT, 2017

This regulation, which was published in the April 17, 2021 issue of the Ontario Gazette, amends O. Reg 626/20 to identify what information the Registrar can publish regarding a License issued under the New Home Construction Licensing Act, 2017.

Ontario Regulation 245/21

NEW HOME CONSTRUCTION LICENSING ACT, 2017

This regulation, which was published in the April 17, 2021 issue of the Ontario Gazette, creates a Code of Ethics that is binding on a licensee and its employees officers and director for a License issued under the New Home Construction Licensing Act, 2017.

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Ontario Regulation 253/21

CONDOMINIUM ACT, 1998

This regulation, which was published in the April 24, 2021 issue of the Ontario Gazette, extends the temporary suspension period re meetings of directors for condominium corporation, from May 31, 2021 to December 31, 2021.

Ontario Regulation 273/21

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the April 30, 2021 issue of the Ontario Gazette, amends O. Reg 524/98 to provide certain exemptions for HVAC systems from the requirements to obtain an air or noise discharge permit under section 9 of the Environmental Protection Act. The regulation will come into force on July 1, 2021.

Ontario Regulation 275/21

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the April 30, 2021 issue of the Ontario Gazette, amends O. Reg 359/09 to expand the types of renewable energy projects exempted under the Environmental Protection Act. The regulation will come into force on July 1, 2021.

Ontario Regulation 276/21

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the April 30, 2021 issue of the Ontario Gazette, amends O. Reg 116/01 to expand the types of electricity projects exempted from the Environmental Assessment Act. The regulation will come into force on July 1, 2021.

Ontario Regulation 277/21

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the April 30, 2021 issue of the Ontario Gazette, amends O. Reg 101/07 to expand the types of waste management projects exempted from the Environmental Assessment Act. The regulation will come into force on July 1, 2021.

Ontario Regulation 300/21

ENVIRONMENTAL PROTECTION ACT

This regulation, which was published in the May 7, 2021 issue of the Ontario Gazette, amends O. Reg 63/16 to expand the types of exemptions available for water taking permits for certain transit and highway construction projects. The regulation will come into force on July 1, 2021.

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Ontario Regulation 301/21

ONTARIO WATER RESOURCES ACT

This regulation, which was published in the May 7, 2021 issue of the Ontario Gazette, amends O. Reg 387/04 to expand the definition of exempted water takings in relation to bridges, culverts, sewers and water works. The regulation will come into force on July 1, 2021.

Current Proposals Posted on Ontario's Regulatory Registry

(A listing of regulatory proposals, **as of June 8, 2021**, that may affect OGCA member businesses which are open for public comment)

There are no proposals open for public comment that are of importance or unique interest to the OGCA or its members at this time.

End of Report