



What's New in HR Law

Ontario Government Orders Province-Wide Lockdown

December 23, 2020

BOTTOM LINE

On December 21, 2020 the Ontario government announced a province-wide lockdown which will take effect on December 26, 2020 at 12:01 a.m. This lockdown is set to last at least 14 days in Northern Ontario (i.e. until at least January 9, 2021) and 28 days in Southern Ontario (i.e. until at least January 23, 2021). These periods may be subject to extension if deemed necessary to further stop the spread of COVID-19.

In conjunction with the announcement of this province-wide measure, the Ontario government advised that the existing COVID-19 Response Framework would be paused once the lockdown comes into effect. While paused, all regions across the province will be subject to the amended measures set out in the newly filed [O. Reg. 779/20](#), which amends the [Rules for Areas in Stage 1](#).

The onset of the lockdown will see significant changes for employers who had previously been operating in the less restrictive zones of the COVID-19 Response Framework. While employers with operations based in zones which were already in the Grey Zone will have a less jarring adjustment come December 26th, businesses in all regions should carefully review the new Rules for Areas in Stage 1 to determine whether they are permitted to remain open and, if so, what specific requirements must be met in order to ensure compliance.

Below we summarize some of the key changes and requirements which have been brought about by the lockdown. However, we encourage all employers to consult the amended [regulations](#) and the government's online [overview](#) of these new measures for more detailed information pertaining to their individual businesses.

General Requirements

The following are the general public health and workplace safety measures which apply to all businesses, organizations and facilities during the lockdown:

- **Public Health Measures:** Businesses must comply with the advice, recommendations and instructions of public health officials.
- **Laws and Regulations:** Businesses must operate in accordance with all applicable laws, including the *Accessibility for Ontarians with Disabilities Act, 2005* and the *Occupational Health and Safety Act*.
- **Safety Plans:** All business that remain open must prepare a [COVID-19 safety plan](#). A copy of the plan must be made available to any person for review upon request, and be posted where it will come to the attention of individuals working in or attending the business.
- **Physical Distancing and Face Coverings:** Businesses must not permit patrons to line up inside, or to line up or congregate outside of the business, unless they maintain a physical distance of at least two metres from other groups and are wearing a mask that covers their mouth nose and chin (subject to limited masking exemptions).
- **PPE:** Personal protective equipment that provides the protection of the eyes, nose and mouth if a worker must come within two metres of another person who is not wearing a face covering and is not separated by plexiglass or some other impermeable barrier.
- **Capacity Limits:** Businesses must limit capacity so that every member of the public is able to maintain two metres of physical distancing from every other person, and limit the number of people occupying any room that is open to the public to 50% capacity (note that some businesses (e.g. some retailers) that remain open will have to comply with more stringent capacity limits). All businesses that engage in retail sales to the public must post a sign in a visible location stating the maximum capacity of the premises.
- **Cleaning and Disinfection:** Businesses must ensure that areas and equipment that are accessible to the public are cleaned and disinfected as frequently as necessary to maintain sanitation.

Businesses that Must Close

Business that are required to close to the public during the province-wide lockdown include, but are not limited to:

- Personal care services
- Day camps for children
- Tours and guide services
- Casinos, bingo halls, and gambling establishments
- Museums, cultural amenities, zoos and aquariums, amusement parks

- Bathhouses and sex clubs
- Motorsports
- Horse racing (may open for training purposes only)
- Concert venues and cinemas (with limited exceptions for rehearsals or performing recorded or broadcasted productions)
- Ski hills
- Indoor and outdoor sports and recreational facilities (with some exceptions)

Businesses Permitted to Remain Open

The following is a high-level summary of some of the key categories of businesses that will be permitted to remain open during the province-wide lockdown. A comprehensive review of all business and the requirements applicable to each is beyond the scope of this update.

- **Retailers:** the following categories of retailers are permitted to remain open, subject to various conditions:
 - Supermarkets, convenience stores, indoor farmer's markets and other stores that primarily sell food
 - Pharmacies
 - Discount and big box retailers (these establishments may remain open to the public for in-person sales provided they sell groceries to the public and limit their occupancy to 25%)
 - Safety supply stores, businesses that sell rent or repair assistive/mobility/medical services, and optical stores that sell prescription eyewear, are permitted to remain open by appointment only.
 - Stores that sell liquor, including beer, wine and spirits must limit capacity to 25%.
 - Shopping malls may only open to allow the public access to those businesses that are permitted to remain open.
 - Motor vehicle retailers may remain open by appointment only.

All other retail establishments must be closed for in-person retail sales. However, curbside pick-up or delivery will be permitted during the province-wide lockdown.

- **Restaurants, bars and food and drink establishments:** these businesses may only operate to provide take-out, drive-through or delivery services. Both indoor and outdoor service is prohibited, with very limited exceptions.
- **Construction:** construction activities, projects and related services are permitted to remain open, including demolition and land surveyor services.
- **Hotels and Other Accommodations:** hotels, motels, and other rental accommodation business may remain open. However, indoor pools, fitness centres, and other indoor communal facilities must be closed.
- **Supply chain:** businesses that supply businesses or places that are permitted to remain open, or that supply businesses or services that have been declared essential in a jurisdiction outside of Ontario are permitted to operate.

- **Financial services:** capital markets and related securities trading and advisory services, banks, credit unions, insurance services, land registration services, pension and benefit payment services, and payroll payment and processing and accounting tax services may remain open.
- **Telecommunications and Information Technology:** service providers may remain open.
- **Newspapers, Radio and Television Broadcasting:** these businesses may remain open.
- **Services:** the following are some of categories of service providers are permitted to remain open, subject to various conditions:
 - Rental and leasing services, including automobile, commercial and light industrial machinery and equipment rental
 - Gas stations and other fuel suppliers
 - Automated and self-service car washes
 - Laundromats and drycleaners
 - Snow clearing and landscaping
 - Security services for residences, businesses and other properties
 - Domestic services (only to support children, seniors, or vulnerable persons, including housekeeping, cooking, indoor and outdoor cleaning and domestic maintenance services)
 - Vehicle equipment repair and essential maintenance and vehicle equipment rentals (by appointment only)
 - Courier, postal, shipping, moving and delivery services
 - Funeral and related services
 - Staffing services including providing temporary help
 - Veterinary services (for services that are necessary for the immediate health and welfare of the animal only, or provided through curb side pick-up and drop-off of the animal)
 - Businesses that provide pet training exclusively for service animals
- **Manufacturing:** Businesses that extract, manufacture, process and distribute goods, products, equipment and materials, including businesses that manufacture inputs to other manufacturers may remain open.
- **Agriculture and food production:** businesses that produce or process food and beverages, and agricultural products, as well as those that support the food or agricultural products supply chain and the health and safety of food, animals, and plants may remain open.
- **Transportation Services:** businesses and facilities that provide transportation services including those provided by air, water, road, and rails, including taxis and other private transportation providers are permitted to remain open.

- **Community Centres:** are permitted to open for the operation of childcare services and authorized skill building programs, mental health and addiction support services, and social services.
- **Libraries:** public libraries are closed, except for curbside pick-up and return.
- **Meeting and event spaces:** these facilities may only be rented out for a narrow set of purposes, including the operation of childcare programs or authorized skill building program, court services, government services, mental health and addictions services (to a maximum of 10 people), and social services. Contact information recording is required.
- **Driving Instruction:** No in-person driving instruction will be permitted except for instruction for drivers of commercial motor vehicles, where the instruction is part of the Ontario Driver Certification Program administered by the Ministry of Transportation, or that is provided by a private career college which complies with certain conditions.
- **Real Estate:** no open houses are permitted. Properties may be shown by appointment only.
- **Resource and energy:** businesses that provide and ensure the domestic and global continuity of supply of resources, or focus on electricity generation, transmission, distribution and storage and natural gas distribution, transmission and storage, are permitted to remain open.
- **Community Services:** businesses that deliver or support the delivery of community services (including sewage treatment, waste collection and disposal, critical infrastructure, *etc.*) may remain open.
- **Schools and Private Schools:** schools are closed for in-person learning and instruction. However, schools may open: (i) to the extent necessary to facilitate the operation of a child care centre or authorized skill building program, and (ii) to allow staff of the school to provide remote teaching and instruction provided health guidelines are followed. Some schools will be permitted to reopen for in-person learning as of January 11, 2021, while others will not be permitted to reopen for in-person instruction until January 25, 2021.
- **Child Care:** Child care will remain open for the duration of the province-wide lockdown. However, child care service providers must not provide before or after school programs on a school day where the child's school is not permitted to provide in-person teaching or instruction on that day. They must similarly not provide child care on school days during school hours where the child's school is not permitted to provide in-person teaching or instruction to the child on that day. Some child care centres may be designated as emergency child care centres and may operate during these periods of closure to provide child care services to the children of designated individuals.

Check the Box

The above is intended to provide our readers with a high level overview of some of the key changes imposed by these new province-wide measures. We encourage all employers to closely examine the regulations and government communications that pertain to their particular businesses to ensure that they remain in compliance with all applicable rules.

Need more information?

For more information regarding workplace management during the COVID-19 pandemic, or assistance determining how these new province-wide lockdown measures impact your workplace, please contact any member of the FWTA legal team.



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