FTR Now

Ontario Moves to Step 3 of Reopening Plan

Date: July 14, 2021

Effective July 16, 2021, all public health units in Ontario will be permitted to move to Step 3 of the province's Roadmap to Reopen. This move comes ahead of schedule and is the result of improvements to key health indicators including decreasing COVID-19 case rates and high rates of vaccination.

Once this occurs, all public health units in the province will be subject to the conditions established by O. Reg. 364/20, Rules for Areas at Step 3, as amended by O. Reg 520/21, along with any other conditions which apply in specific public health units.

In this *FTR Now*, we provide a general overview of the conditions which will apply at Step 3 and how these conditions differ from those at Step 2. Of note, at Step 3 there is not a requirement that businesses ensure that any person who performs work for the business conducts their work remotely, as was the case at both Step 1 and Step 2 (subject to exceptions).

Organized Public Events, Certain Gatherings

At Step 3, the number of persons who may attend an organized public event has increased to 25 persons where the event is held indoors and 100 persons where the event is held outdoors. Similar restrictions apply for social gatherings, including social gatherings associated with weddings, funerals or religious services, rites or ceremonies (e.g. a wedding reception).

Similar to Step 2, at Step 3 there is no capacity limit for outdoor weddings, funerals or religious services, rites or ceremonies as long as public health guidance on physical distancing can be maintained. This is subject to capacity limits elsewhere in O. Reg 364/20.

For indoor weddings, funerals or religious services, rites or ceremonies, the number of persons occupying any room in the building or structure while attending the gathering must be limited to the number that can maintain a physical distance of at least two metres from every other person in the room and persons attending the gathering must comply with public health guidance on physical distancing.

Capacity Limits for Businesses or Facilities Open to the Public

Amongst other conditions, a business that is open to the public must limit the number of members of the public in the place of business to the number that can maintain a physical distance of at least two metres from every other person in the business or establishment. There are also prescribed capacity limits for both outdoor and indoor settings that are open to the public, which are also subject to specific capacity limits set out elsewhere in O. Reg 364/20, including, for example, the 25% capacity limit that applies to indoor food or drink establishments where dance facilities are provided (e.g. nightclubs), among others.

For businesses or facilities subject to a 25%, 50%, or 75% capacity limit, the limit must be determined in accordance with a prescribed formula.

Safety Plans

As at Step 2, safety plans prepared by a person responsible for a business must describe the measures and procedures which have been implemented or will be implemented in the business to reduce the transmission risk of COVID-19. Additional information is required for specified businesses, places or events, including certain sports or recreational activities, concert

venues, theatres and cinemas, casinos, museums and amusement parks.

Meeting and Event Space

Outdoor portions of meeting or event spaces may be rented out, subject to a 75% capacity limit, or 5,000 persons, whichever is less. Other conditions also apply.

Indoor portions of meeting or event spaces may now also be rented out where the members of the public can maintain a physical distance of at least two metres from each other and there is a 50% capacity limit, or 1,000 persons, whichever is less.

The number of members of the public permitted to be in a particular room of an indoor portion of a meeting or event space may not exceed 50% capacity of the room, and the total capacity for the particular room cannot be added to increase the total capacity of the indoor portion of the meeting or event space. Other conditions also apply.

Restaurants, Bars and Other Establishments

At Step 3, indoor dining may now be provided and there is no longer a limit to the number of patrons who may be seated at an indoor or outdoor table. Capacity, however, is limited to the number that can maintain a physical distance of at least two metres from every other person. Other conditions also apply.

Buffet-style service may now be provided at Step 3.

Food or drink establishments where dance facilities are provided (e.g. nightclubs) may open, in the case of indoor establishments, with a capacity limit of 25% or 250 persons (whichever is less), and in the case of outdoor establishments, with a capacity limit of 75% or 5,000 persons (whichever is less). Other conditions also apply.

Services

Key changes in Step 3 for certain services include the following:

- real estate agencies may host, provide or support open house events, subject to capacity limits elsewhere in O. Reg 364/20
- indoor fitness centres or other indoor recreational facilities that are part of the operation of hotels, motels, resorts and other shared rental accommodation may open, subject to the capacity limits set out in O. Reg 364/20 for indoor sports and recreational fitness activities
- personal care services that require the removal of a mask or face covering may now be provided, subject to a range of conditions.

Retail

All retail businesses, including shopping malls, may open with capacity limited to the number of patrons permitted indoors to the number that can maintain a physical distance of at least two metres from every other person in the establishment.

Post-Secondary Institutions and In-person Teaching and Instruction

At Step 3, the total number of students permitted to be in a post-secondary instructional space has been increased to 50% capacity or 1,000 persons (whichever is less) indoors and 75% capacity or 15,000 persons (whichever is less) outdoors as long as physical distancing of two metres can be maintained.

Similar capacity limits apply to businesses that provide teaching and instruction.

Indoor and Outdoor Recreational Amenities

Indoor sports and recreational fitness facilities may now open, subject to a 50% capacity limit.

The capacity limit for spectators at an indoor facility is 50% or 1,000 persons, whichever is less. For spectators at an outdoor facility, the capacity limit is 75% of the usual outdoor seating capacity or 15,000 persons, whichever is less. Where an outdoor facility does not have a designated area for spectators, the number of spectators must not exceed 75% capacity or 5,000 persons, whichever is less. Other conditions also apply.

Any indoor clubhouse at an outdoor recreational amenity may not exceed 50% of the capacity of the clubhouse.

Media Industries

Commercial film and television production may now include a studio audience. The number of members of the public permitted to be in the audience at any one time must not exceed 50% of the usual seating capacity or 1,000 persons, whichever is less. A range of other conditions continue to apply.

Entertainment

Concert venues, theatres and cinemas may open to members of the public, subject to the following conditions:

- the number of members of the public at an outdoor seated concert, event, performance or movie within the concert venue, theatre or cinema at any one time must not exceed 75% of the usual seating capacity or 15,000 persons, whichever is less
- the number of members of the public at an outdoor unseated concert, event, performance or movie within the concert venue, theatre or cinema at any one time must not exceed 75% capacity or 5,000 persons, whichever is less
- the number of members of the public at an indoor seated concert, event, performance or movie within the concert venue, theatre or cinema at any one time must not exceed 50% of the usual seating capacity or 1,000 persons, whichever is less.

Other conditions also apply.

Museums, galleries, aquariums, zoos, science centres, landmarks, historic sites, botanical gardens, amusement parks, waterparks, racing venues and fairs, rural exhibitions and festivals may open, subject to a 50% capacity limit indoors and 75% capacity limit outdoors as well as to a range of additional conditions.

Casinos, bingo halls and gaming establishments may also open, subject to a range of conditions including limiting the number of members of the public in an establishment at any one time to the number that can maintain a physical distance of at least two metres from every other person and in any event may not exceed 50% of the maximum occupancy of the establishment.

Readers should consult the full text of O. Reg 364/20 to determine how these changes impact their organization and are welcome to contact their regular Hicks Morley lawyer for further information about Step 3.

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