Commercial leasing: New liability regime for landlords comes into force July 1, 2026

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Updated: Ontario Regulation 144/26 was published on June 2, 2026, which prescribes an offence under s. 7.1(1)(a) under the Controlled Drugs and Substances Act (Canada) as a prescribed offence under the Act. O. Reg. 144/26 will also come into force on July 1, 2026.

On May 14, 2026, the Lieutenant Governor of Ontario signed Order in Council 758/2026, which will bring most provisions of the *Measures Respecting Premises with Illegal Drug Activity Act, 2025* (the Act) into force on July 1, 2026. Unless exempted by a future regulation, the Act creates a provincial offences regime under which commercial landlords may be prosecuted for knowingly permitting leased premises within their building to be used for producing or trafficking controlled substances, precursors, or cannabis.

While the Act may apply to residential landlords in the future, it remains unclear whether certain classes of landlords (such as not-for-profit, and community and supportive housing landlords) may be exempt.

Legislative background and offence framework

On June 5, 2025, Ontario enacted *Bill 10, Protect Ontario Through Safer Streets and Stronger Communities Act, 2025* (Bill 10). This omnibus legislation amended multiple Ontario laws with the stated aim of enhancing public safety.

Among other things, Bill 10 created new obligations for sureties; expanded access to restraining orders; enhanced monitoring of persons who have been convicted of a sexual offence against a child; and provided the police expanded authority to seize tools used in auto theft.

Though not proclaimed into force at the time, Schedule 8 of Bill 10 contained the Act, which creates new provincial offences that:

1. prohibit landlords from knowingly permitting premises within their buildings to be used in connection with prescribed offences; and

2. prohibit any person from knowingly possessing the proceeds of an offence under the Act.

The Act imposes harsh penalties for committing these offences, shifting primary responsibility for preventing drug-related activity onto property owners and operators.

On conviction for knowingly permitting a prescribed offence to occur in their building, an individual landlord may face fines ranging from $10,000 to $250,000 and/or imprisonment for up to 2 years less a day, with fines on a subsequent conviction of $5,000 to $100,000 per day from the date upon which the offence occurred.

A corporate landlord may be fined up to $1,000,000 for a first conviction, and on a subsequent conviction, be fined $10,000 to $500,000 per day from the date upon which the offence occurred.

The Act also grants broad enforcement powers, including authorizing police to close a non-residential premises, barring entry until final disposition of a charge unless a court orders otherwise. Even with a court order, the landlord must post a cash bond of at least $10,000, which may be forfeited if another charge is laid under the Act in respect of the same premises.

The Act provides that it is a defence to the charge of knowingly permitting a prescribed offence to occur on premises within the landlord's building where the landlord demonstrates it took "reasonable measures" to prevent the activity giving rise to the offence. While the Act does not offer any guidance as to what might constitute "reasonable measures," it is anticipated that courts would make a context-specific determination on the particular facts of each case as to whether a landlord took reasonable and proportionate measures in the circumstances.

Coming-into-force scope and practical implications for commercial landlords

A person is a landlord of a premise under the Act if:

a. the person has leased the premises to a tenant for residential use;
b. the person has leased the premises to a tenant for commercial use; or
c. the person is a tenant to whom the premises is leased, whether for residential or commercial use, and has sublet the premises to another person.

Order in Council 758/2026 brings the Act into force on July 1, 2026, but only in respect of commercial landlords under subparagraph (b).

Prosecution under the Act is dependent on regulations prescribing the underlying offences. On Feb. 11, 2026, the Ontario government opened a consultation regarding its proposal to include section 7.1(1)(a) of the *Controlled Drugs and Substances Act* (being that "No person shall possess, produce, sell, import or transport anything intending that it will be used to produce a controlled substance, unless the production of the controlled substance is lawfully authorized") as a prescribed offence under the Act. There has been no public update on the result of this consultation, but further information on the regulations under the Act is expected to be released shortly.

Commercial landlords that suspect that drug-related activities may be taking place on premises within their building should consider adopting measures now to assist in establishing a "reasonable measures" defence under the Act. Such measures may include including robust prohibitions in lease agreements, scheduling and documenting regular inspections, promptly reporting suspicious activity, and other measures to demonstrate that the landlord is not a willing or passive participant in their tenant's drug-related conduct.

Outstanding issues and regulatory uncertainty

For now, there has been no public indication as to when the remainder of the Act will come into force and include landlords who either (a) lease premises to tenants for residential use, or (b) sublet leased premises for either residential or commercial use.

Should residential landlords be brought within the purview of the Act, such landlords will need to be mindful of tenant protections under the *Residential Tenancies Act* (such as prohibiting landlords from interfering with reasonable enjoyment of the property and from entering residential premises without written notice), as well as the Ontario *Human Rights Code* when conducting any surveillance or other preventative measures.

It is also not clear at this time whether the government will exempt any classes of landlords from the application of the Act. In the February 2026 consultation, the government sought input on exempting the following classes of persons from the definition of "landlord":

- landlords of retirement homes defined under the *Retirement Homes Act*, long-term care homes defined under the *Fixing Long-Term Care Act, 2021*, or educational accommodations (such as student residences or institutional housing);
- landlords of premises offering rehabilitative services, therapeutic services, services intended to support employment, services intended to support life skills development, or short-term respite care;
- landlords of premises that are subject to the *Homes for Special Care Act*, or a premises that is a supported group living residence or an intensive support residence under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*;
- landlords of living accommodations subject to the *Public Hospitals Act*, the *Private Hospitals Act*, the *Ministry of Correctional Services Act*, or the *Child, Youth and Family Services Act, 2017*;
- landlords of community, supportive, and transitional housing, including non-profit housing providers, housing cooperatives, municipalities, district social services administration boards, local housing corporations, and other non-profit organizations; and
- private market landlords of community or supportive housing units (such as private market landlords who own or operate units that receive a government-funded rent supplement).

The results of this public consultation have not been released, and the government has not yet given direction on which (if any) of these aforementioned landlord categories may be exempt.

Several organizations have raised concerns regarding the financial burden and risk the Act places on not-for-profit landlords, whose limited resources may be further depleted by the Act's implicit expectation that landlords take proactive and preventative measures. The Act also sits in tension with harm-reduction models of care. Some providers have expressed concern that increased surveillance of their tenants may undermine trust-based approaches and deter vulnerable individuals from accessing supportive housing. In this respect, the Act aligns with the province's broader policy shift away from harm-reduction measures and towards addiction treatment.

We continue to monitor these developments and will update this article as they arise. Should you desire assistance with understanding whether your organization may be subject to the Act beginning July 1, 2026, or developing measures to establish a defence under the Act, BLG lawyers would be happy to assist; reach out to the authors or key contacts below.

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