

FTR Now

Ontario Ends Declared Emergency and Resumes Regional Approach to Pandemic Management

Date: February 10, 2021

On February 8, 2021, the [Ontario government announced](#) that the declared emergency under the *Emergency Management and Civil Protection Act* would be terminated at the end of day, February 9, 2021. It also announced that it would be gradually resuming its regional approach to managing the pandemic that was previously in effect. While most regions of the province will remain in a shutdown, three public health regions have been moved to lesser restrictions.

In this *FTR Now*, we will provide an overview of the changes and their immediate impact on employers.

Regional Approach

[Effective Wednesday, February 10, 2021](#), the government has reverted to a modified version of its [COVID-19 Response Framework](#). [Three public health regions have been returned to a modified Green-Prevent Zone](#), and are no longer subject to the Stay-at-Home Order:

- Hastings Prince Edward
- Kingston, Frontenac and Lennox & Addington
- Renfrew County and District.

All other regions of the province have been moved into a newly created “Shutdown Zone”, and remain subject to the existing Stay-at-Home Order. The practical result is that these regions remain subject to the lockdown rules currently in place, subject to limited modifications. Since most of the province has been placed in the Shutdown Zone, we will focus our review on those provisions in this *FTR Now*. We also discuss the modifications to the Green-Prevent Zone rules.

Shutdown Zone

The province created the new Shutdown Zone by amending the existing [Stages of Reopening](#) regulation as well as the [Rules for Areas in Stage 1](#) (Stage 1 Rules), which are now comprised of the [Shutdown Zone and the Grey Zone](#).

The Shutdown Zone rules are essentially the same as those that applied in what was previously

called the Grey Zone, and which have applied throughout the province for the past few weeks. The rules are subject to certain modifications, the most significant of which we discuss in this section (for more detailed information about these rules, see our *FTR Now* of January 14, 2021, [Ontario Declares Emergency, Issues Stay-at-Home Order](#)). As always, we encourage readers to review the rules in detail to determine how they apply to your operations.

Requirements for Screening and Working Remotely

Where business or organizations are permitted to open, the person responsible for their operation must ensure that they operate in compliance with any advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health or another public health official on screening individuals. Among other things, this must now include posting signs at all entrances in a conspicuous location that inform individuals on how to screen themselves for COVID-19 prior to entering the premises, and actively screening every person who works at the business or organization before they enter the premises.

The person responsible for a business or organization that is open must continue to operate the business or organization in compliance with any advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health or another public health official on working remotely.

Masking and Physical Distancing

There is an existing requirement in the Stage 1 Rules that persons responsible for a business or organization ensure that any person in the indoor area of the premises wear a mask or face covering (subject to a range of exceptions). The amended Shutdown Zone provisions, as with those that currently exist in the lockdown, place similar obligations on individuals who are on the premises of a business or organization to wear a mask or face covering when they are in an indoor area of the premises.

Individuals must also now wear a mask or face covering during any period they are in attendance at an organized public event or gathering permitted by the Stage 1 Rules and within two metres of another individual who is not part of their household. These requirements are also subject to the permitted exceptions for wearing a mask or face covering.

Changes to Businesses that May Open

The Stage 1 Rules [have been amended](#) to clarify that construction activities or projects and related services that are residential construction activities or projects and related services may open, and the existing limitations on residential construction have been removed. There are a few other [minor amendments](#) impacting hotels, motels and similar accommodations, as well as marinas and similar services, requiring a slightly wider range of indoor facilities to be closed. These changes came into

effect on February 10, 2021.

[Amendments have also been made](#) to the rules for indoor or outdoor sports and recreational facilities. They are now permitted to open for use by persons with a disability (within the meaning of the *Accessibility for Ontarians with Disabilities Act, 2005*) who have received a written instruction for physical therapy from a specified health professional and who cannot engage in the therapy elsewhere, staff who are strictly necessary to operate the facility and support the provision of the physical therapy, and support persons or service animals as may be necessary for the person with a disability. These changes came into effect on February 8, 2021.

Changes to Green-Prevent Zone Rules

As noted at the outset, three areas of the province have been moved into the Green-Prevent Zone, and are therefore now subject again to the [Rules for Areas in Stage 3](#) (Rules). These have been amended effective February 10, 2021 to provide enhanced restrictions, and the key changes are highlighted below.

Safety Plans

Of **significant note and for immediate action**, persons responsible for a business, place, facility or establishment that is open in the Green-Prevent Zone must now prepare and make available a safety plan within seven days of February 10, 2021. Previously, those in the Green-Prevent Zone were not required to prepare safety plans. Note that the government [has provided guidance](#) on how to prepare a safety plan.

Requirements for Screening and Working Remotely

Where businesses or organizations are permitted to open, the person responsible for their operation must ensure that they operate in compliance with any advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health or another public health official on screening individuals. Among other things, this must include posting signs at all entrances in a conspicuous location that informs individuals on how to screen themselves for COVID-19 prior to entering the premises, and actively screening every person who works at the business or organization before they enter the premises.

The person responsible for a business or organization that is open shall also operate the business or organization in compliance with any advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health or another public health official on working remotely.

Masking and Physical Distancing

There is an existing requirement in the Rules that persons responsible for a business or

organization must ensure that any person in the indoor area of the premises wear a mask or face covering (subject to a range of permitted exceptions).

The Rules have been amended to place similar obligations on individuals who are on the premises of a business or organization to wear a mask or face covering when they are in an indoor area of the premises. Individuals must also wear a mask or face covering during any period they are in attendance at an organized public event or gathering permitted by the Rules and within two metres of another individual who is not part of their household. These requirements are also subject to the permitted exceptions for wearing a mask or face covering.

Similarly, there is a general obligation placed on individuals to physically distance when in a business or facility that is open to the public. There are exceptions to this requirement, such as where the distancing is not possible where necessary to receive a service or where persons must pass each other in a confined location, in which case they must wear a mask or face covering, again subject to any permitted exceptions.

Where patrons must line up inside a business or place, or congregate outside, persons responsible for the business or place must require the patrons to maintain a distance of two metres from each other and wear a mask or face covering, unless otherwise excepted.

Exception for Certain Services

The Stage 3 Rules were amended to clarify that they do not preclude the operations or delivery of services by any government or any person or publicly-funded agency or organization that delivers or supports government operations and services, including operations and services of the health care sector.

Other Matters

The government's announcement also indicated that, subject to ongoing review based on public health indicators, the Stay-at-Home Order will continue to apply to most public health regions in Ontario until Tuesday, February 16, 2021. It is currently anticipated that the Order will continue to apply to Toronto, Peel and York regions until Monday, February 22, 2021.

We have focused this *FTR Now* on the changes to the Shutdown and Green Zones, as all areas of Ontario are currently in one of those two Zones.

There have been changes made to each of the Grey, Red, Yellow and Orange Zones as well, though they will not have an immediate impact. We will be reviewing these amendments in the coming days and will publish a further update on what implications these changes may have as areas of the province begin to be placed into these other Zones.

In the meantime, please [contact your regular Hicks Morley lawyer](#) should you require information about how these changes may impact your operations.