

CONSTRUCTION LAW CHANGES IN ONTARIO

As of November 10, 2021

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Provincial Government Bills

1st Session, 42nd Parliament - Most Recent Legislature Sitting was ***November 4, 2021 and the next sitting is scheduled for Monday November 15, 2021.***

Bill 5, York Region Wastewater Act, 2021

(Minister of the Environment, Conservation and Parks)

This Bill would bring to an end the environmental assessment process which began in 2008 and has since 2014 been awaiting the Minister's decision on whether to reject, approve or impose additional conditions on the project. York Region had invested about \$100 million on the project to date. The Bill, if passed, would suspend the EA process and prohibit all further actions by York Region. The Bill is essentially a clone of Bill 306 which received first reading on June 3, 2021, however as the Legislature was prorogued in September 2021, Bill 306 became *null and void*.

- First Reading carried October 5, 2021
- Second Reading carried on division October 19, 2021
- Ordered for Third Reading without being referred to a Standing Committee October 19, 2021
- Third Reading carried October 19, 2021
- Royal Assent received October 20, 2021.

Bill 13, Supporting People and Businesses Act, 2021

(Minister of Small Business and Red Tape Reduction)

This Bill would amend 25 separate statutes including the Water Opportunities Act, 2010, the Occupational Health and Safety Act (definition of 'engineer'), the Environmental Assessment Act (greater flexibility to amend or change the classes of undertakings to which the Act applies) and the Development Charges Act, 1997.

- First Reading carried October 7, 2021
- Second Reading debated October 26 and 27, 2021
- ***Second Reading carried October 28, 2021 and ordered referred to Standing Committee on General Government.***

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Bill 27, Working for Workers Act, 2021

(Minister of Labour, Training and Skills Development)

This Bill would amend 6 separate statutes including the Employment Protection for Foreign Nationals Act, 2009; the Employment Standards Act, 2000 (employers of workforces of 25 or more persons to have a policy with respecting to 'disconnecting from work'); the Fair Access to Regulated Professions and Compulsory Trades Act, 2006; the Occupational Health and Safety Act (owner of workplace to provide access to a washroom for persons making deliveries) and the Workplace Safety and Insurance Act, 1997 (authority for Board to distribute amounts in the insurance fund in excess of prescribed amounts among Schedule 1 employers).

- First Reading carried October 25, 2021
- *Second Reading debated November 1, 2 and 3, 2021*
- *Second Reading carried November 3, 2021 and referred to the Standing Committee on Social Policy.*

Bill 43, Build Ontario Act (Budget Measures), 2021

(Minister of Finance)

This Bill would amend 11 separate statutes including the Business Corporations Act (to require certain companies to prepare a register of individuals with significant control) and the Employment Standards Act, 2000 (to increase minimum wage to \$15 per hour and adjust it annually on October 1 to cover inflation).

- *First Reading carried November 4, 2021*

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Private Members' Bills 2nd Session, 42nd Parliament

Bill 28, Preventing Worker Misclassification Act, 2021

(Peggy Sattler, NDP - London West)

This Bill would amend the *Employment Standards Act, 2000* to set out a test for when a person is deemed to be an employee of an employer. The purpose of the test is to ensure that workers are not misclassified as independent contractors.

- First Reading carried October 26, 2021.

Bill 32, Carbon Budget Accountability Act, 2021

(Mike Schreiner, Green Party - Guelph)

This Bill would, if passed, require the Premier and Minister of the Environment, Conservation and Parks to ensure that Ontario's net emissions of greenhouse gases do not exceed a specified carbon budget and report annually and the Auditor General to review and release a report before a general election.

- ***First Reading carried October 26, 2021***
- ***Second Reading debated October 28, 2021***
- ***Second Reading lost on division November 1, 2021.***

Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

The in-force date is fixed as October 19, 2021 (the "Proclamation Date"). Once it is in effect, the Ontario Not-for-Profit Corporations Act, 2010 will apply to all Ontario non-profit corporations. Current Ontario non-share capital corporations, such as the OGCA, will have three years to review and amend their documents to conform with the new requirements.

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Regulations

(reflects contents of the Ontario Gazette through to **November 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.

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 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 592/21

CONSTRUCTION ACT

This regulation, which was published in the September 10, 2021 issue of the Ontario Gazette, amends certain forms used for enforcement of liens under the Construction Act. The changes are effective as of August 27, 2021.

Ontario Regulation 650/21

EMPLOYMENT STANDARDS ACT, 2000

This regulation, which was published in the October 1, 2021 issue of the Ontario Gazette, extends the "COVID-19 period" from September 25, 2021 to January 1, 2022.

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Ontario Regulation 665/21

WORKPLACE SAFETY AND INSURANCE ACT, 1997

This regulation, which was published in the October 9, 2021 issue of the Ontario Gazette, fixes \$100,422 as the amount prescribed for the period beginning January 1, 2022 for the purposes of clause 88.1(a) of the Act.

Ontario Regulation 682/21

BUILDING TRANSIT FASTER ACT, 2020

This regulation, which was published in the October 16, 2021 issue of the Ontario Gazette designates the line known as the Hamilton Light Rail Transit line east from McMaster University, is prescribed as a 'priority transit project' for purposes of the Act. The change was effective September 28, 2021.

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Current Proposals Posted on Ontario's Regulatory Registry

(A listing of regulatory proposals, *as of November 10, 2021*, that may affect OGCA member businesses, which are open for public comment)

Proposal 21-MLTSD 019

This proposal from the Ministry of Labour Training and Skills Development for changes to the Schedule of the Occupational Health and Safety Act, which are set out in Bill 13, Supporting People and Businesses Act, 021. The change involves the definition of the term 'Engineer' and use of that term in the OHSA Schedule. This Proposal is open for public comments from October 7 to November 21 See

<https://www.ontariocanada.com/registry/view.do?postingId=39147&language=en>

Proposal 21-MLTSD 022

This proposal from the Ministry of Labour Training and Skills Development is related to proposed legislative amendments to the Fair Access to Regulated Professions and Compulsory Trades Act, 2006. The proposed amendments, if passed, would create new regulation making authority to prescribe English or French language proficiency testing as well as to establish maximum timeframes in which a professional regulatory body must make a decision on applications. This Proposal is open for public comments from October 25 to November 22 See

<https://www.ontariocanada.com/registry/view.do?postingId=39448&language=en>

Proposal 21-MTO 100

This proposal from the Ministry of Transport for regulatory amendments that would implement the new Automated Flagger Assistance Device (AFAD) to assist in traffic control and enable better enforcement of AFAD in construction zones. This Proposal is open for public comments from October 22 to December 7, 2021 See

<https://www.ontariocanada.com/registry/view.do?postingId=39427&language=en>

Proposal 21-MMAH 030

This proposal from the Ministry of Municipal Affairs and Housing is related to proposed changes for the Next Edition of Ontario's Building Code. This Proposal is open for public comments from October 20 to December 4, 2021 See

<https://www.ontariocanada.com/registry/view.do?postingId=39287&language=en>

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Proposal 21-MLTSD 026

This proposal from the Ministry of Labour Training and Skills Development is related to proposed amendments to the Workplace Safety and Insurance Act, 1997. The amendments would allow the WSIB to enter into contracts with entities such as the CRA for administering certain provisions of the Act including accepting Schedule 1 employer premium payments. This Proposal is open for public comments from October 29 to November 22, 2021 See <https://www.ontariocanada.com/registry/view.do?postingId=39548&language=en>

Proposal 21-MLTSD 028

This proposal from the Ministry of Labour Training and Skills Development is related Bill 27, the Working for Workers Act, 2021. The Bill if passed, would establish a licensing framework for temporary help agencies and recruiters. This Proposal is open for public comments from October 29 to November 22, 2021 See <https://www.ontariocanada.com/registry/view.do?postingId=39550&language=en>

End of Report