

FTR Now

Ontario Places Toronto and Peel Region into Lockdown, Changes Made to Other Regions

Date: November 23, 2020

On November 20, 2020 the [Ontario government announced](#) that certain regions of the province would be moved into different colour-coded zones of the [Keeping Ontario Safe and Open Framework \(Framework\)](#). This included moving the City of Toronto and Peel Region to the [Grey Zone – Lockdown](#) of the Framework, effective earlier today, November 23 at 12:01 a.m. These restrictions will be in effect for at least 28 days.

On November 22, 2020, the government filed several regulations to implement the announced changes. In this *FTR Now*, we provide an overview of these changes.

A Return to a Modified Stage 1 for City of Toronto and Peel Region

[Ontario Regulation 654/20](#) amends O. Reg. 82/20, the Rules for Areas in Stage 1 (Stage 1 Rules) to give effect to the new lockdown requirements. The new Stage 1 Rules share similarities with the earlier rules. For example, all businesses in the City of Toronto and Peel Region must be closed unless the business or part of the business is listed in Schedule 2 or Schedule 3 of the Regulation. Further, all businesses which are permitted to remain open must comply with a range of general compliance obligations and conditions. There are, however, a number of differences from the earlier rules, including more stringent compliance requirements in certain circumstances.

General Compliance Obligations

For immediate action, the Stage 1 Rules require that all businesses which are open must prepare and make available a safety plan in accordance with the Stage 1 Rules, or ensure that one is prepared and made available, **on or before November 30, 2020**. For many businesses, this will be a new obligation that did not apply to them while Toronto and Peel were under the Stage 2 rules (i.e. the Red Zone of the Framework). The government [has published guidance on preparing Safety Plans](#).

The new Stage 1 Rules also amend the capacity limits for businesses which are open to the public, requiring that the number of persons in a room must be limited to a number that permits the persons to maintain a physical distance of at least two metres from other persons and in any event must not exceed 50% of the capacity of the room. Note that there are limited exceptions to this requirement including, for example, schools and private schools which have opened under the

guidance of the Ministry of Education and Office of the Chief Medical Officer of Health.

Businesses that are permitted to open must also continue to meet the same general compliance obligations that applied while Toronto and Peel were in the Red Zone, which include but are not limited to:

- compliance with all applicable laws, including the *Occupational Health and Safety Act* and its regulations and with the advice, recommendations and instructions of public health officials
- compliance with the advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health on screening individuals
- requiring persons in any indoor area of the premises or business to wear a face covering or mask, subject to the same exceptions as before.

Businesses that are Permitted to Remain Open

It is beyond the scope of this *FTR Now* to review each of the businesses that are permitted to remain open under the new Stage 1 Rules. However, the following is a non-exhaustive sampling of businesses are permitted to open provided that they adhere to all general compliance obligations.

All employers should carefully review the Stage 1 Rules to ensure that their operations may remain open.

Retail

The following retail operations may open:

- Supermarkets and grocery stores
- Convenience stores
- Discount and big box retailers selling groceries
- Hardware stores
- Safety supply stores
- Pharmacies.
- Stores (except restaurants, bars etc.) that sell liquor, including beer, wine and spirits.

Other retail operations must close for in-person shopping but are permitted to open for curbside pick-up or delivery only. There are also special rules for shopping malls and, by extension, retail locations in shopping malls.

Manufacturing and Supply Chain Management

Generally, manufacturing businesses that extract, manufacture, process and distribute goods, products, equipment and materials, and that support and facilitate the movement of goods, may

remain open. Businesses that produce food and beverages and agricultural products may also remain open.

Supply chain businesses that provide other businesses with support, products, supplies, systems, or services and maintenance necessary to operate may remain open.

Construction

Construction activities or projects and related services that support construction activities or projects, including demolition services, may remain open.

Hotels and Other Accommodations

Hotels, motels, lodges, cabins, cottages, resorts and other shared rental accommodation, including student residences, may remain open. However, indoor pools, indoor fitness centres, or other indoor recreational facilities that are part of the operation of these businesses must be closed.

Designated Financial Services

Capital markets and related securities trading and advisory services, banks, insurance companies, among others, may remain open.

Staffing services including providing temporary help

These services may remain open.

Businesses that are Permitted to Remain Open with Additional Conditions

There is a large range of businesses that are permitted to open provided that they comply with all general compliance obligations (discussed above), and also comply with additional specified conditions set out in the new Stage 1 Rules. Examples of businesses that fall within this category include:

- Universities and colleges, among other post-secondary institutions, may open provided that in-person teaching is conducted only where required by the subject matter and the institution complies with the specified capacity limits for in-person teaching and the conducting of in-person examinations.
- Meeting or event spaces may only be rented out for a narrow range of prescribed purposes.
- Restaurants, bars and food or drink establishments may only operate to provide take out, drive-through or delivery; indoor and outdoor service is prohibited. There are very limited exceptions to this rule including, for example, establishments located in hospitals and airports.

- Public libraries may remain open, subject to a wide range of conditions which include permitting patrons to enter the premises only to facilitate contactless drop-off and pick-up or to access computers, photocopiers or similar services, but which prohibit patrons accessing or browsing the stacks, among other things.

As noted above, all employers should carefully review the Stage 1 Rules to ensure that their operations may remain open and that they are compliant with all general obligations and specified conditions.

What businesses or operations must close?

Businesses or operations that must close include, but are not limited to:

- Personal care services
- Casinos, bingo halls and gaming establishments
- Museums, galleries, aquariums, zoos, science centres, landmarks, historic sites, botanical gardens and similar attractions must be closed to members of the public (subject to drive-through access where permitted).
- Tour and guide services
- Cinemas, except for drive-in cinemas and subject to conditions.

Organized Public Events, Certain Gatherings

Under the new Stage 1 Rules, attending indoor organized public events or social gatherings is prohibited. No more than 10 people are permitted to attend an organized public event or social gathering held outdoors. These prohibitions do not apply to a gathering of members of a single household (note that a single household may include one additional person if that person lives alone).

A gathering of not more than 10 people for the purposes of a wedding, a funeral or a religious service, rite or ceremony is permitted, subject to public health guidelines on physical distancing. These apply even if the event is held in a private dwelling. This restriction does not apply to persons in attendance who are in motor vehicles (but other restrictions would be engaged). Note that this applies to the service only and any receptions or other social gatherings associated with the service would be subject to the more restrictive rules summarized in the preceding paragraph.

Amendments Which Affect Areas in the Green, Yellow, Orange and Red Zones

On November 22, 2020, the government also filed regulations which make minor changes to the rules for businesses that operate within the [Stage 2](#) (Red Zone) or [Stage 3](#) (Green/Yellow/Orange)

Zones) areas.

Significantly, the capacity limit for indoor gatherings in the Stage 2 areas has now been lowered. The maximum number of people allowed to attend an organized public event, social gathering or social gathering associated with a wedding, a funeral or a religious service, rite or ceremony has been lowered from 10 people to **5 people** if the event is held indoors.

In addition, amendments have been made with respect to the sale and service of liquor in both the Stage 2 and Stage 3 zoned areas. Restrictions on when liquor can be sold or served and when it can be consumed in a business or place do not apply with respect to the sale of liquor for removal from licensed premises, and the sale of liquor for delivery in accordance with the *Liquor Licence Act*.

Measures Which Apply to All Regions

Depending on the COVID-19 cases in their areas, Public Health Units (other than Toronto and Peel Region) [may have been assigned](#) to a different colour-coded zone. Employers should review the reassigned levels to determine if their businesses now fall within a different zone and may therefore be subject to different rules.

Note as well that the orders made under the *Emergency Management and Civil Protection Act* and continued under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* [have been extended](#) to **December 21, 2020**.

We encourage employers to carefully review the text of these lockdown restrictions and other measures as they may apply to your operations.

Should you require assistance in doing this review or have questions about these new requirements, please contact your regular Hicks Morley lawyer.