Ontario declares second state of emergency, issues stay-at-home order

January 13, 2021

On Jan. 12, 2021, the Ontario government declared a second provincial state of emergency, and introduced further restrictions to curb the spread of COVID-19.

The new stay-at-home order, effective Jan. 14, 2021 at 12:01 a.m., requires everyone to remain at home with exceptions for essential purposes, such as going to the grocery store or pharmacy, accessing health care services, for exercise or for essential work. The order will remain in effect for at least 28 days.

All enforcement and provincial offence officers, including the Ontario Provincial Police, local police forces, bylaw officers and provincial workplace inspectors, can issue tickets to those who do not comply with the stay-at-home order. In addition, all enforcement personnel will have the authority to temporarily close a premise and disperse individuals who are in violation of an order. They will also be able to disperse those who are gathering, regardless of whether a premise is closed or remains open, such as a park or house.

Other restrictions are as follows:

Social distancing

- Outdoor gatherings are further restricted to maximum five people, with limited exceptions.
- Individuals are required to wear a mask or face covering in the indoor areas of businesses or organizations that are open. In addition, wearing a mask or face covering is now recommended outdoors when maintaining a physical distance of more than two metres is not possible.

Workplaces

Any employee of a business or organization that remains open will work remotely, with limited exceptions – including, for example, if the nature of their work requires them to be on-site.

Retail

- All non-essential retail stores, including hardware stores, alcohol retailers and those offering curbside pickup or delivery, must not open before 7 a.m. and close by 8 p.m.
    - The restricted hours of operation do not apply to stores that primarily sell food, pharmacies, gas stations, convenience stores and restaurants for takeout or delivery.
    - Discount retailers and big box stores selling groceries may remain open for in-person retail, subject to members of the public being able to maintain two metres physical distance from every other person in the store. Also, the number of persons occupying any room that is open to the public must not exceed 25 per cent capacity.
    - An item may only be provided for curbside pickup if the patron ordered the item before arriving at the business premises.

Construction

Non-essential construction is further restricted, including below-grade construction. However, land surveying and demolition services are exempt from this restriction. Permitted construction activities include:

- Construction projects and services associated with the healthcare sector and long-term care. This includes new facilities, expansions, renovations and conversion of spaces that could be repurposed for health care space;
- Construction projects and services required to ensure safe and reliable operations of, or to provide new capacity in, provincial and municipal infrastructure. This includes transit, transportation, energy, mining and justice sectors, beyond day-to-day maintenance;
- Construction projects and services supporting the operations of, and providing new capacity in, schools, colleges, universities, municipal infrastructure and child care centres within the meaning of the *Child Care and Early Years Act, 2014*;
- Construction projects under the Investing in Canada Infrastructure Program;
- Construction projects and services that support the operations of broadband internet and cellular technologies and services;
- Critical industrial construction activities required for:
    - Maintaining and operating petrochemical plants and refineries;
    - Significant industrial petrochemical projects where preliminary work has started;
    - Industrial construction and modifications to existing industrial structures limited to work necessary for producing, maintaining and/or enhancing Personal Protective Equipment, medical devices (such as ventilators) and other identified products directly related to combatting the COVID-19 pandemic.
- Construction projects due to be completed before July 2021 that would provide additional capacity in the production, processing, manufacturing or distribution of food, beverages or agricultural products;
- Construction projects started before Jan. 12, 2021, that would:

    - Provide additional capacity for businesses providing logistical support, distribution services, warehousing, storage or shipping and delivery services; or
    - Provide additional capacity in the operation and delivery of Information Technology (IT) or telecommunications services.
- Residential construction projects where:
    - A footing permit has been granted for single family, semi-detached and townhomes;
    - The project is a condominium, mixed-use or other residential building; or
    - The project involves renovating residential properties and construction work started before Jan.12, 2021.
- Construction to prepare a site for an institutional, commercial, industrial or residential development, including any necessary excavation, grading, roads or utilities infrastructure;
- Construction and maintenance activities necessary to temporarily close construction sites that have paused or are not active and to ensure ongoing public safety;
- Below-grade multi-unit residential construction projects, such as apartments and condominiums. The Ontario government also provided that businesses must follow public health measures and should review the workplace safety guidelines; and
- Construction on any project intended to provide either affordable housing, shelter or supports for vulnerable persons, if the project is being funded in whole or in part by, or being undertaken by, any of the following:
    - The Crown in right of Canada or in right of Ontario;
    - An agency of the Crown in right of Canada or in right of Ontario;
    - A municipality;
    - A service manager as defined in the *Housing Services Act, 2011*; or
    - A registered charity and not-for-profit within the meaning of the *Income Tax Act*.

Entertainment and tourism

- All concert venues, theatres and cinemas must close, including for drive-in or drive-through events.
- Prearranged bookings for short-term rentals are prohibited, with exceptions for housing requirements.
- No person may use an indoor or outdoor recreational amenity that is required closed.

Education

- Schools in Toronto, York Region, Hamilton, Peel Region and Windsor-Essex will not return to in-person learning until Feb. 10, 2021. Schools in Northern Ontario will remain open for in-person learning.
- Childcare centres for non-school aged children will remain open. Emergency childcare for school-aged children will end on Jan. 22, 2021 in regions where schools are reopening for in-person learning on Jan. 25, 2021.

Please note that the information in this article is a summary of proposed measures, which may not be in effect yet. This summary is for general information purposes only and is not intended to provide an interpretation of the proposed legislation or regulation. To the extent there is any conflict between this summary and any applicable legislation or regulation, the legislation or regulation shall prevail.

We will continue to monitor and provide updates once the legislation is released. If you have any questions about the proposed measures, reach out to your lawyer or any of the key contacts below.

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