

FTR Now

Adjusting to Ontario's New Colour-Coded COVID-19 Zones

Date: November 11, 2020

The Ontario government has filed new regulations that amend the Rules for Areas in Stage 2 and 3. The regulations aim to implement the recently announced COVID-19 Response Framework (Framework) and they:

- require certain Ontario businesses to create and post Safety Plans with deadlines for compliance set for November 14 (or, in the case of Toronto, November 21)
- mandate that employers provide personal protective equipment (PPE) to employees who are required to interact with unmasked individuals at close proximity
- make detailed modifications to existing restrictions on a sector-specific basis.

In our *FTR Now* of November 5, 2020, [Ontario Releases New Framework for COVID-19 Public Health Restrictions](#), we outlined the new Framework that establishes the colour-coded zones which ascend from Green (Prevent) to Grey (Lockdown) with respect to restrictions relating to COVID-19.

On November 6, 2020, Ontario filed three regulations in support of the Framework. The regulations spell out the specific requirements that businesses and organizations must comply with as the province moves away from the three-stage numbered system to the new five zone colour-coded system.

Stages of Reopening

The new O. Reg. [640/20](#), which amends the [Stages of Reopening](#) regulation, prescribes which Public Health Units fall into which colour-coded zones. The new regulation came into force on November 7, 2020.

The [Rules for Areas in Stage 2](#) have been amended by the new O. Reg. [641/20](#) and the [Rules for Areas in Stage 3](#) have been amended by O. Reg. [642/20](#).

The amended Rules for Areas in Stage 3 set out what is required for the Green (Prevent), Yellow (Protect), and the Orange (Restrict) Zones.

While it is not expressly stated, it appears that the amended Rules for Areas in Stage 2 set out the rules for the Red (Control) Zone. Areas in the Red (Control) Zone are subject to additional restrictions than those that apply to the Green (Prevent), Yellow (Protect), and the Orange (Restrict) Zones.

Toronto remains in the pre-November 6 modified Stage 2 Rules until November 13, 2020. While the published regulations contemplated that the City of Toronto would move into the Orange (Restrict) Zone on November 14, 2020, Toronto's Medical Officer of Health [suggested on November 10](#) that Toronto would instead move into the Red (Control) Zone on November 14. At the time of writing, there were no official regulations confirming this change.

The two broadly applicable changes relate to requirements to create Safety Plans in specified circumstances and to provide additional PPE.

Safety Plans

As part of adjusting to Ontario's colour-coded COVID-19 zones, immediate attention is required to the preparation of Safety Plans.

The Rules for Areas in Stage 2 and Stage 3 both require that specified businesses and organizations prepare a Safety Plan and make that plan available to any person for inspection.

Applicable businesses have only 7 days to create a Safety Plan once they become subject to the new rules, which is November 14 for businesses outside Toronto. Businesses within Toronto must create a Safety Plan by November 21, 2020.

Generally, the following businesses are now required to have a Safety Plan:

- restaurants and bars
- businesses renting out meeting or event space
- businesses providing personal care services
- facilities for indoor sports and recreational fitness activities
- shopping malls
- concert venues, theatres, cinemas, and places where artistic events are rehearsed or performed
- casinos, bingo halls, and gaming establishments, and
- conference/convention centres outside of the Green/Yellow/Orange Zones (i.e. in the Red Zone).

The Safety Plan must:

- describe the measures and procedures that have been implemented or will be implemented in the business, place, facility or establishment to reduce the transmission risk of COVID-19
- describe how the requirements of the regulations will be implemented in the location including by screening, physical distancing, masks or face coverings, cleaning and disinfecting of surfaces and objects, and the wearing of personal protective equipment
- be in writing and made available to any person for review on request, and
- be posted in a conspicuous place where it is most likely to come to the attention of individuals working in or attending at the location.

Interactions with Unmasked Individuals

Another notable change is the new requirement that a person wear appropriate PPE that provides protection of the person's eyes, nose and mouth if, in the course of providing services, the person is required to come within 2 metres of another person who is not wearing a mask or face covering during any period when the individuals are in an indoor area and are not separated by plexiglass or some other impermeable barrier.

This may have ramifications for employers whose employees are required to interact with the public at close proximity, as some members of the public may enter the employer's premises unmasked under one of the exceptions enumerated under the Rules for Areas in Stage 2 and Stage 3.

Under the *Occupational Health and Safety Act*, PPE must be provided by the employer, maintained in good condition, and used as prescribed. The new regulation expressly contemplates eye coverage and notes that the PPE must be "appropriate," which suggests that employees working in these conditions must wear more than a non-medical face covering.

Detailed Modified Restrictions

This *FTR Now* is not intended as a comprehensive list of all operations affected under the new colour-coded zones, nor does

it discuss the amended restrictions in each colour-coded zone in any detail.

Employers should carefully review the restrictions that apply to the colour-coded zone in which they are located and to the specific sector in which they operate, or contact their Hicks Morley lawyer for assistance.

We remind readers that the regulations are constantly changing, and this *FTR Now* reflects their status as of November 11, 2020. We also note that, at the time of writing, the Medical Officers of Health of both [Peel Region](#) and the [City of Toronto](#) had issued additional restrictions to those found in the regulations, which employers will also need to review and implement.

Please call a member of the [Hicks Morley team](#) for guidance on your Safety Plan, or if you have questions about the specific restrictions that apply to your business or organization.