

COVID-19: Evolving government orders and recommendations for individuals and businesses

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Updated as of April 9

In response to COVID-19, social distancing measures have brought significant changes to our personal and work lives. In Canada, the federal government has announced border closures, travel advisories, emergency economic support and other policies, to soften the impacts of COVID-19. Provinces and territories across Canada have also taken swift action. Some provinces have declared states of emergency, with other provinces and territories declaring public health emergencies. Municipalities across Canada are also ramping up efforts to combat COVID-19. The scope of the measures across Canada will evolve over the coming days, weeks and months.

This article will focus on some of the responses by the British Columbia and Ontario governments to promote and ensure social distancing to flatten the COVID-19 curve.

British Columbia's COVID-19 response measures

On March 18, 2020, the British Columbia Minister for Public Safety and Solicitor General declared a provincial state of emergency under the *Emergency Program Act*, R.S.B.C. 1996, c. 111. The provincial statement of emergency is initially in effect for 14 days, once issued, and may be extended or rescinded as necessary. This follows the public health emergency declared by Dr. Henry, the British Columbia Provincial Health Officer, on March 17, 2020. The Provincial Health Officer can now exercise emergency powers in Part 5 of the *Public Health Act*, S.B.C. 2008, c. 28, in responding to the COVID-19 pandemic.

On March 26, 2020, the Minister of Public Safety and Solicitor General announced further emergency measures.¹ The measures include suspending local states of emergency specific to the COVID-19 pandemic, except for the City of Vancouver; powers to coordinate and protect supply chains of essential goods and supplies; heightened enforcement powers; and others.² Bylaw enforcement officers can assist health officers in enforcing public health orders, in line with offences under the *Public Health Act*.

However, bylaw enforcement officers are not authorized to detain individuals as a result of a contravention or suspected contravention of a public health order or issue fines or penalties under the *Public Health Act*.³

On March the 16, 2020, Dr. Bonnie Henry issued a class order banning mass gatherings in excess of 50 people at any place.⁴

The Provincial Health Officer has ordered that all restaurants across the province must close their doors to dine-in guests and move to only take-out or delivery services until further notice. Under a revised order effective March 20, 2020,⁵ places where food and drink are served may stay open, subject to the following:

a. You may only provide take out or delivery service.

- b. Customers may be on your premises only for the time that it takes them to purchase and collect their purchase.
- c. You must ensure that when there are people on your premises there is sufficient space available to enable them to maintain a distance of 2 metres from one another.
- d. You must not have more than 50 people present at one time on your premises.

Holders of a Liquor Primary Licence that only provide snacks or appetizers but not meal service, such as a nightclub, must close. If you are a holder of a manufacturer onsite lounge endorsement or a manufacturer onsite tasting room endorsement you must close those endorsement areas. Owners and operators of retail liquor establishments must ensure that customers remain on the premises only for the time that it takes them to purchase and collect their purchase, maintain a distance of two metres from each other, and ensure that there are no more than 50 people present on the premise at one time.

Dr. Henry has ordered personal service establishments – such as barbershops, salons, nail estheticians, health spas, massage parlours, tattoo shops and others – to close until further notice.

On March 26, 2020, British Columbia released a list of essential businesses that should and are encouraged to remain open.⁶ However, they must follow the orders and guidance provided by the Provincial Health Officer to ensure safe operations and reduce the risk of transmission of COVID-19. Any business or service that has not been ordered to close, and is also not identified on the essential service list, may stay open if it can adapt its services and workplace to the orders and recommendations of the Provincial Health Officer.

The Provincial Health Officer provided specific directions to construction sites⁷ and mining and smelting sites⁸ operating during COVID-19. Some of the directions include:

- There should be no more than 50 people in the same space in any circumstances. This includes common areas in bunkhouses and cafeterias, pre-shift safety meetings, and town halls meetings.
- Where possible, employees should maintain a distance of two metres apart from each other.
- Post signage that limits the number of occupants in any elevator to four people at a time.
- Reduce in-person meetings and other gatherings and hold site meetings in open spaces or outside.
- Increase the number of handwashing stations and post signage that identifies their location.
- Maintain a list of employees that are currently working on sites and update this list daily.
- All common areas and surfaces should be cleaned at the end of each day. Examples include washrooms, shared offices, common tables, desks, light switches and door handles.
- Anyone with COVID-19-like symptoms, such as sore throat, fever, sneezing or coughing, must self-isolate at home for 14 days.

Mining and smelting operations are encouraged to reduce the number of on-site personnel by encouraging work from home where feasible. Visitors must be essential to the mine site's operation. The above requirements also pertain to transportation to and from mines.

Ontario's COVID-19 response measures

On March 17, 2020, to limit the spread of COVID-19, the Premier delivered an order declaring an emergency under section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 (Act). The declaration was made to protect the health and safety of all Ontarians, and it has allowed the Province to quickly implement and

enforce further orders in the public interest.

The Lieutenant Governor in Council confirmed the order, ensuring that emergency declaration would remain in effect until March 31, 2020. Under section 7.0.7 of the Act, the order will terminate on the 14th day following its declaration, however the Lieutenant Governor in Council is empowered under the same section to extend or shorten it. On March 30, the declaration of emergency was extended until April 14, 2020.

Following the initial order, various measures taken by the government have impacted Ontario's economy . The province required many establishments to immediately close, including: facilities providing indoor recreational programs; private schools, as defined in the *Education Act*; licensed child care centres; bars and restaurants (except for the limited provision of takeout food and delivery); theatres ; and concert venues.

The initial declaration banned public events of more than 50 people. Weddings and funerals were not exempt. On March 28th, the government issued a further emergency order prohibiting organized public events and social gatherings of more than five people. Exemptions to this order included private households with more than five people and child care centres supporting frontline health care workers and first responders. The child care centres would be limited to 50 people as per the province's first order. Funerals were given a limited exception to proceed with up to 10 people at a time.

On March 18, the Deputy Premier announced the closure of Ontario's provincial parks, effective March 19, 2020, until April 30, 2020. The initial closure included car camping, backcountry camping, roofed accommodations, day use opportunities and all public buildings. This order was bolstered on March 30th as all outdoor recreational amenities were closed. The closure now affects playgrounds, sports fields, basketball and tennis courts, off-leash dog parks, benches, skateboard and BMX parks, picnic areas, outdoor community gardens, park shelters, outdoor exercise equipment, condo parks and gardens, and other outdoor recreational amenities. Green spaces in parks, trails, ravines and conservation areas remain open for walkthrough access, but individuals must maintain a physical distance of at least two metres apart from others.

On March 19, 2020 the *Employment Standards Amendment Act (Infectious Disease Emergencies), 2020* was passed with unanimous consent. The newly enacted legislation ensured leave for employees who could not work due to COVID-19, for various reasons. Employees in isolation, quarantine, or those who need to be away from work to care for children or to care for other relatives are all protected under the legislation. The measures are retroactive to January 25, 2020, which was the date of the first presumptive COVID-19 case in Ontario. The legislation also states that employees do not need to provide sick notes.

On March 23, 2020 the Ontario Government announced that it would order the mandatory closure of all non-essential workplaces as of March 24 at 11:59PM. On March 24, 2020 the Government provided a full list of "Essential Workplaces."

This list was amended on April 3rd to be more restrictive. While working remotely is still permitted, a lesser number of businesses have been permitted to maintain physical operations. An updated list can be found [here](#).

As a part of the revised order, only critical construction is permitted to continue. This includes industrial projects such as refineries and petrochemical plants, and infrastructure such as hospitals, roads, and bridges. Certain construction that is near completion will also be permitted to continue.

The province is also providing relief, by way of emergency order, from electricity rates for families, small businesses and farms for a 45 day period effective on March 24, 2020. The province announced that a reduced rate of 10.1 cents-per-kilowatt-hour would be charged at all times. This is a change from the variable rates that are charged to customers during on-peak and off-peak times, and should provide rate reductions of over 50%.

Further relief for businesses comes through the Workplace Safety and Insurance Board (WSIB), whereby insurance

premiums will be deferred for six months. Employers covered by the WSIB will be permitted to defer premium reporting and payments until August 31, 2020, and no interest will accrue on outstanding premiums during this time. No penalties or negative consequences will be levied against businesses that elect to defer payments.

In an effort to protect consumers from opportunistic businesses and individuals, the Ontario government announced on March 28th that individuals could be fined \$750.00-\$100,000.00 for price gouging on necessary goods. Meanwhile, a company or its directors and officers could face fines of up to \$500,000.00 and up to 1 year in jail. Corporations cannot face jail time, but the fines could be as high as \$10,000,000. Necessary goods, for purposes of these fines, include: Masks and gloves, non-prescription medications used to treat the coronavirus, disinfecting agents used for cleaning objects or humans, and personal hygiene products and paper products.

The province is also helping match employers in the agriculture and food industry with potential workers. In order to maintain the supply chain and keep food on the table for all Ontarians, workers are needed in this industry. Employment opportunities can be found here.

As the situation develops, we will be providing further analysis on government announcements, as we expect provinces across Canada to issue further requirements and measures to address the COVID-19 crisis. If you would like further information on how to comply with evolving regulatory requirements arising from COVID-19, please contact David Wotherspoon, Roark Lewis, Stevan Manojlovic or another member of Dentons' Litigation and Dispute Resolution group.

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1. *British Columbia, Minister of Public Safety and Solicitor General, "Province takes unprecedented steps to support COVID-19 response" (March 26, 2020)* ↩
 2. *Bylaw Enforcement Officer (COVID-19) Order, Ministerial Order 82/2020; Local Government Meetings and Bylaw Process (COVID-19) Order, Ministerial Order 83/2020; and Local Authorities and Essential Goods and Supplies (COVID-19) Order, Ministerial Order 84/2020* ↩
 3. *Bylaw Enforcement Officer (COVID-19) Order, Ministerial Order 82/2020, s. 3(2)* ↩
 4. *British Columbia, Provincial Health Officer, Order – Mass Gatherings (March 16, 2020)* ↩
 5. *British Columbia, Provincial Health Officer, Order – Owners and Operators of Nightclubs and Food and Drink Service (March 20, 2020)* ↩
 6. *British Columbia, Emergency Management BC, "List of COVID-19 Essential Services"* ↩
 7. *British Columbia, Provincial Health Officer, "Guidance to construction sites operating during COVID-19" (March 23, 2020)* ↩
 8. *British Columbia, Provincial Health Officer, "Guidance to mining and smelting operations during COVID-19" (March 25, 2020)* ↩

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