

## CONSTRUCTION LAW CHANGES IN ONTARIO

As of December 24, 2021

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### Provincial Government Bills

**1st Session, 42nd Parliament** - Most Recent Legislature Sitting was December 9, 2021 and the next sitting is scheduled for Tuesday February 22, 2022.

#### Bill 5, York Region Wastewater Act, 2021

**(Minister of the Environment, Conservation and Parks)**

This Bill brings an end to 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*.

- 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
- Consideration of the Bill by the Standing Committee November 16, 17, and 26, 2021
- Reported to the Legislature as amended November 29, 2021
- Third Reading debated November 30 and December 1, 2021
- Third Reading carried on division December 2, 2021
- Royal Assent received December 2, 2021.

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### Bill 27, Working for Workers Act, 2021

#### (Minister of Labour, Training and Skills Development)

This Bill amends 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
- Consideration of the Bill by the Standing Committee on November 15, 16, 17, 18 and 23
- Reported to the Legislature as amended November 24, 2021
- Third Reading debated November 25 and 29, 2021
- Third Reading carried November 30, 2021
- Royal Assent received December 2, 2021.

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

#### (Minister of Finance)

This Bill amends 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
- Second Reading debated November 15, 16, 17 and 18, 2021
- Second Reading carried on division, November 18, 2021 and referred to the Standing Committee on Finance and Economic Affairs
- Consideration by the Standing Committee November 26, 29 and December 3, 2021
- Reported to the Legislature as amended December 6, 2021
- Third Reading debated December 7 and 8, 2021
- Third Reading carried on division, December 9, 2021
- Royal Assent received December 9, 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.~~

~~—— Second Reading lost on division November 18, 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.~~

~~—— Second Reading lost on division November 1, 2021.~~

#### Bill 54, Protecting Vulnerable Road Users Act, 2021

(Bhutila Karpoche, NDP - Parkdale–High Park

Doly Begum, NDP, Scarborough Southwest

Jessica Bell, NDP, University -- Rosedale)

This is very similar to Bill 62 from the previous sittings which was tabled for first reading on November 21, 2018 by Jessica Bell. Bill 54 would, if passed, would amend the *Highway Traffic Act* to impose more serious legal consequences of a collision that seriously injures or kills a pedestrian, a cyclist, a mobility device user, a roadway worker, an emergency responder outside their motor vehicle or another individual listed in the Bill.

- First Reading carried November 18, 2021
- Second Reading debated and carried November 24, 2021 and ordered referred to the Standing Committee on Justice Policy

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### **Bill 57, Paris Galt Moraine Conservation Act, 2021**

**(Mike Schreiner, Green Party - Guelph)**

This Bill is very similar to Bill 71 from the previous sittings which was tabled for first reading on February 20, 2019 by Mike Schreiner. Bill 57, if passed, 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 November 24, 2021.

### **Bill 68, Speaking Out About Workplace Violence and Workplace Harassment Act, 2021**

**(France Gelinas, NDP - Nickel Belt)**

This Bill, if passed, would amend the Occupational Health and Safety Act to protect work against reprisals who speak out about workplace violence or workplace harassment.

- First Reading carried December 6, 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 **December 24, 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 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.

#### 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.

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### Ontario Regulation 777/21

#### **ELECTRICITY ACT, 1998**

This regulation, which was published in the December 3, 2021 issue of the Ontario Gazette, revokes O.Reg 164/99 and adopts the ESA's 'Ontario's Amendments to the Canadian Electrical Code Part 1, C22.1, as amended on Sep 9 2021 as the new Electricity Safety Code. The new code and Regulation come into effect on May 5, 2022.

### Ontario Regulation 782/21

#### **BUILDING BROADBAND FASTER ACT, 2021**

This regulation, which was published in the December 10, 2021 issue of the Ontario Gazette, prescribes the type of loss or expense caused by Ontario One Call as including direct expenses from any delay in the designated broadband project. The Regulation came into force on November 30, 2021.

### ***Ontario Regulation 809/21***

#### ***BUILDING BROADBAND FASTER ACT, 2021***

*This regulation, which was published in the December 18, 2021 issue of the Ontario Gazette, expands the designated broadband projects as including any project which is funded in whole or in part by the Ministry of Infrastructure. The Regulation came into force on November 30, 2021.*

### ***Ontario Regulation 818/21***

#### ***ONTARIO WATER RESOURCES ACT***

*This regulation, which was published in the December 18, 2021 issue of the Ontario Gazette, amends O. Reg 129/04 (Licensing of Sewage Works Operators) amends the qualification requirements for various professionals engaged in the operation of sewage works. It also authorizes the use of certain other individuals in emergency situations. The Regulation came into force on December 3, 2021.*

### ***Ontario Regulation 819/21***

#### ***SAFE DRINKING WATER ACT, 2002***

*This regulation, which was published in the December 18, 2021 issue of the Ontario Gazette, amends O. Reg 128/04 (Certification of Drinking Water System Operators and Water Quality Analysts) amends the qualification requirements for various professionals engaged in the operation of drinking water systems. It also authorizes the use of certain other individuals in emergency situations. The Regulation came into force on December 3, 2021.*

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### ***Ontario Regulation 820/21***

#### ***SAFE DRINKING WATER ACT, 2002***

***This regulation, which was published in the December 18, 2021 issue of the Ontario Gazette, amends O. Reg 170/03 (Drinking Water Systems) and establishes the qualification requirements for emergency situation operators. The Regulation came into force on December 3, 2021.***

### ***Ontario Regulation 821/21***

#### ***SAFE DRINKING WATER ACT, 2002***

***This regulation, which was published in the December 18, 2021 issue of the Ontario Gazette, amends O. Reg 248/03 (Drinking Water Testing Services) clarifying the qualification requirements for emergency situation operators. The Regulation came into force on December 3, 2021.***

### ***Ontario Regulation 834/21***

#### ***EMPLOYMENT STANDARDS ACT, 2000***

***This regulation, which was published in the December 25, 2021 issue of the Ontario Gazette, amends O. Reg 228/20 (Infectious Disease Emergency Leave) by extending certain eligibility dates from December 31, 2021 to July 31, 2022 clarifying the qualification requirements for emergency situation operators. The Regulation came into force on December 9, 2021.***

### ***Ontario Regulation 837/21***

#### ***PROFESSIONAL ENGINEERS ACT***

***This regulation, which was published in the December 25, 2021 issue of the Ontario Gazette, amends O. Reg 941 (General Regulation) by setting out requirements for affixing an electronic seal and signature to certain engineering documents. The Regulation will come into force on July 31, 2022.***

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### Current Proposals Posted on Ontario's Regulatory Registry

(A listing of regulatory proposals, *as of December 24, 2021*, that may affect OGCA member businesses, which are open for public comment)

#### **ERO Proposal 019-4219**

This proposal from the Ministry of Environment, Conservation and Parks is for move to a project list approach under the Act. The new regulation would impact the nature and complexity of environmental assessments for various projects including, but not limited to, roads, transit systems, new rail lines, waste management facilities and waste water treatment facilities. The proposal also includes revoking 69 EA related regulations. This Proposal is open for public comments from November 26, 2021 to January 25, 2022 See <https://ero.ontario.ca/notice/019-4219>

#### **Proposal 21-ENDM 036**

This proposal from the Ministry of Energy is for a new regulation to enable enforcement of the Building Broadband Faster Act Guideline. This Proposal is open for public comments from December 1, 2021 to January 17, 2022 See <https://www.ontariocanada.com/registry/view.do?postingId=39987&language=en>

#### ***Proposal 21-MLTSD 030***

*This proposal from the Ministry of Labour, Training and Skills Development is a regulation to address access to naloxone in Ontario workplaces to address potential opioid overdoses. This Proposal is open for public comments from December 14, 2021 to January 14, 2022 See <https://www.ontariocanada.com/registry/view.do?postingId=40107&language=en>*

#### ***Proposal 21-MLTSD 032***

*This proposal from the Ministry of Labour, Training and Skills Development is a regulation to update references to engineers and professional engineers in regulations under the Occupational Health and Safety Act (OHSA). This Proposal is open for public comments from December 15, 2021 to February 16, 2022 See <https://www.ontariocanada.com/registry/view.do?postingId=40187&language=en>*

End of Report