

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Applicant (Respondent on Motion)

- and -

ADAMSON BARBECUE LIMITED AND WILLIAM ADAMSON SKELLY

Respondents (Moving Parties on Motion)

FACTUM OF HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
(MOTION RETURNABLE JUNE 28-29, 2021)

June 18, 2021

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PART I – OVERVIEW

1. This proceeding is an application by Her Majesty the Queen in Right of Ontario [“Ontario”] for an order pursuant to s. 9 of the *Reopening Ontario (A Flexible Response to COVID-19) Act*, 2020, S.O. 2020, c. 17 [“ROA”]¹ restraining Adamson Barbecue Limited and William Adamson Skelly from contravening Ontario Regulation 82/20.² On December 4, 2020, this Court granted an order

...restraining the respondents and any other corporation under their control or direction (including Adamson Bar-B-Que Limited), their servants, employees, agents, assigns, officers, directors and anyone else acting on their behalf or who has or assumes responsibility for all or part of any business carried on by them in the Province of Ontario, from directly or indirectly, by any means whatsoever, contravening Ontario Regulation 82/20 at any restaurant owned or operated by one or both of the respondents or any corporation under their control or direction (including Adamson Bar-B-Que Limited) that is subject to Ontario Regulation 82/20.³

2. Adamson Barbecue Limited and William Adamson Skelly are Respondents to the Crown’s application. They have not commenced any proceedings against Ontario and no originating process has been issued on their behalf under the Rules. Although they style themselves as “Respondents/Applicants” in their factum and other court filings, this description is an error: Adamson Barbecue Limited and William Adamson Skelly have not commenced any application under Rule 14.05 claiming any relief against Ontario. The only application in this proceeding is the Crown’s application against the Respondents.

¹ [Reopening Ontario \(A Flexible Response to COVID-19\) Act, 2020, S.O. 2020, c. 17.](#)

² [O. Reg. 82/20](#) “Rules for Areas in Shutdown Zone and at Step 1”.

³ Order of Justice Kimmel dated December 4, 2021 (Ontario’s Responding Record [“RMR”] at 9); *Her Majesty the Queen in Right of Ontario v. Adamson Barbecue Limited*, 2020 ONSC 7679 at [para. 42](#).

3. The Respondents are not applicants but rather moving parties who have brought an interlocutory motion within the Crown's application. This motion was commenced by a Notice of Motion dated March 26, 2021.⁴

4. Rule 37.06 provides that every Notice of Motion shall "state the precise relief sought".⁵ The only relief sought in the Respondents' Notice of Motion is as follows:

1. An Order setting a hearing date for the Applicants' Amended Notice of Constitutional Question to be heard at a date determined by Justice Kimmel;
2. An Order for compensation for damages caused by the breaches of the *Canadian Charter of Rights and Freedoms* under Section 24(1) of the *Charter*;
3. An Order for costs of these court proceedings;
4. And such further, or other Order(s), as may be requested and this Honourable Court deems just and proper.

5. The Respondents' Notice of Motion does not seek any relief varying or setting aside the restraining order granted by this Court on December 4, 2020 under s. 9 of *ROA*. Nor does the Notice of Motion seek any declaratory relief. Neither does the Respondents' Amended Amended Notice of Constitutional Question dated June 8, 2021 make any reference to varying or setting aside this Court's order of December 4, 2020 or to declaratory relief.

6. The only substantive relief sought in this motion is "An Order for compensation for damages caused by the breaches of the *Canadian Charter of Rights and Freedoms* under Section 24(1) of the *Charter*." This relief is not available, with the result that the motion must be dismissed.

⁴ Notice of Motion dated March 26, 2021; RMR at 26.

⁵ Rules of Civil Procedure, RRO 1990, Reg 194, [Rule 37.06](#).

7. First, damages are not available as relief on an interlocutory motion in an application.⁶ A claim for damages requires pleadings such as a statement of claim and a statement of defence. There are no pleadings in this proceeding, and the only originating process is the Crown’s Notice of Application. Moreover, there has been no notice as required by s. 18 of the *Crown Liability and Proceedings Act, 2019*.⁷ Failure to give the required statutory notice renders this motion a nullity.⁸

8. In any event, no *Charter* right of the Respondents has been engaged in this proceeding. This court’s order merely restrains the Respondents from operating their restaurants in contravention of O. Reg. 82/20. The order leaves the Respondents free to operate their restaurants on the same conditions applicable to every other restaurant in Ontario. There is no *Charter* right to operate a restaurant that provides indoor dining; to suggest otherwise is to trivialize the *Charter*. The Supreme Court of Canada and the Court of Appeal for Ontario have held that the “ability to generate business revenue by one’s chosen means is not a right that is protected”⁹ by the *Charter*, and that the *Charter* does not protect “the right to engage in the economic activity of [one’s] choice.”¹⁰

⁶ *TSCC 1466 v. Weinstein*, 2020 ONSC 6898 at [para. 11](#); *Hydroslotter Corporation v. Nikouline*, 2020 ONSC 1478 at [paras. 56-58](#); *Hefford v. Charpentier*, 2009 CanLII 21761 (ON SCDC) at [para. 24](#); *Hamza v. Law Society of Ontario et al*, 2021 ONSC 2023 at [para. 18](#); *Szymanski v Alaimo*, 2016 ONSC 2527 at [para. 68](#); *Dovale v. Metropolitan Toronto Housing Authority*, 2001 CanLII 28024 (ON SC) at [para. 12](#).

⁷ *Crown Liability and Proceedings Act, 2019*, SO 2019, c 7, Sch 17, [s. 18](#).

⁸ *Noddle v. Ontario Ministry of Health*, 2019 ONSC 7337 at [paras. 31-32](#); *Budlakoti et al. v. R.*, [2020 CanLII 73972](#) (ON SC); *Beardsley v. Ontario Provincial Police*, 2001 CanLII 8621 (ON CA) at [paras. 10-12](#); *Miguna v. Ontario (Attorney General)*, 2005 CanLII 46385 (Ont. C.A.) at [paras. 7-8](#).

⁹ *Siemens v. Manitoba (Attorney General)*, [2003 SCC 3](#) at para. 46.

¹⁰ *Mussani v. College of Physicians and Surgeons of Ontario*, 2004 CanLII 48653 (ON CA) at [paras. 39-43](#); *R. v. Schmidt*, 2014 ONCA 188 at [para. 38](#).

9. In their factum, the Respondents seek to impugn the entirety of Ontario’s response to the COVID-19 pandemic. The actual scope of this proceeding is much more limited. The only legal issue properly raised in this application is whether the Respondents should be restrained from operating a restaurant in contravention of O. Reg. 82/20. All of the Respondents’ many and far-fetched grievances about vaccines, PCR testing, hydroxychloroquine, stay-at-home orders, purported cost-benefit calculations, herd immunity, and the World Health Organization – among many other such topics – are superfluous to this proceeding; indeed, they are vexatious. The only pandemic measure that is properly at issue in this proceeding is the application of O. Reg. 82/20 to restaurants. While the Respondents are entitled to their opinions, their “disdain for the legislation [is not] a sufficient direct interest to meet the test for the granting of standing”¹¹ to challenge in this proceeding the validity of the entire provincial legislative response to the COVID-19 pandemic. O. Reg. 82/20 is not an unjustified restriction on any of the Respondents’ *Charter* rights. The motion should be dismissed with costs.

PART II – FACTS

A. The regulatory scheme

10. On March 17, 2020, a state of emergency was declared in Ontario under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 [“*EMCPA*”]¹² in response to the COVID-19 pandemic. Orders were made pursuant to s. 7.0.1 of *EMCPA* that, among other things, regulated the conduct of businesses in Ontario, including restaurants.

¹¹ *Infant Number 10968 v. Ontario*, 2006 CanLII 19946 (ON SC) at [para. 24](#), aff’d 2007 ONCA 787 at [para. 14](#).

¹² [*Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9.*](#)

11. The Legislature subsequently enacted the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020*, S.O. 2020, c. 17 [“ROA”]. ROA continued various orders that had been made pursuant to s. 7.0.1 of the *EMCPA*. One of these orders, O. Reg. 82/20, was continued under ROA. ROA sets out a regulatory framework by which the Government determines staged control measures to be applied to public health units across the Province. The ROA was designed to allow for a targeted approach to identify what stage a public health unit would be placed in, based on epidemiological statistics among other considerations.¹³

12. The Respondents operate restaurants located in areas that as of the date of this factum are at Step 1 of re-opening under O. Reg. 363/20.¹⁴ At Step 1, restaurants are permitted to operate under O. Reg. 82/20 provided that they comply with certain conditions. The condition that is most material to this proceeding is that restaurants are not permitted to provide “indoor dining or buffet-style service.”¹⁵ Restaurants are, however, permitted to provide take-out, drive-through or delivery services, as well as outdoor dining (subject to certain conditions to, *inter alia*, ensure physical distancing among patrons).

13. The Respondents, as persons responsible for a business that is subject to conditions under O. Reg. 82/20, are required to ensure that the business “either meets those conditions or is closed.”¹⁶ The Respondents’ history of non-compliance with O.

¹³ *Her Majesty the Queen in Right of Ontario v. Adamson Barbecue Limited*, 2020 ONSC 7679 at [para. 2](#).

¹⁴ [O. Reg. 363/20](#) “Stages of Reopening”.

¹⁵ [O. Reg. 82/20](#), Sched. 7, s. 3.

¹⁶ [O. Reg. 82/20](#), Sched. 6, s. 1(2).

Reg. 82/20 and the circumstances leading to this Court granting the restraining order against them are set out in this Court's reasons for decision dated December 11, 2020.¹⁷

B. The COVID-19 pandemic in Ontario

14. COVID-19 is a deadly infectious disease that has killed thousands of Ontarians and tens of thousands of Canadians to date. As of May 11, 2021 (the date Ontario's evidence was finalized), 499,412 people in Ontario had been diagnosed with COVID-19, 4.9% of these required hospitalization, and 8,374 had died.¹⁸

15. The COVID-19 pandemic's effects on Canadian mortality are evident in the increase in excess mortality in 2020 compared to 2019. Statistics Canada reported an estimated 13,798 deaths that year beyond what would have been expected without the COVID-19 pandemic. This excess mortality represents a 5% increase in the number of deaths among Canadians. This is the equivalent of two fully-booked Montreal-Toronto flights crashing with no survivors every week for a year.¹⁹

16. Based on Ontario's COVID-19 experience, 4.8% of people with COVID-19 will require hospital-based care, often ICU-level care. Complications leading to death may include respiratory failure, acute respiratory distress syndrome (ARDS), sepsis and septic shock, thromboembolism, and/or multiorgan failure, including injury of the heart, liver or kidneys.²⁰ Hospital beds occupied by people infected with COVID-19 cannot be used for people with heart attacks, hip fractures or strokes, adding to the elevated

¹⁷ *Her Majesty the Queen in Right of Ontario v. Adamson Barbecue Limited*, [2020 ONSC 7679](#).

¹⁸ Affidavit of Dr. Matthew Hodge affirmed May 14, 2021 at para. 8; RMR at 110.

¹⁹ *Ibid* at para. 15; RMR at 113.

²⁰ *Ibid*.

mortality attributable to COVID-19. The harms caused by COVID-19 could include preventable deaths due to heart attacks, hip fractures and other health conditions from which Ontarians would not be expected to die if beds and staff were available to care for patients with these conditions.²¹

C. Risk factors associated with indoor dining in restaurants

17. COVID-19 is caused by the SARS-CoV-2 virus and its variants, which spreads between people, mainly when an infected person is in close contact with another person. The virus can spread from an infected person's mouth or nose in small liquid particles when they cough, sneeze, speak, sing, or breathe heavily.²² These particles travel further indoors than outdoors and their survival on surfaces appears to be greater indoors than outdoors.

18. People can contract COVID-19 when the virus enters their mouth, nose, or eyes.²³ Many people infected with the virus show no symptoms (asymptomatic) or experience several days between when they are infected and when they develop symptoms (presymptomatic). Public health measures therefore need to apply to people who do not exhibit COVID-19 symptoms in order to be effective.²⁴

19. Risk factors for virus transmission include being in close contact for prolonged periods, higher voice volume, being indoors, inconsistent use of face coverings (such as removing a face covering to talk or shout, eat or drink), improper use of face coverings (e.g. not covering the nose or wearing one that is too loosely fitted), and background

²¹ *Ibid.* at para. 14; RMR at 113.

²² *Ibid.* at paras. 16-17; RMR at 114.

²³ *Ibid.* at para. 17; RMR at 114.

²⁴ *Ibid.* at para. 18; RMR at 115.

infection rates in the community(s) from which a gathering's attendees are drawn.²⁵

Risks of virus transmission are increased when more than one of these factors occur.²⁶

20. Restaurants pose distinct transmission risks.²⁷ Because transmission risk is heightened when people are in close contact, the limits on indoor dining reduce the likelihood of transmission compared to take-out only.²⁸ Since consuming food and drink is central to indoor restaurant dining and as this is not possible while wearing a mask, transmission risks are also reduced by limiting restaurants to take-out and delivery service. Furthermore, close contact may occur when restaurant patrons travel to a restaurant and await entry or access washroom facilities, and these risks are reduced by limiting restaurants to take-out and delivery service.²⁹

21. In the City of Toronto, 60 outbreaks of COVID-19 have been identified in settings of bars/nightclubs/restaurants. This figure does not address transmission of the virus in restaurants that leads to outbreaks and death elsewhere.³⁰ After restaurants were restricted to take-out and delivery service in November 2020, the rate of outbreaks per 100 days dropped 50% (23.4 to 11.7/100 days) accompanied by an 18% decrease in the average cases per outbreak (4.58 to 3.74 average).³¹

²⁵ *Ibid.* at para. 20; RMR at 115.

²⁶ *Ibid.* at para. 22; RMR at 114.

²⁷ *Ibid.* at para. 25; RMR at 118.

²⁸ *Ibid.*

²⁹ *Ibid.* at para 26; RMR at 118.

³⁰ Cross-Examination of Dr. Matthew Hodge on May 25, 2021 at Q193; Book of Transcripts [“BOT”] at 332.

³¹ Affidavit of Dr. Matthew Hodge affirmed May 14, 2021 at para. 28; RMR at 118-119.

D. Mr. Skelly's evidence on the motion

22. Mr. Skelly admits that he opened his restaurant in November 2020 for indoor dining in non-compliance with O. Reg. 82/20.³² He believes that Ontario's response to COVID-19 reflect "a larger Marxist agenda to crush small and medium-sized businesses."³³ His affidavit refers in skeptical terms to the "alleged contagiousness and deadliness of COVID-19"³⁴ and to the virus that causes the disease as an "alleged virus".³⁵

23. Mr. Skelly's counsel agreed to produce Mr. Skelly for cross-examination on May 25, 2021.³⁶ Mr. Skelly did not appear on that date and did not provide any advance notice that he would not attend. Instead, when counsel for Ontario attended and asked where Mr. Skelly was, Mr. Skelly's counsel advised for the first time that Mr. Skelly was refusing to attend his cross-examination in the absence of service of a Notice of Examination. When asked why no advance notice had been provided of Mr. Skelly's refusal to attend on the agreed date, counsel for Mr. Skelly replied "I don't work for you, Mr. Green."³⁷

24. Later that day, Mr. Skelly's counsel wrote to agree to produce Mr. Skelly for cross-examination on May 31, 2021 without a Notice of Examination.³⁸

³² Supplementary Affidavit of William Adamson Skelly sworn April 12, 2021 at paras. 31-34.

³³ *Ibid.* at para. 29.

³⁴ *Ibid.* at paras. 11, 29 and 36.

³⁵ *Ibid.* at para. 13.

³⁶ Emails from Zachary Green to Michael Swinwood dated 25 May 2021 and 28 May 2021; RMR at 413-416.

³⁷ Statement on the Record dated 28 May 2021; BOT at 1-9.

³⁸ Emails, *supra* at note 35.

25. Mr. Skelly attended for cross-examination on May 31, 2021. He authenticated public statements that he had made on social media³⁹ and authenticated his Adamson BBQ webpage as well as a fundraising website organized on his behalf,⁴⁰ but he refused to answer all other questions.⁴¹ No legal basis was provided for any refusal. Instead of providing a legal basis for his refusals, counsel for Mr. Skelly said “I’m not going to educate you on your remedies. I’ve refused the question. If you wish to bring a motion to have him compel his -- the questions that you’ve asked, please do so.”⁴²

26. In his public statements on social media, Mr. Skelly stated that he has operated his restaurant without a business licence for four years.⁴³ He views the requirement to have a business licence as “kind of a tax grab, whatever” and noted that although he “paid some fines for operating without a licence”, “the fines that I was paying were, you know, about equal or even a little bit less than the cost of the business licence itself.”⁴⁴

27. Mr. Skelly also stated publicly that he operates his food truck without a business licence. In response to the suggestion that he should obtain a licence for his food truck, he replied “I said, ‘Fuck you. I’m not buying your licence.’ Like, the -- just out of principle, right? It’s like a \$700.00, \$800.00 licence, but they’ve spent the last six months just surrounding my place with their authorities trying to find all these violations. As if I’m going to give you \$700.00.”⁴⁵

³⁹ Cross-examination of Adam Skelly on 31 May 2021 [“Cross-examination of Skelly”] at Q36; BOT at 31.

⁴⁰ Cross-examination of Skelly at Q36; BOT at 31-32.

⁴¹ Index of Refusals to Cross-Examination of Skelly; BOT at 13.

⁴² Cross-examination of Skelly at Q38; BOT at 32.

⁴³ Cross-examination of Skelly at Q17; BOT at 21.

⁴⁴ Cross-examination of Skelly at Q17; BOT at 22.

⁴⁵ Cross-examination of Skelly at Q26; BOT at 27.

28. Mr. Skelly's website offers "Support the BBQ Rebellion" merchandise for sale, including a \$60 hoodie that reads "Risk it for the Brisket". He refused to answer how much profit he earns from such sales.⁴⁶ The GoFundMe fundraising website organized on his behalf has raised \$337,622.00 for his "legal defence fund".⁴⁷

E. The Respondents' opinion evidence

29. The Respondents have led a large volume of opinion evidence from affiants located in various North American jurisdictions. Despite its substantial volume, almost none of this evidence addresses the risk of transmitting the virus in restaurants or whether this risk is reduced by restricting restaurants to take-out, delivery or outdoor dining operations (one exception is Dr. Kettner, who states that limiting restaurants to take-out operations "will doubtless contribute to reducing transmission and harm" by reducing exposure to potentially infectious persons).⁴⁸ None of this opinion evidence is specific to the Respondents' situation or indicates that the Respondents have had any difficulty complying with this Court's order or with O. Reg. 82/20 or have suffered any loss in doing so.

30. Instead, the Respondents' opinion evidence is replete with irrelevant opinions about every aspect of the response by Canadian federal, provincial and municipal governments to the COVID-19 pandemic. The affiants opine about the dangers of vaccines;⁴⁹ the benefits of Vitamin D and hydroxychloroquine in preventing or treating COVID-19;⁵⁰ the relative lethality of COVID-19 compared to traffic accidents, diabetes

⁴⁶ Cross-examination of Skelly at Q32; BOT at 30.

⁴⁷ Exhibit A to the Cross-Examination of Adam Skelly; BOT at 34.

⁴⁸ Reply Affidavit of Dr. Joel Kettner at 8.

⁴⁹ Affidavit of Dr. Byram Bridle sworn April 13, 2021 at 127.

⁵⁰ Affidavit of Dr. Harvey Risch sworn April 12, 2021 at 91.

and lightning strikes;⁵¹ alleged problems with PCR testing for detecting the virus;⁵² and the preferability of adopting a “herd immunity” approach of allowing the virus to spread unchecked throughout the population.⁵³

31. Dr. Trozzi believes that Canada’s Chief Medical Officer of Health, Dr. Theresa Tam, is a “double agent”,⁵⁴ that PCR tests are “used to drain endless taxpayer money and increase future debt to increase pharmaceutical companies dramatically,”⁵⁵ and that “corrupt oligarchs” such as the Bill and Melinda Gates Foundation planned COVID-19 and their “cohorts in big tech like Google, Facebook, Twitter and YouTube worked to censor and deceive us all.”⁵⁶

32. Dr. Bridle believes that “it is imperative that we learn to live with SARS-COV-2 rather than attempting to hide from it”⁵⁷ and that COVID-19 is “not a serious issue for young Canadians.”⁵⁸ He agreed, however, that the death of a grandparent is a serious issue for a young Canadian.⁵⁹ When asked if it would be a serious issue if a young Canadian had a dine-in meal at a restaurant and then visited a grandparent who subsequently died of COVID-19, he stated that he could not comment on such a “theoretical scenario.”⁶⁰

⁵¹ Affidavit of Dr. William Briggs sworn 12 April 2021 at 32; Reply Affidavit of Dr. Williams Briggs sworn May 17, 2021 at 7.

⁵² Affidavit of Dr. Byram Bridle sworn April 13, 2021 at 114.

⁵³ Affidavit of Dr. Douglas Allen sworn April 12, 2021 at para. 61.

⁵⁴ Affidavit of Dr. Mark Trozzi sworn 12 April 2021 at para. 5.

⁵⁵ *Ibid* at para. 10.

⁵⁶ *Ibid* at para. 15.

⁵⁷ Affidavit of Dr. Byram Bridle sworn April 13, 2021 at 117.

⁵⁸ Affidavit of Dr. Byram Bridle sworn April 13, 2021 at 108; Reply Affidavit of Dr. Byram Bridle sworn May 17, 2021 at 24.

⁵⁹ Cross-Examination at Dr. Byram Bridle at Q196; BOT at 245.

⁶⁰ Cross-Examination at Dr. Byram Bridle at Q197; BOT at 249.

33. Dr. Bridle fears that his speaking the truth about COVID-19 will result in “potential reprisals that could have a negative impact on the remainder of my professional career” and alleges that there is an “oppressive environment for disseminating balanced scientific information”⁶¹ about COVID-19, but he refused to identify any of the individuals he alleges are responsible for this “substantial intimidation” which has caused him “excessive stress, including making me lose many hours of sleep.”⁶²

34. Dr. Allen states that one would have to go back to 1963 to find a mortality rate equal to Canada’s mortality rate in 2020.⁶³

35. Dr. Berdine believes that “Texas is showing the rest of the world the way. Just as Sweden provided an example of courage early on in March 2020, Texas is demonstrating to everyone what happens when lockdowns are lifted.”⁶⁴ Ontario’s expert Dr. Hodge calculated that if the Ontario population had the same COVID-19 death rate as Texas, “We’d have 16,000 more people dead.”⁶⁵

⁶¹ Reply Affidavit of Dr. Byram Bridle sworn May 17, 2021 at 6.

⁶² Reply Affidavit of Dr. Byram Bridle sworn May 17, 2021 at 6-7; Cross-Examination at Dr. Byram Bridle at Q11, Q16-19, Q39, Q62, Q83-85; BOT at 41, 42-47, 57, 76, 85-86.

⁶³ Reply Affidavit of Dr. Douglas Allen sworn 17 May 2021 at para. 27.

⁶⁴ Affidavit of Dr. Gilbert Berdine sworn 9 April 2021 at 41.

⁶⁵ Cross-Examination of Dr. Matthew Hodge on May 25, 2021 at Q93; BOT at 299.

PART III – ISSUES AND THE LAW

36. Ontario submits that the issues raised on this motion are as follows:
- a) The relief sought on this motion by the Respondents is unavailable;
 - b) Mr. Skelly’s affidavit should be struck out;
 - c) There is no constitutional right to offer indoor dining at a restaurant; and
 - d) In the alternative, there is no unjustified infringement of the *Charter*.

A. The relief sought on the motion is unavailable

37. As set out above at paras. 4-6, the only substantive relief sought in the Respondents’ Notice of Motion is an order “for compensation for damages caused by the breaches of the *Canadian Charter of Rights and Freedoms* under Section 24(1) of the *Charter*.” To the extent that the Respondents purport to seek other or additional relief in their factum, the Court should not entertain such claims.

38. Rule 37.06 provides that every Notice of Motion shall “state the precise relief sought” and “the grounds to be argued, including a reference to any statutory provision or rule to be relied on.”⁶⁶ The Respondents’ Notice of Motion makes no reference to setting aside this Court’s order of December 4, 2020 or to any declaratory relief. Nor does it refer to any Rule or statutory provision apart from s. 24(1) of the *Charter*.

39. The purpose of Rule 37.06 is obvious. The Divisional Court has recently confirmed that it is an error of law to grant relief not sought in a Notice of Motion, that due process underlies Rule 37.06, and that “Parties should not have to guess, speculate or intuitively understand what the issues to be decided are on a motion. In an adversarial

⁶⁶ Rules of Civil Procedure, RRO 1990, Reg 194, [Rule 37.06](#).

litigation system, it is imperative that the litigants are made clearly aware of the case they have to meet.”⁶⁷ The Respondents should not be permitted to enlarge the legal issues or claim relief in their factum not sought in their Notice of Motion, particularly since the Respondents’ factum attempting to expand the issues was delivered after the evidence on the motion was adduced and the cross-examinations completed.

40. The relief sought in the Notice of Motion, an order “for compensation for damages...under s. 24(1) of the *Charter*”, is not available on this interlocutory motion. This Court has frequently held that applications are unsuitable proceedings for claims for compensatory damages and that such claims should instead proceed by way of action, where the parties and the Court have the benefit of pleadings, discovery, disclosure and other procedures to ensure fairness in the civil process.⁶⁸ None of these procedures is available here. There is no pleading in this proceeding, and the only originating process is the Crown’s own Notice of Application, which (needless to say) pleads no claim for relief against Ontario.

41. In addition, the claim for damages is precluded by failure to give notice pursuant to s. 18 of the *Crown Liability and Proceedings Act, 2019*.⁶⁹ Under that Act, a “proceeding” means “an action or application for damages and any other civil proceeding in respect of damages to which the rules of court apply.” Failure to give the required statutory notice renders the proceeding in respect of damages a nullity,

⁶⁷ *Zargar v. Zarrabian*, 2018 ONSC 4016 (Div. Ct.) at [paras. 15-22](#).

⁶⁸ *TSCC 1466 v. Weinstein*, 2020 ONSC 6898 at [para. 11](#); *Hydroslotter Corporation v. Nikouline*, 2020 ONSC 1478 at [paras. 56-58](#); *Hamza v. Law Society of Ontario et al*, 2021 ONSC 2023 at [para. 18](#); *Szymanski v Alaimo*, 2016 ONSC 2527 at [para. 68](#).

⁶⁹ *Crown Liability and Proceedings Act, 2019*, SO 2019, c 7, Sch 17, [s. 18](#).

including where the damages sought are under s. 24(1) of the *Charter*.⁷⁰ If this motion is a “civil proceeding in respect of damages to which the rules of court apply”, then the failure to give notice as required by s. 18 “renders a proceeding brought without such notice a nullity in respect of the claim, from the time the proceeding is brought.” No notice of any claim for damages was provided prior to the Respondent’s delivery of their Notice of Motion, rendering the Respondents’ claim for damages a nullity.

42. In any event, as set out more fully below at paras. 50-53, no infringement of the Respondents’ *Charter* rights has been established. To claim a remedy under s. 24(1) of the *Charter*, a litigant “must show that his or her rights have been infringed or denied” and may not purport to rely on the rights of others.⁷¹ The only effect of the order made under s. 9 of *ROA* is to require the Respondents to operate their restaurants in accordance with O. Reg. 82/20. The Respondents have no *Charter* right to operate a restaurant that does not comply with O. Reg. 82/20, and have not established any evidentiary basis to claim monetary compensation or even to prove that they have suffered any loss as a result of complying with O. Reg. 82/20. It follows that the motion for damages must be dismissed.

B. Mr. Skelly’s affidavit should be struck out

43. Mr. Skelly initially refused to attend his cross-examination on his affidavit and ultimately refused to answer any substantive questions on cross-examination. His

⁷⁰ *Noddle v. Ontario Ministry of Health*, 2019 ONSC 7337 at [paras. 31-32](#); *Budlakoti et al. v. R.*, [2020 CanLII 73972](#) (ON SC); *Adamson v. Ontario (Attorney General)*, 2014 ONSC 3787 at [para. 88](#); *Beardsley v. Ontario Provincial Police*, 2001 CanLII 8621 (ON CA) at [paras. 10-12](#); *Miguna v. Ontario (Attorney General)*, 2005 CanLII 46385 (Ont. C.A.) at [paras. 7-8](#).

⁷¹ *Canadian Snowbirds Association Inc. v. Attorney General of Ontario*, 2020 ONSC 5652 (Div. Ct.) at [paras. 75-78](#).

conduct was an abuse of the Court's process, and his affidavit should consequently be struck under Rule 25.11⁷² and under Rule 34.15(1)(c), which provides:

Where a person fails to attend at the time and place fixed for an examination in the notice of examination or summons to witness or at the time and place agreed on by the parties, or refuses to take an oath or make an affirmation, to answer any proper question, to produce a document or thing that he or she is required to produce or to comply with an order under rule 34.14, the court may, [...]

(c) strike out all or part of the person's evidence, including any affidavit made by the person.⁷³

44. While Mr. Skelly alleged in his affidavit that he was moved to "civil disobedience" of the laws applicable to restaurants by his "search for truth around COVID-19",⁷⁴ his public statements demonstrate that he has in fact operated unlawfully without a business licence for years prior to the COVID-19 pandemic and that he continues to do so. Moreover, he admitted candidly in his public statements that his disobedience with the law is not grounded in some conscientious principle but is rather based on the fact that the fines he has had to pay for his non-compliance to date have been less than the cost of operating lawfully.⁷⁵

45. Compounding this unfair economic advantage that he has given himself over his law-abiding competitors, Mr. Skelly has used his notoriety to sell "BBQ Rebellion" merchandise and to raise hundreds of thousands of dollars in donations to his "legal defence fund."⁷⁶ The economic benefits that Mr. Skelly has derived from his non-compliance with the law are manifestly relevant to his motion, particularly since he

⁷² Rules of Civil Procedure, RRO 1990, Reg 194, [Rules 25.11](#) and [38.12](#).

⁷³ Rules of Civil Procedure, RRO 1990, Reg 194, [Rule 34.15](#) [emphasis added].

⁷⁴ Supplementary Affidavit of William Skelly at paras. 30 and 12.

⁷⁵ Cross-examination of Skelly at Q17; BOT at 22.

⁷⁶ Cross-examination of Skelly at Q32; BOT at 30 and Exhibit A; BOT at 34.

seeks damages as compensation for his purported financial losses. Yet Mr. Skelly refused to answer all questions about these topics on cross-examination.

46. No legal basis was offered for any question refused on cross-examination; instead, Mr. Skelly's counsel demanded that Ontario bring a refusals motion to find out the basis for the refusals. The court should not condone Mr. Skelly's "catch me if you can" approach to his legal obligations. If litigants are free to refuse all questions on their own affidavits without any legal basis and to put the examining party to the burden of bringing refusals motions, the result will not be in keeping with the Rules' goal of "secur[ing] the just, most expeditious and least expensive determination of every civil proceeding on its merits."⁷⁷ On the contrary, it will only encourage what D.M. Brown J. (as he then was) named "the cult of the interlocutory motion" when he cautioned in *Glen Grove* that courts "should not take any steps to encourage or condone the bringing of unnecessary interlocutory motions, especially on process-related matters."⁷⁸

47. This Court has repeatedly followed *Glen Grove*'s holding that "[a]s a general rule the proper time and place to request a court to strike out, in whole or in part, an affidavit filed in support of a motion or application is on the return of the main motion or application."⁷⁹ Accordingly, Ontario now requests that the Court strike out Mr. Skelly's affidavit as an abuse of process and pursuant to Rule 34.15(1)(c).

⁷⁷ Rules of Civil Procedure, RRO 1990, Reg 194, [Rule 1.04\(1\)](#).

⁷⁸ *1196303 Ontario Inc. v. Glen Grove Suites Inc.*, 2012 ONSC 758 at [para. 19](#).

⁷⁹ *1196303 Ontario Inc. v. Glen Grove Suites Inc.*, 2012 ONSC 758 at [para. 12](#); *Tallman Truck Centre Limited v. K.S.P. Holdings Inc. et al.*, 2020 ONSC 2549 at [para. 52](#); *Gutierrez v. The Watchtower Bible and Tract Society of Canada et al.*, 2019 ONSC 3069 at [paras. 28-35](#).

48. The doctrine of abuse of process allows the Court to prevent the misuse of its procedures in a way that would bring the administration of justice into disrepute.⁸⁰ Mr. Skelly's conduct was contumacious and meets the threshold for striking an affidavit.⁸¹ As this Court has noted, "there comes a point when the need to insist on procedural rules and orders must prevail. Otherwise, the system will break down."⁸²

49. If Mr. Skelly's affidavit is struck, it follows that his motion should be dismissed, as the Respondents' claim for relief lacks an evidentiary basis without it.⁸³

C. The Respondents' *Charter* rights are not engaged in this proceeding

50. There is no *Charter* right to operate a restaurant that offers indoor dining. This fact is a complete answer to the Respondents' constitutional claims.

51. The court order sought in this application and obtained on December 4, 2020 requires nothing of the Respondents except that they refrain from "contravening Ontario Regulation 82/20 at any restaurant owned or operated by one or both of the respondents." This application is a civil proceeding, not a prosecution. The court's order expressly applies only at the Respondents' restaurants, and not to any other personal or business activities that they may wish to undertake. O. Reg. 82/20 itself permits restaurants to operate subject to conditions. The Respondents must only adhere to the same business regulations that apply to all other restaurants in the Province. The requirement to adhere to these rules at their restaurants does not engage any of the Respondents' *Charter* rights.

⁸⁰ *Behn v. Moulton Contracting Ltd.*, 2013 SCC 26 at [para. 40](#).

⁸¹ *Kaushal v. Vasudeva et al.*, 2021 ONSC 440 at [paras. 64-65](#).

⁸² *Bank of Montreal v. Lewis*, 2010 ONSC 3256 at [paras. 18-19](#).

⁸³ *Ernst v. Alberta Energy Regulator*, 2017 SCC 1 at [para. 22](#).

52. Binding authority holds that the *Charter* does not protect the right to engage in a business or to practice a profession or occupation unfettered by the applicable rules. In *Siemens*, the Supreme Court held that “[t]he ability to generate business revenue by one’s chosen means is not a right that is protected under s. 7 of the *Charter*.”⁸⁴ In *Mussani*, the Court of Appeal for Ontario held that the *Charter* does not protect “the right to engage in the economic activity of [one’s] choice” and that “there is no constitutional right to practise a profession unfettered by the applicable rules and standards which regulate that profession.”⁸⁵ In *Murtaza*, the Divisional Court held that “clearly the *Charter* does not apply to evaluating the qualifications for professional membership.”⁸⁶ In *Cherrier*, this Court held that the “right to engage in a particular job or profession, carry on a business, or earn a particular livelihood are not protected.”⁸⁷

53. The *Charter* protects rights that are fundamental to personhood, not pure economic interests such as the ability to offer indoor dining at a restaurant. The Supreme Court has cautioned that a purposive interpretation of the *Charter* “must not overshoot” the “actual purpose of the right.”⁸⁸ To claim protection under the *Charter*, the Respondents must establish that they have “an interest falling within the scope of the

⁸⁴ *Siemens v. Manitoba (Attorney General)*, [2003 SCC 3](#) at paras. 45-46; see also *R. v. Schmidt*, 2014 ONCA 188 at [para. 38](#).

⁸⁵ *Mussani v. College of Physicians and Surgeons of Ontario*, 2004 CanLII 48653 (ONCA) at [paras. 39-43](#).

⁸⁶ *Murtaza v Registrar of the Association of Professional Engineers of Ontario*, 2016 ONSC 1745 (Div. Ct.) at [paras. 14-17](#).

⁸⁷ *Cherrier v Attorney General of Canada*, 2017 ONSC 7336 at [para. 89](#); see also *Retirement Homes Regulatory Authority v. In Touch Retirement Living for Vegetarians/Vegans Inc.*, 2019 ONSC 3401 (SCJ) at [paras. 12-13](#).

⁸⁸ *Quebec (Attorney General) v. 9147-0732 Québec Inc.*, 2020 SCC 32 at [para. 10](#); *R. v. Stillman*, 2019 SCC 40 at [para. 21](#).

guarantee, and one which accords with the purpose of that provision.”⁸⁹ They cannot do so here.

D. In the alternative, there is no unjustified infringement of the *Charter*

54. Even if any *Charter* right of the Respondents was engaged in this proceeding, which is denied, no infringement of the *Charter* has been established. Even if there were any infringement, the temporary restriction on restaurants offering in-person dining would be justified by the extraordinary public health circumstances of a global pandemic of infectious deadly disease that has killed thousands of Ontarians.

55. Neither this Court’s restraining order nor O. Reg. 82/20 itself are vague, arbitrary, overbroad or grossly disproportionate. This Court held that it was “incontrovertible that there has been a clear breach” of O. Reg. 82/20 by the Respondents and that the Regulation’s restaurant measures “were not being adhered to and no persons responsible for the business were attempting to ensure compliance.”⁹⁰ It cannot be said that O. Reg. 82/20 is so vague that it “does not provide fair notice to persons of what is prohibited, and does not provide clear standards for those entrusted with enforcement.”⁹¹

56. The threshold for finding a law arbitrary is high: there must be “no rational connection between the object of the law and the limit it imposes on life, liberty or security of the person.”⁹² The object of O. Reg. 82/20 is to reduce the risk of

⁸⁹ *Quebec (Attorney General) v. 9147-0732 Québec Inc.*, 2020 SCC 32 at [para. 7](#); *R. v. Poulin*, 2019 SCC 47 at [para. 32](#) and [paras. 53-54](#).

⁹⁰ *Her Majesty the Queen in Right of Ontario v. Adamson Barbecue Limited*, 2020 ONSC 7679 at [para. 25](#).

⁹¹ *Working Families Ontario v. Ontario*, 2021 ONSC 4076 at [para 38](#).

⁹² *Carter v. Canada (Attorney General)*, 2015 SCC 5 at [paras. 83-85](#); *R. v. Long*, [2018 ONCA 282](#) at [para. 63](#).

transmission of COVID-19, and the restrictions it imposes are manifestly rationally connected to this objective. As the Divisional Court has recently held in the context of an order under the *Health Protection and Promotion Act*,⁹³

Too many COVID-19 cases can overwhelm medical resources, thereby putting medical personnel in the position of having to decide who gets access to the resources and who does not. Those who do not get access to proper medical care may die. Any steps that may reduce that risk are not arbitrary.⁹⁴

57. For the same reason, O. Reg. 82/20 is not overbroad.⁹⁵ O. Reg. 82/20 restricts indoor dining while permitting restaurants to operate in ways that pose less risk of COVID-19 transmission, including take-out and delivery service. The law goes no further than necessary to achieve its risk-mitigation objectives.

58. Finally, the principle against gross disproportionality “only applies in extreme cases where the seriousness of the deprivation is totally out of sync with the objective of the measure.”⁹⁶ Given that the objective of Regulation 82/20 is to reduce the risk of transmission of a deadly infectious disease that has killed thousands of Ontarians, any impact on the Respondents’ business operations is minimal in comparison.

59. If it were necessary to justify O. Reg. 82/20 as a reasonable limit under *Charter* s. 1, it would be so justified. The law serves a pressing and substantial objective, is rationally connected to the objective, is minimally impairing, and not disproportionate in

⁹³ *Health Protection and Promotion Act*, [RSO 1990, c H.7](#).

⁹⁴ *Schuyler Farms Limited v. Dr. Nesathurai*, 2020 ONSC 4711 at [para. 101](#); see also *Sprague v. Her Majesty the Queen in right of Ontario*, 2020 ONSC 2335 at [para. 48](#).

⁹⁵ *Sprague v. Her Majesty the Queen in right of Ontario*, 2020 ONSC 2335 at [para. 49](#); *Canada (Attorney General) v. Bedford*, 2013 SCC 72 at paras. [101-102](#), [108](#), [112-119](#); *R. v. Moriarity*, [2015 SCC 55](#) at [para. 27](#).

⁹⁶ *Canada (Attorney General) v. Bedford*, 2013 SCC 72 at [para. 120](#).

its effects. Moreover, the Court should take a deferential approach to temporary public health measures enacted in response to a global pandemic.

60. As the Court of Appeal for Ontario held in the context of a previous outbreak of infectious disease, “the public officials charged with the responsibility for imposing and lifting [public health] measures must weigh and balance the advantages and disadvantages and strive to act in a manner that best meets the overall interests of the public at large” rather than any particular “narrow class of individuals.”⁹⁷ Similarly, the Divisional Court has recently held it is “not the Court’s role” to engage in “a re-weighing of the complex and often difficult factors, considerations and choices that must be evaluated by [authorities] during a pandemic.”⁹⁸

61. The Newfoundland and Labrador Supreme Court also recently commented on the complexity of public health decision-making in response to COVID-19 in upholding that Province’s travel restrictions as justified under *Charter* s. 1:

The nature of the harm caused by COVID-19 is unfortunately all too real. It is a severe acute respiratory illness that has killed close to a million persons globally and almost 10,000 in Canada alone, and the number continues to rise...[T]here are characteristics which increase the complexity of public health decision making in the case of COVID-19. It is a novel virus with no known cure, effective treatment or vaccine, and the illness caused by it is far more severe than seen in influenza. Infected, but asymptomatic persons, may unwittingly infect others. ...

In the context of such a public health emergency, with emergent and rapidly evolving developments, the time for seeking out and analyzing evidence shrinks. Where the goal is to avert serious injury or death, the margin for error may be narrow. In such a circumstance, the response does not admit of surgical precision. Rather, in public health decision making the “precautionary principle”

⁹⁷ *Williams v. Ontario*, 2009 ONCA 378 at [para. 31](#); *Abarquez v. Ontario*, 2009 ONCA 374 at [para. 49](#)

⁹⁸ *Sprague v. Her Majesty the Queen in right of Ontario*, 2020 ONSC 2335 (Div. Ct.) at [para. 45](#); see also *The Fit Effect v. Brant County Board of Health*, 2021 ONSC 3651 at [para. 88](#).

supports the case for action before confirmatory evidence is available.⁹⁹

62. Judicial deference is also appropriate where a law balances competing interests.¹⁰⁰

Ontario’s public health response to COVID-19 involves complex choices to balance risks and benefits that may impact different segments of the provincial population, whether restaurant operator or vulnerable seniors and others with elevated health risks, all within the context of evolving information about a novel disease. Ontario need not wait for a definitive scientific answer on every aspect of COVID-19 transmission before taking action to protect the public.¹⁰¹

63. Protecting the health of individuals and families by reducing the risk of COVID-19 transmission is obviously a pressing and substantive objective and has been identified as such by Canadian courts.¹⁰²

64. The rational connection step of the justification test is “not particularly onerous.”¹⁰³ Ontario need only establish that “it is reasonable to suppose that the limit may further the goal, not that it will do so.”¹⁰⁴ Restaurant regulations that limit close contact between members of different households are clearly rationally connected to the goal of protecting individuals from the spread of an infectious respiratory disease.

⁹⁹ *Taylor v. Newfoundland and Labrador*, 2020 NLSC 125 at [paras. 410-411](#).

¹⁰⁰ *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at [paras. 35-37](#).

¹⁰¹ *Harper v. Canada (Attorney General)*, 2004 SCC 33 at [para. 78](#); *R v. Michaud*, 2015 ONCA at [para. 102](#).

¹⁰² *Beaudoin v. British Columbia*, 2021 BCSC 512 at [para. 224](#); *Taylor v. Newfoundland and Labrador*, 2020 NLSC 125 at [paras. 436-437](#).

¹⁰³ *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*, 2000 SCC 69 at [para. 228](#). See also *Canada (Attorney General) v. JTI-MacDonald*, 2007 SCC 30 at [para. 40](#); *Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario*, 2019 ONCA 393 at [paras. 156-7](#).

¹⁰⁴ *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at [para. 48](#); see also *Beaudoin v. British Columbia*, 2021 BCSC 512 at [para. 229](#).

65. With respect to minimal impairment, Ontario is entitled to take the means necessary to meet its objective of protecting health, including that of vulnerable members of the population. Legislative action to protect vulnerable groups is not “necessarily restricted to the least common denominator of actions taken elsewhere” and the Legislature is not required, in the name of minimal impairment, to “choose the least ambitious means to protect vulnerable groups.”¹⁰⁵

66. Nor is the government required to compromise its objective under *Charter* s. 1, as the Respondents propose. The Respondents’ preferred response to COVID-19 would be to allow the spread of the virus in the population until herd immunity is reached among those who survive. This alternative, “instead of asking what is minimally required to realize the legislative goal, asks the government to significantly compromise it” and “is therefore not appropriate for consideration at the minimal impairment stage.”¹⁰⁶

67. The final proportionality stage of the *Oakes* analysis requires “broader assessment of whether the benefits of the impugned law are worth the cost of the rights limitations.”¹⁰⁷ The risks of COVID-19 are not borne only by the Respondents and their patrons: COVID-19 is an infectious disease and can be spread by asymptomatic or presymptomatic (or for that matter, symptomatic) restaurant patrons to the wider community, including to vulnerable groups for whom COVID-19 presents a serious risk of illness, hospitalization and death.

¹⁰⁵ *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989 CanLII 87 \(SCC\)](#), [1989] 1 S.C.R. 927 at 999; *Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario*, 2019 ONCA 393 at para. [154](#); *Affleck v. Attorney General of Ontario*, 2021 ONSC 1108 at [para. 98](#); *Canada (Attorney General) v. JTI-Macdonald Corp.*, 2007 SCC 30 at [para. 43](#).

¹⁰⁶ *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at [para. 60](#).

¹⁰⁷ *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at [para. 77](#).

68. Given the implacable reality of how respiratory infections spread, the Respondents cannot simply assert their own freedom to conduct business as they see fit without regard to the negative health impacts their actions may cause. Against this salutary public health benefit, any deleterious impact on the Respondents' business is modest and temporary.

PART IV – ORDER SOUGHT

69. Ontario submits that the Respondents' motion should be dismissed with costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

June 18, 2021



S. Zachary Green and Padraic Ryan
Of counsel for the Applicant/Respondent on motion,
Her Majesty the Queen in Right of Ontario

SCHEDULE A

1. *Her Majesty the Queen in Right of Ontario v. Adamson Barbecue Limited*, [2020 CanLII 7679](#) (ONSC)
2. *TSCC 1466 v. Weinstein*, [2020 CanLII 6898](#) (ONSC)
3. *Hydroslotter Corporation v. Nikouline*, [2020 CanLII 1478](#) (ONSC)
4. *Hefford v. Charpentier*, [2009 CanLII 21761](#) (ON SCDC)
5. *Hamza v. Law Society of Ontario et al.*, [2021 CanLII 2023](#) (ONSC)
6. *Szymanski v Alaimo*, [2016 CanLII 2527](#) (ONSC)
7. *Dovale v. Metropolitan Toronto Housing Authority*, [2001 CanLII 28024](#) (ONSC)
8. *Noddle v. Ontario Ministry of Health*, [2019 CanLII 7337](#) (ONSC)
9. *Budlakoti et al. v. R.*, [2020 CanLII 73972](#) (ONSC)
10. *Beardsley v. Ontario Provincial Police*, [2001 CanLII 8621](#) (ON CA)
11. *Miguna v. Ontario (Attorney General)*, [2005 CanLII 46385](#) (ON CA)
12. *Siemens v. Manitoba (Attorney General)*, [2003 SCC 3](#)
13. *Mussani v. College of Physicians and Surgeons of Ontario*, [2004 CanLII 48653](#) (ON CA)
14. *R. v. Schmidt*, [2014 ONCA 188](#)
15. *Infant Number 10968 v. Ontario*, 2006 CanLII 19946 (ON SC) at [2006 CanLII 19946](#), aff'd 2007 ONCA 787 at [2007 ONCA 787](#).
16. *Zargar v. Zarrabian*, [2018 CanLII 4016](#) (ONSC Div. Ct.)
17. *Adamson v. Ontario (Attorney General)*, [2014 CanLII 3787](#) (ONSC)
18. *Canadian Snowbirds Association Inc. v. Attorney General of Ontario*, [2020 CanLII 5652](#) (ONSC)

19. *1196303 Ontario Inc. v. Glen Grove Suites Inc.*, [2012 CanLII 758](#) (ONSC)
20. *Tallman Truck Centre Limited v. K.S.P. Holdings Inc. et al.*, [2020 CanLII 2549](#) (ONSC)
21. *Gutierrez v. The Watchtower Bible and Tract Society of Canada et al.*, [2019 CanLII 3069](#) (ONSC)
22. *Behn v. Moulton Contracting Ltd.*, [2013 SCC 26](#)
23. *Kaushal v. Vasudeva et al.*, [2021 CanLII 440](#) (ONSC)
24. *Bank of Montreal v. Lewis*, [2010 CanLII 3256](#) (ONSC)
25. *Ernst v. Alberta Energy Regulator*, [2017 SCC 1](#)
26. *Murtaza v Registrar of the Association of Professional Engineers of Ontario*, [2016 CanLII 1745](#) (ONSC Div. Ct.)
27. *Cherrier v Attorney General of Canada*, [2017 CanLII 7336 \(ONSC\)](#)
28. *Retirement Homes Regulatory Authority v. In Touch Retirement Living for Vegetarians/Vegans Inc.*, [2019 CanLII 3401](#) (ONSC SCJ)
29. *Quebec (Attorney General) v. 9147-0732 Québec Inc.*, [2020 SCC 32](#)
30. *R. v. Stillman*, [2019 SCC 40](#)
31. *R. v. Poulin*, [2019 SCC 47](#)
32. *Working Families Ontario v. Ontario*, [2021 CanLII 4076](#) (ONSC)
33. *Carter v. Canada (Attorney General)*, [2015 SCC 5](#)
34. *R. v. Long*, [2018 ONCA 282](#)
35. *Schuyler Farms Limited v. Dr. Nesathurai*, [2020 CanLII 4711](#) (ONSC)
36. *Sprague v. Her Majesty the Queen in right of Ontario*, [2020 CanLII 2335](#) (ONSC)

37. *Canada (Attorney General) v. Bedford*, 2013 SCC 72 at paras. [2013 SCC 72](#)
38. *R. v. Moriarity*, [2015 SCC 55](#)
39. *Williams v. Ontario*, 2009 ONCA 378 at [2009 ONCA 378](#)
40. *Abarquez v. Ontario*, [2009 ONCA 374](#)
41. *The Fit Effect v. Brant County Board of Health*, [2021 CanLII 3651](#) (ONSC)
42. *Taylor v. Newfoundland and Labrador*, [2020 NLSC 125](#)
43. [Alberta v. Hutterian Brethren of Wilson Colony](#), 2009 SCC 37
44. *Harper v Canada (Attorney General)*, [2004 SCC 33](#)
45. *R v. Michaud*, [2015 ONCA 585](#)
46. *Beaudoin v. British Columbia*, [2021 BCSC 512](#)
47. *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*, [2000 SCC 69](#)
48. *Canada (Attorney General) v. JTI-MacDonald*, [2007 SCC 30](#)
49. *Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario*, [2019 ONCA 393](#)
50. *Irwin Toy Ltd. v. Quebec (Attorney General)*, [\[1989\] 1 SCR 927](#)
51. *Affleck v. Attorney General of Ontario*, 2021 ONSC 1108 at [2021 CanLII 1108](#) (ONSC)

SCHEDULE B

LEGISLATION

1. [Reopening Ontario \(A Flexible Response to COVID-19\) Act, 2020, S.O. 2020, c. 17](#)
2. [Rules of Civil Procedure](#), RRO 1990, Reg 194, Rules 37.06, 25.11, 38.12, 34.15, 1.04(1)
3. [Crown Liability and Proceedings Act, 2019, S.O. 2019, c 7, Sch 17, s. 18](#)
4. [Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9.](#)
5. [O. Reg. 82/20](#) “Rules for Areas in Shutdown Zone and at Step 1”
6. [O. Reg. 363/20](#) “Stages of Reopening”

Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17:

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

Definitions

1 In this Act,

“continued section 7.0.2 order” means an order continued under section 2 that was made under section 7.0.2 of the *Emergency Management and Civil Protection Act*; (“décret pris en vertu de l’article 7.0.2 et maintenu”)

“COVID-19 declared emergency” means the emergency declared pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*. (“situation d’urgence déclarée en raison de la COVID-19”)

“occupier” has the same meaning as in the *Trespass to Property Act*; (“occupant”)

“premises” has the same meaning as in the *Trespass to Property Act*. (“lieux”) 2020, c. 17, s. 1; 2020, c. 23, Sched. 6, s. 1.

Section Amendments with date in force (d/m/y)

ORDERS

Orders continued

2 (1) The orders made under section 7.0.2 or 7.1 of the *Emergency Management and Civil Protection Act* that have not been revoked as of the day this subsection comes into force are continued as valid and effective orders under this Act and cease to be orders under the *Emergency Management and Civil Protection Act*.

Exception

(2) Subsection (1) does not apply to the order filed as Ontario Regulation 106/20 (Order Made Under the Act — Extensions and Renewals of Orders).

Clarification

(3) For greater certainty, an order that is in force is continued under subsection (1) even if, on the day that subsection comes into force, the order does not apply to any area of the Province.

Time limit on application of orders

3 (1) An order continued under section 2 ceases to apply 30 days after it is continued under section 2, subject to extension under subsection (2).

Extension of orders

(2) The Lieutenant Governor in Council may by order, before it ceases to apply, extend the effective period of an order for periods of no more than 30 days.

Power to amend orders

4 (1) The Lieutenant Governor in Council may, by order,

- (a) subject to subsections (2) and (5), amend a continued section 7.0.2 order in a way that would have been authorized under section 7.0.2 of the *Emergency Management and Civil Protection Act* if the COVID-19 declared emergency were still in effect and references in that section to the emergency were references to the COVID-19 pandemic and its effects;
- (b) amend an order continued under section 2 to address transitional matters relating to the termination of the COVID-19 declared emergency, the enactment of this Act or the continuation of orders under section 2.

Limitation on amendments

(2) An amendment may be made under clause (1) (a) only if,

- (a) the amendment relates to one or more of the subject matters listed in subsection (3); or
- (b) the amendment requires persons to act in compliance with any advice, recommendation or instruction of a public health official.

Same

(3) The subject matters referred to in clause (2) (a) are the following:

1. Closing or regulating any place, whether public or private, including any business, office, school, hospital or other establishment or institution.
2. Providing for rules or practices that relate to workplaces or the management of workplaces, or authorizing the person responsible for a workplace to identify staffing priorities or to develop, modify and implement redeployment plans or rules or practices that relate to the workplace or the management of the workplace, including credentialing processes in a health care facility.
3. Prohibiting or regulating gatherings or organized public events.

Definition of “credentialing process”

(4) In paragraph 2 of subsection (3),

“credentialing process” means the activities, processes, procedures and proceedings for appointing and reappointing health care staff and determining the nature and scope of privileges assigned to them.

Orders that may not be amended

(5) Amendments may not be made under clause (1) (a) to the following orders:

1. Ontario Regulation 75/20 (Drinking Water Systems and Sewage Works).
2. Ontario Regulation 76/20 (Electronic Service).
3. Ontario Regulation 80/20 (Electricity Price for RPP Consumers).
4. Ontario Regulation 114/20 (Enforcement of Orders).
5. Ontario Regulation 120/20 (Order Under Subsection 7.0.2 (4) of the Act — Access to COVID-19 Status Information by Specified Persons).
6. Ontario Regulation 129/20 (Signatures in Wills and Powers of Attorney).
7. Ontario Regulation 132/20 (Use of Force and Firearms in Policing Services).
8. Ontario Regulation 141/20 (Temporary Health or Residential Facilities).
9. Ontario Regulation 190/20 (Access to Personal Health Information by Means of the Electronic Health Record).
10. Ontario Regulation 192/20 (Certain Persons Enabled to Issue Medical Certificates of Death).
11. Ontario Regulation 210/20 (Management of Long-Term Care Homes in Outbreak).
12. Ontario Regulation 240/20 (Management of Retirement Homes in Outbreak).
13. Ontario Regulation 241/20 (Special Rules Re Temporary Pandemic Pay).
14. Ontario Regulation 345/20 (Patios).

Amendments may change requirements, extend application

(6) For greater certainty, an amendment made under clause (1) (a) may do the following, subject to subsection (2):

1. Impose more onerous or different requirements, including in different parts of the Province.
2. Extend the application of the order being amended, including the geographic scope of the order and the persons it applies to.

Amendments may be retroactive

(7) An amendment, if it so provides, may be retroactive to a date specified in the amending order that is on or after the day subsection (1) came into force.

Regulations to define “public health official”

(8) The Lieutenant Governor in Council may make regulations defining “public health official” for the purposes of clause (2) (b).

Power to revoke orders

5 The Lieutenant Governor in Council may by order revoke an order continued under section 2.

Delegation of powers

6 The Lieutenant Governor in Council may by order delegate to a minister of the Crown any of the powers of the Lieutenant Governor in Council under section 3, 4 or 5.

Provisions applying with respect to orders

7 (1) Subsections 7.2 (3) to (8) of the *Emergency Management and Civil Protection Act* continue to apply, with necessary modifications, with respect to orders continued under section 2, including any amendments to such orders made under this Act.

Same

(2) Subsections 7.0.2 (6) to (9) of the *Emergency Management and Civil Protection Act* continue to apply, with necessary modifications and the modifications specified in subsection (3), with respect to continued section 7.0.2 orders, including any amendments to such orders made under this Act.

Modifications

(3) The modifications referred to in subsection (2) are the following:

1. The reference, in paragraph 1 of subsection 7.0.2 (7) of the *Emergency Management and Civil Protection Act*, to the emergency is deemed to be a reference to the COVID-19 pandemic and its effects.
2. The reference, in paragraph 2 of subsection 7.0.2 (7) of the *Emergency Management and Civil Protection Act*, to when the declared emergency is terminated is deemed to be a reference to when the order in relation to which that paragraph applies is revoked or ceases to apply.

Expiry of power to amend, extend orders

8 (1) The following powers cease to apply on the first anniversary of the day orders are continued under section 2:

1. The power under subsection 3 (2) to extend orders.
2. The power under section 4 to amend orders.

Extension by Assembly resolution

(2) The Assembly, on the recommendation of the Premier, may by resolution extend the expiry date mentioned in subsection (1) for additional periods of no more than one year.

Same

(3) If there is a resolution before the Assembly to extend the expiry date, the powers listed in subsection (1) shall continue until the resolution is voted on.

Effect of orders after expiry of power to amend, extend

(4) An order extended under subsection 3 (2) continues in effect until the date to which it was extended, even if that date is after the time the powers listed in subsection (1) cease to apply, unless it is revoked before that date.

ENFORCEMENT

Proceedings to restrain contravention of order

9 Despite any other remedy or any penalty, the contravention by any person of a continued section 7.0.2 order may be restrained by order of a judge of the Superior Court of Justice upon application without notice by the Crown in right of Ontario or a member of the Executive Council and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Superior Court of Justice.

Temporary closure by police, etc.

9.1 (1) A police officer, special constable or First Nations Constable may order that premises be temporarily closed if the police officer, special constable or First Nations Constable has reasonable grounds to believe that an organized public event or other gathering is occurring at the premises and that the number of people in attendance exceeds the number permitted under a continued section 7.0.2 order. 2020, c. 23, Sched. 6, s. 2.

Compliance with order

(2) Every individual who is on the premises shall comply with the order to temporarily close the premises by promptly vacating the premises after being informed of the order. 2020, c. 23, Sched. 6, s. 2.

Same

(3) No individual shall re-enter the premises on the same day that the premises were temporarily closed under subsection (1) unless a police officer, special constable or First Nations Constable authorizes the re-entry. 2020, c. 23, Sched. 6, s. 2.

Exception for residents

(4) Subsections (2) and (3) do not apply to individuals residing in the premises. 2020, c. 23, Sched. 6, s. 2.

Section Amendments with date in force (d/m/y)

Offences

10 (1) Every person who fails to comply with subsection 9.1 (2) or (3) or with a continued section 7.0.2 order or who interferes with or obstructs any person in the exercise of a power or the performance of a duty conferred by such an order is guilty of an offence and is liable on conviction,

- (a) in the case of an individual, subject to clause (b), to a fine of not more than \$100,000 and for a term of imprisonment of not more than one year;
- (b) in the case of an individual who is a director or officer of a corporation, to a fine of not more than \$500,000 and for a term of imprisonment of not more than one year; and
- (c) in the case of a corporation, to a fine of not more than \$10,000,000. 2020, c. 17, s. 10 (1); 2020, c. 23, Sched. 6, s. 3.

Separate offence

(2) A person is guilty of a separate offence on each day that an offence under subsection (1) occurs or continues. 2020, c. 17, s. 10 (2).

Increased penalty

(3) Despite the maximum fines set out in subsection (1), the court that convicts a person of an offence may increase a fine imposed on the person by an amount equal to the financial benefit that was acquired by or that accrued to the person as a result of the commission of the offence. 2020, c. 17, s. 10 (3).

Exception

(4) No person shall be charged with an offence under subsection (1) for failing to comply with or interference or obstruction in respect of an order that has been amended retroactive to a date that is specified in the amendment, if the failure to comply, interference or obstruction is in respect of conduct to which the retroactive amendment applies and the conduct occurred before the retroactive amendment was made but after the retroactive date specified in the amendment. 2020, c. 17, s. 10 (4).

Section Amendments with date in force (d/m/y)

Offence for occupier of premises

10.1 (1) A person is guilty of an offence if the person hosts or organizes a public event or other gathering at residential premises or other prescribed premises and the number of people in attendance exceeds the number permitted under a continued section 7.0.2 order. 2020, c. 23, Sched. 6, s. 4.

Presumption that owner, etc. is hosting or organizing

(2) If the owner or occupier of premises at which a public event or other gathering is held is present at the event or gathering, the owner or occupier is presumed, in the absence of evidence to the contrary, to be hosting or organizing the event or gathering. 2020, c. 23, Sched. 6, s. 4.

Penalties

- (3) A person who is convicted of an offence under subsection (1) is liable,
- (a) in the case of an individual, subject to clause (b), to a fine of not less than \$10,000 and not more than \$100,000 and for a term of imprisonment of not more than one year;
 - (b) in the case of an individual who is a director or officer of a corporation, to a fine of not less than \$10,000 and not more than \$500,000 and for a term of imprisonment of not more than one year; and
 - (c) in the case of a corporation, to a fine of not less than \$10,000 and not more than \$10,000,000. 2020, c. 23, Sched. 6, s. 4.

Applicable provisions

(4) Subsections 10 (2) to (4) apply, with necessary modifications, with respect to offences under subsection (1). 2020, c. 23, Sched. 6, s. 4.

Regulations

(5) The Lieutenant Governor in Council may make regulations prescribing premises for the purposes of subsection (1). 2020, c. 23, Sched. 6, s. 4.

Section Amendments with date in force (d/m/y)

REPORTING

Reports to public

11 The Premier, or a Minister to whom the Premier delegates the responsibility, shall regularly report to the public with respect to the orders continued under section 2 that continue to apply.

Reports to Assembly committee at 30-day intervals

12 At least once every 30 days, the Premier, or a Minister to whom the Premier delegates the responsibility, shall appear before, and report to, a standing or select committee designated by the Assembly concerning,

- (a) orders that were extended during the reporting period; and
- (b) the rationale for those extensions.

Report to Assembly after one year

13 (1) Within 120 days after the first anniversary of the day orders are continued under section 2, the Premier shall table a report in the Assembly concerning,

- (a) orders that were amended under this Act;
- (b) orders that were extended under this Act; and
- (c) the rationale for those amendments and extensions, including how any applicable conditions and limitations on the making of the amendments were satisfied.

Report, if extension under s. 8

(2) If the expiry date mentioned in subsection 8 (1) is extended under section 8, the Premier shall, within 120 days after the end of each extension period, table an additional report in the Assembly concerning,

- (a) the rationale for recommending the extension;
- (b) orders that were amended during the extension period;
- (c) orders that were extended during the extension period; and
- (d) the rationale for those amendments and extensions, including how any applicable conditions and limitations on the making of the amendments were satisfied.

GENERAL

Protection from action

14 Section 11 of the *Emergency Management and Civil Protection Act* applies, with necessary modifications, with respect to orders continued, amended, extended or revoked under this Act.

Action not an expropriation

15 (1) Section 13.1 of the *Emergency Management and Civil Protection Act* applies, with necessary modifications and the modification specified in subsection (2), with respect to this Act and orders continued, amended, extended or revoked under this Act.

Modification

(2) The modification referred to in subsection (1) is the following:

1. The reference, in subsection 13.1 (2) of the *Emergency Management and Civil Protection Act*, to the emergency is deemed to be a reference to the COVID-19 pandemic and its effects.

Crown bound

16 This Act binds the Crown.

Termination of COVID-19 declared emergency

17 Unless it has been terminated before this section comes into force, the COVID-19 declared emergency is terminated and Ontario Regulation 50/20 (Declaration of Emergency) is revoked.

18 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT).

19 OMITTED (ENACTS SHORT TITLE OF THIS ACT).

**Rules of Civil Procedure, RRO 1990, Reg 194, Rules 37.06, 25.11, 38.12, 34.15,
1.04(1):**

CONTENT OF NOTICE

37.06 Every notice of motion (Form 37A) shall,,

- (a) state the precise relief sought;
- (b) state the grounds to be argued, including a reference to any statutory provision or rule to be relied on; and
- (c) list the documentary evidence to be used at the hearing of the motion. R.R.O. 1990, Reg. 194, r. 37.06.

...

STRIKING OUT A PLEADING OR OTHER DOCUMENT

25.11 The court may strike out or expunge all or part of a pleading or other document, with or without leave to amend, on the ground that the pleading or other document,

- (a) may prejudice or delay the fair trial of the action;
- (b) is scandalous, frivolous or vexatious; or
- (c) is an abuse of the process of the court. R.R.O. 1990, Reg. 194, r. 25.11.

...

STRIKING OUT A DOCUMENT

38.12 Rule 25.11 applies, with necessary modifications, with respect to any document filed on an application. O. Reg. 43/14, s. 10.

...

SANCTIONS FOR DEFAULT OR MISCONDUCT BY PERSON TO BE EXAMINED

34.15 (1) Where a person fails to attend at the time and place fixed for an examination in the notice of examination or summons to witness or at the time and place agreed on by the parties, or refuses to take an oath or make an affirmation, to answer any proper question, to produce a document or thing that he or she is required to produce or to comply with an order under rule 34.14, the court may,

- (a) where an objection to a question is held to be improper, order or permit the person being examined to reattend at his or her own expense and answer the

question, in which case the person shall also answer any proper questions arising from the answer;

- (b) where the person is a party or, on an examination for discovery, a person examined on behalf or in place of a party, dismiss the party's proceeding or strike out the party's defence;
- (c) strike out all or part of the person's evidence, including any affidavit made by the person; and
- (d) make such other order as is just. R.R.O. 1990, Reg. 194, r. 34.15 (1).

(2) Where a person does not comply with an order under rule 34.14 or subrule (1), a judge may make a contempt order against the person. R.R.O. 1990, Reg. 194, r. 34.15 (2).

...

INTERPRETATION

General Principle

1.04 (1) These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits. R.R.O. 1990, Reg. 194, r. 1.04 (1).

Crown Liability and Proceedings Act, 2019, SO 2019, c 7, Sch 17, [s. 18](#):

Notice of claim for damages required

18 (1) No proceeding that includes a claim for damages may be brought against the Crown unless, at least 60 days before the commencement of the proceeding, the claimant serves on the Crown, in accordance with section 15, notice of the claim containing sufficient particulars to identify the occasion out of which the claim arose. 2019, c. 7, Sched. 17, s. 18 (1).

Additional particulars

(2) The Attorney General may require such additional particulars as in his or her opinion are necessary to enable the claim to be investigated. 2019, c. 7, Sched. 17, s. 18 (2).

Extension of applicable limitation period

(3) If a notice of claim is served under subsection (1) before the expiry of a limitation period applicable with respect to the claim but the 60-day period referred to in that subsection ends after the expiry of the limitation period, the limitation period is extended to the last instant of the seventh day following the end of the 60-day period. 2019, c. 7, Sched. 17, s. 18 (3).

Exception, breach of duty respecting property

(4) Despite subsection (1), no proceeding that includes a claim for damages may be brought against the Crown under clause 8 (1) (b) unless the notice required by subsection (1) is served on the Crown in accordance with section 15 no later than 10 days after the occurrence of the event out of which the claim arises. 2019, c. 7, Sched. 17, s. 18 (4).

Non-application

(5) This section does not apply with respect to a counterclaim, crossclaim or claim by way of set-off. 2019, c. 7, Sched. 17, s. 18 (5).

Failure to give notice

(6) For greater certainty, failure to give notice of a claim as required by this section renders a proceeding brought without such notice a nullity in respect of the claim, from the time the proceeding is brought. 2020, c. 11, Sched. 7, s. 2.

Same

(7) Subsection (6) applies with respect to a proceeding brought before, on or after the day section 2 of Schedule 7 to the *Smarter and Stronger Justice Act, 2020* comes into force. 2020, c. 11, Sched. 7, s. 2.

Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9.

Definitions

1 In this Act,

“emergency” means a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise; (“situation d’urgence”)

“emergency area” means the area in which an emergency exists; (“zone de crise”)

“emergency management program” means a program developed under section 2.1 or 5.1; (“programme de gestion des situations d’urgence”)

“emergency plan” means a plan formulated under section 3, 6, 8 or 8.1; (“plan de mesures d’urgence”)

“employee of a municipality” means an employee as defined in section 278 of the *Municipal Act, 2001* or a designated employee as defined in section 217 of the *City of Toronto Act, 2006*, as the case may be; (“employé municipal”)

“head of council” includes a chair of the board of an improvement district; (“président du conseil”)

“local board” means a local board as defined in the *Municipal Affairs Act*; (“conseil local”)

“local services board” means a Local Services Board established under the *Local Services Boards Act*; (“régie locale des services publics”)

“member of council” includes a trustee of the board of an improvement district; (“membre du conseil”)

“public servant” means a public servant within the meaning of the *Public Service of Ontario Act, 2006*. (“fonctionnaire”) R.S.O. 1990, c. E.9, s. 1; 1999, c. 12, Sched. P, s. 3; 2002, c. 14, s. 3; 2002, c. 17, Sched. C, s. 10 (1, 2); 2006, c. 13, s. 1 (2); 2006, c. 32, Sched. C, s. 17; 2006, c. 35, Sched. C, s. 32 (1, 2).

Section Amendments with date in force (d/m/y)

Administration of Act

2 The Solicitor General is responsible for the administration of this Act. R.S.O. 1990, c. E.9, s. 2.

Cabinet advisory committee

2.0.1 The Lieutenant Governor in Council may appoint, from among the members of the Executive Council, a committee to advise the Lieutenant Governor in Council on matters relating to emergencies. 2006, c. 13, s. 1 (3).

Section Amendments with date in force (d/m/y)

Municipal emergency management programs

2.1 (1) Every municipality shall develop and implement an emergency management program and the council of the municipality shall by by-law adopt the emergency management program. 2002, c. 14, s. 4.

Same

(2) The emergency management program shall consist of,

- (a) an emergency plan as required by section 3;
- (b) training programs and exercises for employees of the municipality and other persons with respect to the provision of necessary services and the procedures to be followed in emergency response and recovery activities;
- (c) public education on risks to public safety and on public preparedness for emergencies; and
- (d) any other element required by the standards for emergency management programs set under section 14. 2002, c. 14, s. 4.

Hazard and risk assessment and infrastructure identification

(3) In developing its emergency management program, every municipality shall identify and assess the various hazards and risks to public safety that could give rise to emergencies and identify the facilities and other elements of the infrastructure that are at risk of being affected by emergencies. 2002, c. 14, s. 4.

Confidentiality for defence reasons

(4) Subject to subsection (5), a head of an institution, as defined in the *Municipal Freedom of Information and Protection of Privacy Act*, may refuse under that Act to disclose a record if,

- (a) the record contains information required for the identification and assessment activities under subsection (3); and
- (b) its disclosure could reasonably be expected to prejudice the defence of Canada or of any foreign state allied or associated with Canada or be injurious to the detection, prevention or suppression of espionage, sabotage or terrorism. 2002, c. 14, s. 4.

Same

(5) A head of an institution, as defined in the *Municipal Freedom of Information and Protection of Privacy Act*, shall not disclose a record described in subsection (4),

- (a) if the institution is a municipality and the head of the institution is not the council of the municipality, without the prior approval of the council of the municipality;
- (b) if the institution is a board, commission or body of a municipality, without the prior approval of the council of the municipality or, if it is a board, commission or body of two or more municipalities, without the prior approval of the councils of those municipalities. 2002, c. 14, s. 4.

Confidentiality of third party information

(6) A head of an institution, as defined in the *Municipal Freedom of Information and Protection of Privacy Act*, shall not, under that Act, disclose a record that,

- (a) contains information required for the identification and assessment activities under subsection (3); and
- (b) reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly. 2002, c. 14, s. 4.

Meetings closed to public

(7) The council of a municipality shall close to the public a meeting or part of a meeting if the subject matter being considered is the council's approval for the purpose of subsection (5). 2002, c. 14, s. 4.

Application of *Municipal Freedom of Information and Protection of Privacy Act*

(8) Nothing in this section affects a person's right of appeal under section 39 of the *Municipal Freedom of Information and Protection of Privacy Act* with respect to a record described in this section. 2002, c. 14, s. 4.

Section Amendments with date in force (d/m/y)**Municipal emergency plan**

3 (1) Every municipality shall formulate an emergency plan governing the provision of necessary services during an emergency and the procedures under and the manner in which employees of the municipality and other persons will respond to the emergency and the council of the municipality shall by by-law adopt the emergency plan. 2002, c. 14, s. 5 (1).

(2) Repealed: 2002, c. 14, s. 5 (1).

Co-ordination by county

(3) The council of a county may with the consent of the councils of the municipalities situated within the county co-ordinate and assist in the formulation of their emergency plans under subsection (1). R.S.O. 1990, c. E.9, s. 3 (3).

Specific emergencies may be designated

(4) The Lieutenant Governor in Council may designate a municipality to address a specific type of emergency in its emergency plan and, if so required, the municipality shall include the type of emergency specified in its emergency plan. 2002, c. 14, s. 5 (2).

Training and exercises

(5) Every municipality shall conduct training programs and exercises to ensure the readiness of employees of the municipality and other persons to act under the emergency plan. 2002, c. 14, s. 5 (3).

Review of plan

(6) Every municipality shall review and, if necessary, revise its emergency plan every year. 2002, c. 14, s. 5 (3).

Section Amendments with date in force (d/m/y)

Declaration of emergency

4 (1) The head of council of a municipality may declare that an emergency exists in the municipality or in any part thereof and may take such action and make such orders as he or she considers necessary and are not contrary to law to implement the emergency plan of the municipality and to protect property and the health, safety and welfare of the inhabitants of the emergency area. R.S.O. 1990, c. E.9, s. 4 (1).

Declaration as to termination of emergency

(2) The head of council or the council of a municipality may at any time declare that an emergency has terminated. R.S.O. 1990, c. E.9, s. 4 (2).

Solicitor General to be notified

(3) The head of council shall ensure that the Solicitor General is notified forthwith of a declaration made under subsection (1) or (2). R.S.O. 1990, c. E.9, s. 4 (3).

Premier may declare emergency terminated

(4) The Premier of Ontario may at any time declare that an emergency has terminated. R.S.O. 1990, c. E.9, s. 4 (4).

Conformity with upper-tier plan

5 The emergency plan of a lower-tier municipality in an upper-tier municipality, excluding a county, shall conform to the emergency plan of the upper-tier municipality and has no effect to the extent of any inconsistency and, for the purposes of this section, The Corporation of the County of Lambton shall be deemed to be an upper-tier municipality. 2002, c. 17, Sched. C, s. 10 (3).

Section Amendments with date in force (d/m/y)

Emergency management programs of provincial government bodies

5.1 (1) Every minister of the Crown presiding over a ministry of the Government of Ontario and every agency, board, commission and other branch of government designated by the Lieutenant Governor in Council shall develop and implement an emergency management program consisting of,

- (a) an emergency plan as required by section 6;
- (b) training programs and exercises for public servants and other persons with respect to the provision of necessary services and the procedures to be followed in emergency response and recovery activities;
- (c) public education on risks to public safety and on public preparedness for emergencies; and
- (d) any other element required by the standards for emergency management programs set under section 14. 2002, c. 14, s. 7; 2006, c. 35, Sched. C, s. 32 (3).

Hazard and risk assessment and infrastructure identification

(2) In developing an emergency management program, every minister of the Crown and every designated agency, board, commission and other branch of government shall identify and assess the various hazards and risks to public safety that could give rise to emergencies and identify the facilities and other elements of the infrastructure for which the minister or agency, board, commission or branch is responsible that are at risk of being affected by emergencies. 2002, c. 14, s. 7.

Confidentiality of third party information

(3) A head of an institution, as defined in the *Freedom of Information and Protection of Privacy Act*, shall not, under that Act, disclose a record that,

- (a) contains information required for the identification and assessment activities under subsection (2); and
- (b) reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly. 2002, c. 14, s. 7.

Application of *Freedom of Information and Protection of Privacy Act*

(4) Nothing in this section affects a person's right of appeal under section 50 of the *Freedom of Information and Protection of Privacy Act* with respect to a record described in this section. 2002, c. 14, s. 7.

Section Amendments with date in force (d/m/y)

Emergency plans of provincial government bodies

6 (1) It is the responsibility of,

- (a) each minister of the Crown presiding over a ministry of the Government of Ontario; and
- (b) each agency, board, commission or other branch of government designated by the Lieutenant Governor in Council,

to formulate an emergency plan for the ministry or branch of government, as the case may be, in respect of the type of emergency assigned to it by the Lieutenant Governor in Council, governing the provision of necessary services during an emergency and the procedures under and the manner in which public servants and other persons will respond to the emergency. R.S.O. 1990, c. E.9, s. 6 (1); 2006, c. 35, Sched. C, s. 32 (3).

Training and exercises

(2) Every minister of the Crown described in clause (1) (a) and every agency, board, commission or other branch of government described in clause (1) (b) shall conduct training programs and exercises to ensure the readiness of public servants and other persons to act under their emergency plans. 2002, c. 14, s. 8; 2006, c. 35, Sched. C, s. 32 (3).

Review of plan

(3) Every minister of the Crown described in clause (1) (a) and every agency, board, commission or other branch of government described in clause (1) (b) shall review and, if necessary, revise its emergency plan every year. 2002, c. 14, s. 8.

Section Amendments with date in force (d/m/y)

Chief, Emergency Management Ontario

6.1 The Lieutenant Governor in Council shall appoint a Chief, Emergency Management Ontario who, under the direction of the Solicitor General, shall be responsible for monitoring, co-ordinating and assisting in the development and implementation of emergency management programs under sections 2.1 and 5.1 and for ensuring that those programs are co-ordinated in so far as possible with emergency management programs and emergency plans of the Government of Canada and its agencies. 2002, c. 14, s. 9.

Section Amendments with date in force (d/m/y)

Emergency plans submitted to Chief

6.2 (1) Every municipality, minister of the Crown and designated agency, board, commission and other branch of government shall submit a copy of their emergency plans and of any revisions to their emergency plans to the Chief, Emergency Management Ontario, and shall ensure that the Chief, Emergency Management Ontario has, at any time, the most current version of their emergency plans. 2002, c. 14, s. 10.

Repository for emergency plans

(2) The Chief, Emergency Management Ontario shall keep in a secure place the most current version of every emergency plan submitted to him or her. 2002, c. 14, s. 10.

Section Amendments with date in force (d/m/y)

Definitions

7 In sections 7.0.1 to 7.0.11,

“animal” means a domestic animal or bird or an animal or bird that is wild by nature that is in captivity; (“animal”)

“Commissioner of Emergency Management” means the person appointed from time to time by order in council as the Commissioner of Emergency Management; (“commissaire à la gestion des situations d’urgence”)

“municipality” includes a local board of a municipality, a district social services administration board and, despite subsection 6 (2) of the *Northern Services Boards Act*, a local services board; (“municipalité”)

“necessary goods, services and resources” includes food, water, electricity, fossil fuels, clothing, equipment, transportation and medical services and supplies. (“denrées, services et ressources nécessaires”) 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Declaration of emergency

7.0.1 (1) Subject to subsection (3), the Lieutenant Governor in Council or the Premier, if in the Premier's opinion the urgency of the situation requires that an order be made immediately, may by order declare that an emergency exists throughout Ontario or in any part of Ontario. 2006, c. 13, s. 1 (4).

Confirmation of urgent declaration

(2) An order of the Premier that declares an emergency is terminated after 72 hours unless the order is confirmed by order of the Lieutenant Governor in Council before it terminates. 2006, c. 13, s. 1 (4).

Criteria for declaration

(3) An order declaring that an emergency exists throughout Ontario or any part of it may be made under this section if, in the opinion of the Lieutenant Governor in Council or the Premier, as the case may be, the following criteria are satisfied:

1. There is an emergency that requires immediate action to prevent, reduce or mitigate a danger of major proportions that could result in serious harm to persons or substantial damage to property.
2. One of the following circumstances exists:
 - i. The resources normally available to a ministry of the Government of Ontario or an agency, board or commission or other branch of the government, including existing legislation, cannot be relied upon without the risk of serious delay.
 - ii. The resources referred to in subparagraph i may be insufficiently effective to address the emergency.
 - iii. It is not possible, without the risk of serious delay, to ascertain whether the resources referred to in subparagraph i can be relied upon. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Emergency powers and orders

Purpose

7.0.2 (1) The purpose of making orders under this section is to promote the public good by protecting the health, safety and welfare of the people of Ontario in times of declared emergencies in a manner that is subject to the *Canadian Charter of Rights and Freedoms*. 2006, c. 13, s. 1 (4).

Criteria for emergency orders

(2) During a declared emergency, the Lieutenant Governor in Council may make orders that the Lieutenant Governor in Council believes are necessary and essential in the circumstances to prevent, reduce or mitigate serious harm to persons or substantial damage to property, if in the opinion of the Lieutenant Governor in Council it is reasonable to believe that,

- (a) the harm or damage will be alleviated by an order; and
- (b) making an order is a reasonable alternative to other measures that might be taken to address the emergency. 2006, c. 13, s. 1 (4).

Limitations on emergency order

(3) Orders made under this section are subject to the following limitations:

- 1. The actions authorized by an order shall be exercised in a manner which, consistent with the objectives of the order, limits their intrusiveness.
- 2. An order shall only apply to the areas of the Province where it is necessary.
- 3. Subject to section 7.0.8, an order shall be effective only for as long as is necessary. 2006, c. 13, s. 1 (4).

Emergency orders

(4) In accordance with subsection (2) and subject to the limitations in subsection (3), the Lieutenant Governor in Council may make orders in respect of the following:

- 1. Implementing any emergency plans formulated under section 3, 6, 8 or 8.1.
- 2. Regulating or prohibiting travel or movement to, from or within any specified area.
- 3. Evacuating individuals and animals and removing personal property from any specified area and making arrangements for the adequate care and protection of individuals and property.
- 4. Establishing facilities for the care, welfare, safety and shelter of individuals, including emergency shelters and hospitals.
- 5. Closing any place, whether public or private, including any business, office, school, hospital or other establishment or institution.
- 6. To prevent, respond to or alleviate the effects of the emergency, constructing works, restoring necessary facilities and appropriating, using, destroying, removing or disposing of property.
- 7. Collecting, transporting, storing, processing and disposing of any type of waste.
- 8. Authorizing facilities, including electrical generating facilities, to operate as is necessary to respond to or alleviate the effects of the emergency.

9. Using any necessary goods, services and resources within any part of Ontario, distributing, and making available necessary goods, services and resources and establishing centres for their distribution.
10. Procuring necessary goods, services and resources.
11. Fixing prices for necessary goods, services and resources and prohibiting charging unconscionable prices in respect of necessary goods, services and resources.
12. Authorizing, but not requiring, any person, or any person of a class of persons, to render services of a type that that person, or a person of that class, is reasonably qualified to provide.
13. Subject to subsection (7), requiring that any person collect, use or disclose information that in the opinion of the Lieutenant Governor in Council may be necessary in order to prevent, respond to or alleviate the effects of the emergency.
14. Consistent with the powers authorized in this subsection, taking such other actions or implementing such other measures as the Lieutenant Governor in Council considers necessary in order to prevent, respond to or alleviate the effects of the emergency. 2006, c. 13, s. 1 (4).

Terms and conditions for services

(5) An order under paragraph 12 of subsection (4) may provide for terms and conditions of service for persons providing and receiving services under that paragraph, including the payment of compensation to the person providing services. 2006, c. 13, s. 1 (4).

Employment protected

(6) The employment of a person providing services under an order made under paragraph 12 of subsection (4) shall not be terminated because the person is providing those services. 2006, c. 13, s. 1 (4).

Disclosure of information

(7) The following rules apply with respect to an order under paragraph 13 of subsection (4):

1. Information that is subject to the order must be used to prevent, respond to or alleviate the effects of the emergency and for no other purpose.
2. Information that is subject to the order that is personal information within the meaning of the *Freedom of Information and Protection of Privacy Act* is subject to any law with respect to the privacy and confidentiality of personal information when the declared emergency is terminated. 2006, c. 13, s. 1 (4).

Exception

(8) Paragraph 2 of subsection (7) does not prohibit the use of data that is collected as a result of an order to disclose information under paragraph 13 of subsection (4) for research purposes if,

- (a) information that could be used to identify a specific individual is removed from the data; or
- (b) the individual to whom the information relates consents to its use. 2006, c. 13, s. 1 (4).

Authorization to render information anonymous

(9) A person who has collected or used information as the result of an order under paragraph 13 of subsection (4) may remove information that could be used to identify a specific individual from the data for the purpose of clause (8) (a). 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Powers of the Premier

Powers delegated to Premier

7.0.3 (1) If an order is made under section 7.0.1, the Premier may exercise any power or perform any duty conferred upon a minister of the Crown or an employee of the Crown by or under an Act of the Legislature. 2006, c. 13, s. 1 (4); 2006, c. 35, Sched. C, s. 32 (4).

Powers of Premier, municipal powers

(2) If an order is made under section 7.0.1 and the emergency area or any part of it is within the jurisdiction of a municipality, the Premier, where he or she considers it necessary, may by order made under this section,

- (a) direct and control the administration, facilities and equipment of the municipality in the emergency area, and, without restricting the generality of the foregoing, the exercise by the municipality of its powers and duties in the emergency area, whether under an emergency plan or otherwise, is subject to the direction and control of the Premier; and
- (b) require any municipality to provide such assistance as he or she considers necessary to an emergency area or any part of the emergency area that is not within the jurisdiction of the municipality and direct and control the provision of such assistance. 2006, c. 13, s. 1 (4).

By-law not necessary

(3) Despite subsection 5 (3) of the *Municipal Act, 2001*, a municipality is authorized to exercise a municipal power in response to an order of the Premier or his or her delegate made under subsection (2) without a by-law. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Delegation of powers

7.0.4 (1) After an order has been made under section 7.0.1, the Lieutenant Governor in Council may delegate to a minister of the Crown or to the Commissioner of Emergency Management any of the powers of the Lieutenant Governor in Council under subsection 7.0.2 (4) and the Premier may delegate to a minister of the Crown or to the Commissioner of Emergency Management any of the Premier's powers under section 7.0.3. 2006, c. 13, s. 1 (4).

Same

(2) A minister to whom powers have been delegated under subsection (1) may delegate any of his or her powers under subsection 7.0.2 (4) and section 7.0.3 to the Commissioner of Emergency Management. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Proceedings to restrain contravention of order

7.0.5 Despite any other remedy or any penalty, the contravention by any person of an order made under subsection 7.0.2 (4) may be restrained by order of a judge of the Superior Court of Justice upon application without notice by the Crown in right of Ontario, a member of the Executive Council or the Commissioner of Emergency Management, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Superior Court of Justice. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Reports during an emergency

7.0.6 During an emergency, the Premier, or a Minister to whom the Premier delegates the responsibility, shall regularly report to the public with respect to the emergency. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Termination of emergency

7.0.7 (1) Subject to this section, an emergency declared under section 7.0.1 is terminated at the end of the 14th day following its declaration unless the Lieutenant Governor in Council by order declares it to be terminated at an earlier date. 2006, c. 13, s. 1 (4).

Extension of emergency, L.G. in C.

(2) The Lieutenant Governor in Council may by order extend an emergency before it is terminated for one further period of no more than 14 days. 2006, c. 13, s. 1 (4).

Extension of emergency, Assembly

(3) The Assembly, on the recommendation of the Premier, may by resolution extend the period of an emergency for additional periods of no more than 28 days. 2006, c. 13, s. 1 (4).

Same

(4) If there is a resolution before the Assembly to extend the period of the emergency, the declaration of emergency shall continue until the resolution is voted on. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Revocation of orders

7.0.8 (1) Subject to this section, an order made under subsection 7.0.2 (4) is revoked 14 days after it is made unless it is revoked sooner. 2006, c. 13, s. 1 (4).

Commissioner's orders

(2) An order of the Commissioner of Emergency Management made under subsection 7.0.2 (4) is revoked at the end of the second full day following its making unless it is confirmed before that time by order of the Lieutenant Governor in Council, the Premier or the Minister who delegated the power to make the order. 2006, c. 13, s. 1 (4).

Extension of orders, L.G. in C., etc.

(3) During a declared emergency, the Lieutenant Governor in Council or a Minister to whom the power has been delegated may by order, before it is revoked, extend the effective period of an order made under subsection 7.0.2 (4) for periods of no more than 14 days. 2006, c. 13, s. 1 (4).

Extension of order after emergency

(4) Despite the termination or disallowance of the emergency, the Lieutenant Governor in Council may by order extend the effective period of an order made under subsection 7.0.2 (4) for periods of no more than 14 days where the extension of the order is necessary to deal with the effects of the emergency. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Disallowance of emergency by Assembly

7.0.9 (1) Despite section 7.0.7, the Assembly may by resolution disallow the declaration of emergency under section 7.0.1 or the extension of an emergency. 2006, c. 13, s. 1 (4).

Same

(2) If the Assembly passes a resolution disallowing the declaration of emergency or the extension of one, any order made under subsection 7.0.2 (4) is revoked as of the day the resolution passes. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Report on emergency

7.0.10 (1) The Premier shall table a report in respect of the emergency in the Assembly within 120 days after the termination of an emergency declared under section 7.0.1 and, if the Assembly is not then in session, the Premier shall table the report within seven days of the Assembly reconvening. 2006, c. 13, s. 1 (4).

Content of report

- (2) The report of the Premier shall include information,
- (a) in respect of making any orders under subsection 7.0.2 (4) and an explanation of how the order met the criteria for making an order under subsection 7.0.2 (2) and how the order satisfied the limitations set out in subsection 7.0.2 (3); and
 - (b) in respect of making any orders under subsection 7.0.3 (2) and an explanation as to why he or she considered it necessary to make the order. 2006, c. 13, s. 1 (4).

Consideration of report

(3) The Assembly shall consider the report within five sitting days after the report is tabled. 2006, c. 13, s. 1 (4).

Commissioner's report

(4) If the Commissioner of Emergency Management makes any orders under subsection 7.0.2 (4) or 7.0.3 (2), he or she shall, within 90 days after the termination of an emergency declared under subsection 7.0.1 (1), make a report to the Premier in respect of the orders and the Premier shall include it in the report required by subsection (1). 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Offences

7.0.11 (1) Every person who fails to comply with an order under subsection 7.0.2 (4) or who interferes with or obstructs any person in the exercise of a power or the performance of a duty conferred by an order under that subsection is guilty of an offence and is liable on conviction,

- (a) in the case of an individual, subject to clause (b), to a fine of not more than \$100,000 and for a term of imprisonment of not more than one year;
- (b) in the case of an individual who is a director or officer of a corporation, to a fine of not more than \$500,000 and for a term of imprisonment of not more than one year; and
- (c) in the case of a corporation, to a fine of not more than \$10,000,000. 2006, c. 13, s. 1 (4).

Separate offence

(2) A person is guilty of a separate offence on each day that an offence under subsection (1) occurs or continues. 2006, c. 13, s. 1 (4).

Increased penalty

(3) Despite the maximum fines set out in subsection (1), the court that convicts a person of an offence may increase a fine imposed on the person by an amount equal to the financial benefit that was acquired by or that accrued to the person as a result of the commission of the offence. 2006, c. 13, s. 1 (4).

Exception

(4) No person shall be charged with an offence under subsection (1) for failing to comply with or interference or obstruction in respect of an order that is retroactive to a date that is specified in the order, if the failure to comply, interference or obstruction is in respect of conduct that occurred before the order was made but is after the retroactive date specified in the order. 2006, c. 13, s. 1 (4).

Section Amendments with date in force (d/m/y)

Orders in emergency

Purpose

7.1 (1) The purpose of this section is to authorize the Lieutenant Governor in Council to make appropriate orders when, in the opinion of the Lieutenant Governor in Council, victims of an emergency or other persons affected by an emergency need greater services, benefits or compensation than the law of Ontario provides or may be prejudiced by the operation of the law of Ontario. 2006, c. 13, s. 1 (5).

Order

(2) If the conditions set out in subsection (3) are satisfied, the Lieutenant Governor in Council may, by order made on the recommendation of the Attorney General, but only if the Lieutenant Governor in Council is of the opinion described in subsection (1),

- (a) temporarily suspend the operation of a provision of a statute, regulation, rule, by-law or order of the Government of Ontario; and
- (b) if it is appropriate to do so, set out a replacement provision to be in effect during the temporary suspension period only. 2006, c. 13, s. 1 (5).

Conditions

(3) The conditions referred to in subsection (2) are:

- 1. A declaration has been made under section 7.0.1.
- 2. The provision,
 - i. governs services, benefits or compensation, including,
 - A. fixing maximum amounts,
 - B. establishing eligibility requirements,
 - C. requiring that something be proved or supplied before services, benefits or compensation become available,
 - D. restricting how often a service or benefit may be provided or a payment may be made in a given time period,
 - E. restricting the duration of services, benefits or compensation or the time period during which they may be provided,
 - ii. establishes a limitation period or a period of time within which a step must be taken in a proceeding, or

iii. requires the payment of fees in respect of a proceeding or in connection with anything done in the administration of justice.

3. In the opinion of the Lieutenant Governor in Council, the order would facilitate providing assistance to victims of the emergency or would otherwise help victims or other persons to deal with the emergency and its aftermath. 2006, c. 13, s. 1 (5).

Maximum period, renewals and new orders

(4) The period of temporary suspension under an order shall not exceed 90 days, but the Lieutenant Governor in Council may,

- (a) before the end of the period of temporary suspension, review the order and, if the conditions set out in subsection (3) continue to apply, make an order renewing the original order for a further period of temporary suspension not exceeding 90 days;
- (b) at any time, make a new order under subsection (2) for a further period of temporary suspension not exceeding 90 days. 2006, c. 13, s. 1 (5).

Further renewals

(5) An order that has previously been renewed under clause (4) (a) may be renewed again, and in that case clause (4) (a) applies with necessary modifications. 2006, c. 13, s. 1 (5).

Effect of temporary suspension: time period

(6) If a provision establishing a limitation period or a period of time within which a step must be taken in a proceeding is temporarily suspended by the order and the order does not provide for a replacement limitation period or period of time, the limitation period or period of time resumes running on the date on which the temporary suspension ends and the temporary suspension period shall not be counted. 2006, c. 13, s. 1 (5).

Effect of temporary suspension: fee

(7) If a provision requiring the payment of a fee is temporarily suspended by the order and the order does not provide for a replacement fee, no fee is payable at any time with respect to things done during the temporary suspension period. 2006, c. 13, s. 1 (5).

Restriction

(8) This section does not authorize,

- (a) making any reduction in respect of services, benefits or compensation;

- (b) shortening a limitation period or a period of time within which a step must be taken in a proceeding; or
- (c) increasing the amount of a fee. 2006, c. 13, s. 1 (5).

Section Amendments with date in force (d/m/y)

Orders, general Commencement

7.2 (1) An order made under subsection 7.0.2 (4) or 7.1 (2),

- (a) takes effect immediately upon its making; or
- (b) if it so provides, may be retroactive to a date specified in the order. 2006, c. 13, s. 1 (5).

Notice

(2) Subsection 23 (2) of the *Legislation Act, 2006* does not apply to an order made under subsection 7.0.2 (4) or 7.1 (2), but the Lieutenant Governor in Council shall take steps to publish the order in order to bring it to the attention of affected persons pending publication under the *Legislation Act, 2006*. 2006, c. 13, s. 2 (3).

General or specific

(3) An order made under subsection 7.0.2 (4) or 7.1 (2) may be general or specific in its application. 2006, c. 13, s. 1 (5).

Conflict

(4) In the event of conflict between an order made under subsection 7.0.2 (4) or 7.1 (2) and any statute, regulation, rule, by-law, other order or instrument of a legislative nature, including a licence or approval, made or issued under a statute or regulation, the order made under subsection 7.0.2 (4) or 7.1 (2) prevails unless the statute, regulation, rule, by-law, other order or instrument of a legislative nature specifically provides that it is to apply despite this Act. 2006, c. 13, s. 1 (5).

Chief Medical Officer of Health

(5) Except to the extent that there is a conflict with an order made under subsection 7.0.2 (4), nothing in this Act shall be construed as abrogating or derogating from any of the powers of the Chief Medical Officer of Health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*. 2006, c. 13, s. 1 (5).

Limitation

(6) Nothing in this Act shall be construed or applied so as to confer any power to make orders altering the provisions of this Act. 2006, c. 13, s. 1 (5).

Same

(7) Nothing in this Act affects the rights of a person to bring an application for the judicial review of any act or failure to act under this Act. 2006, c. 13, s. 1 (5).

Occupational Health and Safety Act

(8) Despite subsection (4), in the event of a conflict between this Act or an order made under subsection 7.0.2 (4) and the *Occupational Health and Safety Act* or a regulation made under it, the *Occupational Health and Safety Act* or the regulation made under it prevails. 2006, c. 13, s. 1 (5).

Section Amendments with date in force (d/m/y)

Lieutenant Governor in Council to formulate plan

8 The Lieutenant Governor in Council shall formulate an emergency plan respecting emergencies arising in connection with nuclear facilities, and any provisions of an emergency plan of a municipality respecting such an emergency shall conform to the plan formulated by the Lieutenant Governor in Council and are subject to the approval of the Solicitor General and the Solicitor General may make such alterations as he or she considers necessary for the purpose of co-ordinating the plan with the plan formulated by the Lieutenant Governor in Council. R.S.O. 1990, c. E.9, s. 8; 1999, c. 12, Sched. P, s. 6.

Section Amendments with date in force (d/m/y)

Other emergency plans

8.1 The Solicitor General may, if he or she thinks it is necessary or desirable in the interests of emergency management and public safety, formulate emergency plans respecting types of emergencies other than those arising in connection with nuclear facilities. 2002, c. 14, s. 12.

Section Amendments with date in force (d/m/y)

What plan may provide

9 An emergency plan formulated under section 3, 6 or 8 shall,

- (a) in the case of a municipality, authorize employees of the municipality or, in the case of a plan formulated under section 6 or 8, authorize public servants to take

action under the emergency plan where an emergency exists but has not yet been declared to exist;

- (b) specify procedures to be taken for the safety or evacuation of persons in an emergency area;
- (c) in the case of a municipality, designate one or more members of council who may exercise the powers and perform the duties of the head of council under this Act or the emergency plan during the absence of the head of council or during his or her inability to act;
- (d) establish committees and designate employees to be responsible for reviewing the emergency plan, training employees in their functions and implementing the emergency plan during an emergency;
- (e) provide for obtaining and distributing materials, equipment and supplies during an emergency;
- (e.1) provide for any other matter required by the standards for emergency plans set under section 14; and
- (f) provide for such other matters as are considered necessary or advisable for the implementation of the emergency plan during an emergency. R.S.O. 1990, c. E.9, s. 9; 2002, c. 14, s. 13; 2006, c. 35, Sched. C, s. 32 (5).

Section Amendments with date in force (d/m/y)

Public access to plans

10 Except for plans respecting continuity of operations or services, an emergency plan formulated under section 3, 6 or 8 shall be made available to the public for inspection and copying during ordinary business hours at an office of the municipality, ministry or branch of government, as the case may be. R.S.O. 1990, c. E.9, s. 10; 2009, c. 33, Sched. 9, s. 4.

Section Amendments with date in force (d/m/y)

Protection from action

11 (1) No action or other proceeding lies or shall be instituted against a member of council, an employee of a municipality, an employee of a local services board, an employee of a district social services administration board, a minister of the Crown, a public servant or any other individual acting pursuant to this Act or an order made under this Act for any act done in good faith in the exercise or performance or the intended exercise or performance of any power or duty under this Act or an order under this Act or for neglect or default in the good faith exercise or performance of such a power or duty. 2006, c. 13, s. 1 (6); 2006, c. 35, Sched. C, s. 32 (6).

Crown not relieved of liability

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of liability for the acts or omissions of a minister of the Crown or a public servant referred to in subsection (1) and the Crown is liable under that Act as if subsection (1) had not been enacted. 2006, c. 13, s. 1 (6); 2006, c. 35, Sched. C, s. 32 (7); 2019, c. 7, Sched. 17, s. 64.

Municipality not relieved of liability

(3) Subsection (1) does not relieve a municipality of liability for the acts or omissions of a member of council or an employee of the municipality referred to in subsection (1), and the municipality is liable as if subsection (1) had not been enacted and, in the case of a member of council, as if the member were an employee of the municipality. 2006, c. 13, s. 1 (6).

Application of subs. (1)

(4) In the case of an order that is made retroactive to a date specified in the order, subsection (1) applies to an individual referred to in that subsection in respect of any act or any neglect or default that occurs before the order is made but on or after the date specified in the order. 2006, c. 13, s. 1 (6).

Definitions

(5) In this section,

“member of council” includes a member of a local board, a local services board or a district social service administration board; (“membre du conseil”)

“municipality” includes a local board of a municipality. (“municipalité”) 2006, c. 13, s. 1 (6).

Section Amendments with date in force (d/m/y)

Right of action

12 Where money is expended or cost is incurred by a municipality or the Crown in the implementation of an emergency plan or in connection with an emergency, the municipality or the Crown, as the case may be, has a right of action against any person who caused the emergency for the recovery of such money or cost, and for the purposes of this section, “municipality” includes a local board of a municipality and a local services board. R.S.O. 1990, c. E.9, s. 12; 1999, c. 12, Sched. P, s. 8.

Section Amendments with date in force (d/m/y)

Agreements

13 (1) The Solicitor General, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada in respect of the payment by Canada to Ontario of any part of the cost to Ontario and to municipalities of the development and implementation of emergency management programs and the formulation and implementation of emergency plans. R.S.O. 1990, c. E.9, s. 13 (1); 2002, c. 14, s. 15.

Idem

(2) The Solicitor General, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada and with the Crown in right of any other province for the provision of any personnel, service, equipment or material during an emergency. R.S.O. 1990, c. E.9, s. 13 (2).

Idem

(3) The council of a municipality may make an agreement with the council of any other municipality or with any person for the provision of any personnel, service, equipment or material during an emergency. R.S.O. 1990, c. E.9, s. 13 (3); 1999, c. 12, Sched. P, s. 9.

Section Amendments with date in force (d/m/y)

Action not an expropriation

13.1 (1) Nothing done under this Act or under an order made under subsection 7.0.2 (4) constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law and there is no compensation for the loss, including a taking, of any real or personal property except in accordance with subsection (3). 2006, c. 13, s. 1 (7).

Payment of cost of assistance

(2) The Lieutenant Governor in Council may by order authorize the payment of the cost of providing any assistance that arises under this Act or as the result of an emergency out of funds appropriated by the Assembly. 2006, c. 13, s. 1 (7).

Compensation for loss of property

(3) If, as the result of making an order under subsection 7.0.2 (4), a person suffers the loss, including a taking, of any real or personal property, the Lieutenant Governor in Council may by order authorize the reasonable compensation of the person for the loss in accordance with such guidelines as may be approved by the Lieutenant Governor in Council. 2006, c. 13, s. 1 (7).

Compensation for municipalities

(4) Without limiting the generality of subsection (2), the Lieutenant Governor in Council may by order authorize the payment of the costs incurred by a municipality in respect of an order made under this Act out of funds appropriated by the Assembly. 2006, c. 13, s. 1 (7).

Section Amendments with date in force (d/m/y)

Standards for emergency management programs and emergency plans

14 (1) The Solicitor General may make regulations setting standards for the development and implementation of emergency management programs under sections 2.1 and 5.1 and for the formulation and implementation of emergency plans under sections 3 and 6. 2002, c. 14, s. 16.

General or particular

(2) A regulation made under subsection (1) may be general or particular in its application. 2002, c. 14, s. 16.

Conformity to standards required

(3) Every municipality, minister of the Crown and designated agency, board, commission and other branch of government shall ensure that their emergency management programs and emergency plans conform to the standards set under this section. 2002, c. 14, s. 16.

Section Amendments with date in force (d/m/y)

Crown bound

15 This Act binds the Crown. 2006, c. 13, s. 1 (8).

O. Reg. 82/20 “Rules for Areas in Shutdown Zone and at Step 1”:

Terms of Order

1. The terms of this Order are set out in Schedules 1 to 10. O. Reg. 440/21, s. 2.
2. REVOKED: O. Reg. 654/20, s. 2.

Application

3. (1) Subject to subsections (2) and (3), this Order applies to the areas listed in Schedule 1 to Ontario Regulation 363/20 made under the Act. O. Reg. 440/21, s. 3.
- (2) Schedules 1 to 5 apply throughout the Shutdown Zone. O. Reg. 440/21, s. 3.
- (3) Schedules 6 to 10 apply throughout the areas at Step 1. O. Reg. 440/21, s. 3.

Shutdown Zone

3.1 In this Order, a reference to the Shutdown Zone is a reference to all areas listed as being in the Shutdown Zone in section 1 of Schedule 1 to Ontario Regulation 363/20 made under the Act. O. Reg. 440/21, s. 3.

Step 1

3.2 In this Order, a reference to areas at Step 1 is a reference to all areas listed as being at Step 1 in section 2 of Schedule 1 to Ontario Regulation 363/20 made under the Act. O. Reg. 440/21, s. 3.

References to this Order

- 3.3** (1) In Schedules 1 to 5, a reference to “this Order” is a reference to Schedules 1 to 5. O. Reg. 440/21, s. 3.
- (2) In Schedules 6 to 10, a reference to “this Order” is a reference to Schedules 6 to 10. O. Reg. 440/21, s. 3.

Indoor vs. outdoor

4. (1) The outdoor capacity limits set out in this Order apply to a business, place, event or gathering if the people attending it are only permitted to access an indoor area,
 - (a) to use a washroom;
 - (b) to access an outdoor area that can only be accessed through an indoor route; or

(c) as may be necessary for the purposes of health and safety. O. Reg. 654/20, s. 3.

(2) The indoor capacity limits set out in this Order apply to a business, place, event or gathering if the business, place, event or gathering is fully or partially indoors. O. Reg. 654/20, s. 3.

(3) An indoor event or gathering cannot be combined with an outdoor event or gathering so as to increase the applicable limit on the number of people at the event or gathering. O. Reg. 654/20, s. 3.

SHUTDOWN ZONE

SCHEDULE 1

GENERAL RULES FOR SHUTDOWN ZONE

Closures

1. (1) Each person responsible for a business, or a part of a business, that is not listed in Schedule 2 or 3 shall ensure that the business, or part of the business, is closed.

(2) Each person responsible for a business, or part of a business, that is listed in Schedule 2 or 3 subject to conditions shall ensure that the business, or part of the business, either meets those conditions or is closed.

(3) Each person responsible for a place, or a part of a place, that is required to be closed by Schedule 3 shall ensure that the place, or part of the place, is closed in accordance with that Schedule.

(4) Each person responsible for a place, or a part of a place, that is listed in Schedule 3 subject to conditions shall ensure that the place, or part of a place, either meets those conditions or is closed.

(5) Each person responsible for a business or place, or part of a business or place, that does not comply with sections 2 to 10 of this Schedule shall ensure that it is closed.

(6) Despite subsections (1) to (5), temporary access to a business or place, or part of a business or place, that is required to be closed is authorized, unless otherwise prohibited by any applicable law, for the purposes of,

- (a) performing work at the business or place in order to comply with any applicable law;
- (b) preparing the business or place to be reopened;
- (c) allowing for inspections, maintenance or repairs to be carried out at the business or place;
- (d) allowing for security services to be provided at the business or place; and

- (e) attending at the business or place temporarily,
 - (i) to deal with other critical matters relating to the closure of the business or place, if the critical matters cannot be attended to remotely, or
 - (ii) to access materials, goods or supplies that may be necessary for the business or place to be operated remotely.

(7) Nothing in this Order precludes a business or organization from operating remotely for the purpose of,

- (a) providing goods by mail or other forms of delivery or making goods available for pick-up; and
- (b) providing services online, by telephone or by other remote means.

(8) Nothing in this Order precludes a business or place from providing access to an outdoor recreational amenity that is permitted to open under section 4 of Schedule 3, including by opening such limited areas of the business or place as are necessary to enable access.

(9) Nothing in this Order precludes operations or delivery of services by the following in Ontario:

1. Any government.
2. 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.

General compliance

2. (1) The person responsible for a business or organization that is open shall ensure that the business or organization operates in accordance with all applicable laws, including the *Accessibility for Ontarians with Disabilities Act, 2005* and the *Occupational Health and Safety Act* and the regulations made under them.

(2) The person responsible for a business or organization that is open shall operate the business or organization in compliance with the advice, recommendations and instructions of public health officials, including any advice, recommendations or instructions on physical distancing, cleaning or disinfecting.

(3) The person responsible for a business or organization that is open shall 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 screening individuals by, among other things,

- (a) posting signs at all entrances to the premises of the business or organization, in a conspicuous location visible to the public, that inform individuals on how to screen themselves for COVID-19 prior to entering the premises; and
- (b) actively screening every person who works at the business or organization before they enter the premises of the business or organization.

(3.1) The person responsible for a business or organization that is open shall 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.

(4) The person responsible for a business or organization that is open shall ensure that any person in the indoor area of the premises of the business or organization, or in a vehicle that is operating as part of the business or organization, wears a mask or face covering in a manner that covers their mouth, nose and chin during any period when they are in the indoor area unless the person in the indoor area,

- (a) is a child who is younger than two years of age;
- (b) is attending a school or private school within the meaning of the *Education Act* that is operated in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health;
- (c) is attending a child care program at a place that is in compliance with the child care re-opening guidance issued by the Ministry of Education;
- (d) is receiving residential services and supports in a residence listed in the definition of “residential services and supports” in subsection 4 (2) of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*;
- (e) is in a correctional institution or in a custody and detention program for young persons in conflict with the law;
- (f) is performing or rehearsing in a film or television production or in a concert, artistic event, theatrical performance or other performance;
- (g) has a medical condition that inhibits their ability to wear a mask or face covering;
- (h) is unable to put on or remove their mask or face covering without the assistance of another person;
- (i) needs to temporarily remove their mask or face covering while in the indoor area,
 - (i) to receive services that require the removal of their mask or face covering,
 - (ii) to engage in an athletic or fitness activity,

- (iii) to consume food or drink, or
- (iv) as may be necessary for the purposes of health and safety;
- (j) is being accommodated in accordance with the *Accessibility for Ontarians with Disabilities Act, 2005*;
- (k) is being reasonably accommodated in accordance with the *Human Rights Code*; or
- (l) performs work for the business or organization, is in an area that is not accessible to members of the public and is able to maintain a physical distance of at least two metres from every other person while in the indoor area.

(5) Subsection (4) does not apply with respect to premises that are used as a dwelling if the person responsible for the business or organization ensures that persons in the premises who are not entitled to an exception set out in subsection (4) wear a mask or face covering in a manner that covers their mouth, nose and chin in any common areas of the premises in which persons are unable to maintain a physical distance of at least two metres from other persons.

(5.1) The person responsible for a business or organization shall ensure that every person who performs work for the business or organization and whose mask or face covering is temporarily removed to consume food or drink under subclause (4) (i) (iii) is separated from every other person by,

- (a) a distance of at least two metres; or
- (b) plexiglass or some other impermeable barrier.

(6) For greater certainty, it is not necessary for a person to present evidence to the person responsible for a business or place that they are entitled to any of the exceptions set out in subsection (4).

(7) A person shall wear appropriate personal protective equipment that provides protection of the person's eyes, nose and mouth if, in the course of providing services, the person,

- (a) is required to come within two metres of another person who is not wearing a mask or face covering in a manner that covers that person's mouth, nose and chin during any period when that person is in an indoor area; and
- (b) is not separated by plexiglass or some other impermeable barrier from a person described in clause (a).

Work from home except where necessary

2.1 (1) Each person responsible for a business or organization that is open shall ensure that any person who performs work for the business or organization conducts their work remotely, unless the nature of their work requires them to be on-site at the workplace.

(2) Subsection (1) does not apply to a business or organization described in subsection 1 (9).

Capacity limits for businesses or facilities open to the public

3. (1) Subject to any additional restrictions set out in this Order, the person responsible for a place of business or facility that is open to the public shall limit the number of persons in the place of business or facility so that,

- (a) the members of the public are able to maintain a physical distance of at least two metres from every other person in the business or facility; and
- (b) the total number of members of the public in the business or facility at any one time does not exceed 50 per cent capacity, as determined in accordance with subsection (2).

(2) For the purposes of this Order, the maximum number of members of the public permitted in a business or facility that is operating at 50 per cent capacity is determined by taking the total square metres of floor area accessible to the public in the business or facility, not including shelving and store fixtures, dividing that number by 8 and rounding the result down to the nearest whole number.

(3) For the purposes of this Order, the maximum number of members of the public permitted in a business or facility that is operating at 25 per cent capacity is determined by taking the total square metres of floor area accessible to the public in the business or facility, not including shelving and store fixtures, dividing that number by 16 and rounding the result down to the nearest whole number.

(4) For greater certainty, subsection (1) does not require persons who are in compliance with public health guidance on households to maintain a physical distance of at least two metres from each other while in a place of business or facility.

(5) The person responsible for a place of business or facility that engages in retail sales to the public must post a sign in a conspicuous location visible to the public that states the maximum capacity they are permitted to operate under.

(6) Subsection (1) does not apply to schools and private schools within the meaning of the *Education Act* that are,

- (a) operating in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health; or
- (b) operated by,
 - (i) a band, a council of a band or the Crown in right of Canada,

- (ii) an education authority that is authorized by a band, a council of a band or the Crown in right of Canada, or
- (iii) an entity that participates in the Anishinabek Education System.

Requirements that apply to individuals

3.1 (1) Every person on the premises of a business or organization that is open shall wear a mask or face covering in a manner that covers their mouth, nose and chin during any period in which they are in an indoor area of the premises.

(2) Every person shall wear a mask or face covering in a manner that covers their mouth, nose and chin during any period in which they are,

- (a) in attendance at an organized public event or gathering permitted by this Order; and
- (b) within two metres of another individual who is not part of their household.

(3) Subsections (1) and (2) do not require a person to wear a mask or face covering if they are subject to an exception set out in subsection 2 (4).

(4) Every member of the public in a place of business or facility that is open to the public, and every person in attendance at an organized public event or gathering permitted by this Order, shall maintain a physical distance of at least two metres from every other person, except from their caregiver or from members of the person's household.

(5) The physical distancing described in subsection (4) is not required,

- (a) where necessary to complete a transaction or to receive a service, if the member of the public wears a mask or face covering in a manner that covers their mouth, nose and chin or is subject to an exception set out in subsection 2 (4);
- (b) when passing one another in a confined location, such as in a hallway or aisle, if the member of the public wears a mask or face covering in a manner that covers their mouth, nose and chin or is subject to an exception set out in subsection 2 (4); and
- (c) in situations where another provision of this Order expressly authorizes persons to be closer than two metres from each other.

(6) For greater certainty, nothing in subsection (5) affects the obligation of persons who provide services to comply with subsection 2 (7).

(7) No person shall use an indoor or outdoor recreational amenity that is required to close under this Order.

Physical distancing and masks or face coverings in lines, etc.

4. The person responsible for a business or place that is open must not permit patrons to line up inside the business or place, or to line up or congregate outside of the business or place, unless they are,

- (a) maintaining a physical distance of at least two metres from other groups of persons; and
- (b) wearing a mask or face covering in a manner that covers their mouth, nose and chin, unless they are entitled to any of the exceptions set out in subsection 2 (4).

Safety plan

5. (1) The person responsible for a business that is open shall prepare and make available a safety plan in accordance with this section or ensure that one is prepared and made available.

(2) The safety plan shall describe the measures and procedures which have been implemented or will be implemented in the business to reduce the transmission risk of COVID-19.

(3) Without limiting the generality of subsection (2), the safety plan shall describe how the requirements of this Order 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.

(4) The safety plan shall be in writing and shall be made available to any person for review on request.

(5) The person responsible for the business shall ensure that a copy of the safety plan is posted in a conspicuous place where it is most likely to come to the attention of individuals working in or attending the business.

Short-term rentals

6. (1) Every person who provides short term rental accommodation shall ensure that any rentals are only provided to individuals who are in need of housing.

(2) Subsection (1) does not apply with respect to hotels, motels, lodges, resorts and other shared rental accommodation, including student residences, but does apply with respect to cabins and cottages.

(3) Despite subsection (1), persons may rent out an ice fishing hut if,

- (a) the ice fishing hut will only be used by members of the same household, and

(b) the ice fishing hut will not be used overnight.

(4) The conditions set out in clauses (3) (a) and (b) do not apply if the person is renting the ice fishing hut for the purpose of exercising an Aboriginal or treaty right as recognized and affirmed by section 35 of the *Constitution Act, 1982*.

Meeting or event space

7. (1) The person responsible for a business or place that is open may only rent out meeting or event space if the meeting or event space is only rented out,

- (a) REVOKED: O. Reg. 239/21, s. 1.
- (b) for the purpose of a child care centre or authorized recreational and skill building program within the meaning of the *Child Care and Early Years Act, 2014*;
- (c) for the purpose of the provision of social services;
- (c.1) for the purpose of collective bargaining, so long as no more than ten people are permitted to occupy the rented space;
- (d) for the purpose of delivering or supporting the delivery of court services;
- (e) for operations by or on behalf of a government;
- (f) for the purpose of delivering or supporting the delivery of government services;
- (g) for the purpose of delivering or supporting mental health support services or addictions support services, so long as no more than ten people are permitted to occupy the rented space; or
- (h) for the purpose of conducting in-person examinations for the registration, licensing or accreditation of persons in any of the fields or occupations described in subsection 2 (1.1) of Schedule 3, so long as no more than 50 students are permitted to occupy the rented space.

(1.1) The person responsible for a business or place that rents out meeting or event space must ensure that the business or place actively screens individuals in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they enter the indoor premises of the business or place.

(2) The person responsible for a business or place that is open shall,

- (a) record the name and contact information of every member of the public who attends a meeting or event;
- (b) maintain the records for a period of at least one month; and
- (c) only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

(3) Subsection (2) does not apply to the rental of meeting or event space for the purpose of delivering or supporting the delivery of court services.

Sale and service of liquor

8. (1) The person responsible for a business or place that is open and in which liquor is sold or served under a licence or a special occasion permit shall ensure that,

- (a) liquor is sold or served only between 9 a.m. and 9 p.m.; and
- (b) no consumption of liquor is permitted in the business or place between the hours of 10 p.m. and 9 a.m.

(2) The conditions set out in subsection (1) do not apply with respect to businesses and places in airports.

(3) The conditions set out in subsection (1) do not apply with respect to,

- (a) the sale of liquor for removal from licensed premises in accordance with section 56.1 of Regulation 719 (Licences to Sell Liquor) made under the *Liquor Licence Act*; and
- (b) the sale of liquor for delivery in accordance with section 56.2 of Regulation 719 (Licences to Sell Liquor) made under the *Liquor Licence Act*.

Driving instruction

9. (1) The person responsible for a business or place shall ensure that no in-person driving instruction is provided by or at the business or place.

(2) Subsection (1) does not apply to in-person driving instruction for drivers of commercial motor vehicles,

- (a) where the instruction is part of the Ontario Driver Certification Program administered by the Ministry of Transportation and involves the operation of motor vehicles for which,
 - (i) a class of driver's licence other than Class G, G1, G2, M, M1 or M2 is required, or
 - (ii) an air brake endorsement is required; or
- (b) that is provided by a private career college that is in compliance with section 2 of Schedule 3.

(3) In this section,

“commercial motor vehicle” has the same meaning as in subsection 1 (1) of the *Highway Traffic Act*.

Cleaning requirements

10. (1) The person responsible for a business or place that is open shall ensure that,

- (a) any washrooms, locker rooms, change rooms, showers or similar amenities made available to the public are cleaned and disinfected as frequently as is necessary to maintain a sanitary condition; and
- (b) any equipment that is rented to, provided to or provided for the use of members of the public must be cleaned and disinfected as frequently as is necessary to maintain a sanitary condition.

(2) For greater certainty, clause (1) (b) applies to computers, electronics and other machines or devices that members of the public are permitted to operate.

11, 12. REVOKED: O. Reg. 440/21, s. 4 (2).

O. Reg. 654/20, s. 4; O. Reg. 685/20, s. 1; O. Reg. 738/20, s. 1; O. Reg. 779/20, s. 4; O. Reg. 3/21, s. 1, 2; O. Reg. 6/21, s. 1; O. Reg. 10/21, s. 1; O. Reg. 37/21, s. 1; O. Reg. 96/21, s. 5; O. Reg. 117/21, s. 1; O. Reg. 126/21, s. 1; O. Reg. 144/21, s. 1; O. Reg. 162/21, s. 1; O. Reg. 221/21, s. 1; O. Reg. 239/21, s. 1; O. Reg. 313/21, s. 1; O. Reg. 440/21, s. 4.

SCHEDULE 2

BUSINESSES THAT MAY OPEN IN SHUTDOWN ZONE

Supply chains

1. Businesses that supply businesses or places that are permitted to open within Ontario, or that supply businesses or services that have been declared essential in a jurisdiction outside of Ontario, with the support, products, supplies, systems, or services, including processing, packaging, warehousing, distribution, delivery, and maintenance necessary to operate.

Retailers

2. (1) The following businesses that engage in retail sales to the public:

- 1. Supermarkets, grocery stores, convenience stores, indoor farmers' markets and other stores that primarily sell food, other than establishments described in section 6.
- 2. Pharmacies.

(1.1) A business described in subsection (1) may open only if they limit the number of persons in the place of business so that the total number of persons in the place of

business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.

(2) Nothing in paragraph 1 of subsection (1) permits a business located within an indoor farmer's market to open unless it is a business that primarily sells food or is described in sections 3 to 6.

(3) For greater certainty, paragraph 1 of subsection (1) includes stores that predominately sell one category of food.

3. (1) Discount and big box retailers that engage in retail sales to the public and that meet the following conditions:

1. The discount or big box retailer sells groceries to the public.
2. In-store shopping must only be available for grocery items, pet care supplies, household cleaning supplies, pharmaceutical items, health care items, school supplies, household safety supplies and personal care items.
3. No other goods or services may be sold to the public unless the discount or big box retailer complies with any conditions that are applicable with respect to the sale of those goods or services by other retail establishments under this Order.
4. They must limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.

(2) For the purpose of determining, under section 3 of Schedule 1, the capacity limit of a discount or big box retailer in which in-store shopping is available in accordance with paragraph 2 of subsection (1), the floor area accessible to the public in the facility is the floor area, not including shelving and store fixtures, in which the products described in paragraph 2 of subsection (1) are normally displayed for sale.

(3) Paragraphs 2 and 3 of subsection (1) do not apply with respect to a store that sells groceries that is located in a fly-in community.

4. (1) The following businesses that engage in retail sales to the public and that comply with the conditions set out in subsection (2):

1. Safety supply stores.
2. Businesses that primarily sell, rent or repair assistive devices, aids or supplies, mobility devices, aids or supplies or medical devices, aids or supplies.
3. Optical stores that sell prescription eyewear to the public.

(2) Businesses described in subsection (1) may only open if they meet the following conditions:

1. They only permit members of the public to enter the business premises by appointment.
2. They must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.
3. They limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.

5. Stores, other than establishments described in section 6, that sell liquor, including beer, wine and spirits, and that meet the following conditions:

1. They limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.
2. They must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.

6. (1) Restaurants, bars, food trucks, concession stands and other food or drink establishments that meet the conditions set out in subsection (2).

(2) A business described in subsection (1) may open only for the purpose of providing take-out, drive-through or delivery service.

(3) Despite subsection (2), the following establishments may provide in-person dining if they meet the conditions set out in paragraphs 1, 2, 3, 4, 6, 9, 10, 12, and 13 of subsection 1 (1) of Schedule 2 to Ontario Regulation 263/20:

1. Establishments on hospital premises.
2. Establishments in airports.
3. Establishments located within a business or place where the only patrons permitted at the establishment are persons who perform work for the business or place in which the establishment is located.

7. Nightclubs and strip clubs that open solely as food or drink establishments and that comply with the conditions set out in section 6.

8. (1) Shopping malls that comply with the following conditions:

1. Members of the public must only be permitted to enter the shopping mall,
 - i. for the purpose of accessing a business or place that is permitted to be open under this Order,

- ii. for the purpose of accessing a designated location described in subsection (3) or (4),
- iii. for the purpose of delivering or supporting the delivery of court services,
- iv. for operations by or on behalf of a government, or
- v. for the purpose of delivering or supporting the delivery of government services.

1.1 Members of the public who enter the shopping mall for a reason described in paragraph 1 must not be permitted to loiter in any area of the shopping mall that is not related to the purpose of their visit.

1.2 Subject to subsection (5), the shopping mall must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.

2. Any interior dining spaces inside the shopping mall, including any tables and seating in food courts, must be closed.

3. The shopping mall must ensure that any music played at the shopping mall is not at a decibel level that exceeds the level at which normal conversation is possible.

4. If the shopping mall is an indoor shopping mall, the shopping mall must actively screen individuals in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they enter the indoor premises of the mall.

(2) For greater certainty, paragraph 2 of subsection (1) does not prevent a restaurant, bar or other food or drink establishment within a shopping mall from opening and operating in compliance with section 6.

(3) A shopping mall may establish a single designated location inside the shopping mall for the purpose of allowing patrons to pick up an order from a business or place inside the shopping mall. Patrons may only pick up orders from the indoor designated location by making a prior appointment, and an item may only be provided for pick-up if the patron ordered the item before arriving at the business premises.

(4) A shopping mall may establish any number of designated locations outside the shopping mall for the purpose of allowing patrons to pick up an order from a business or place inside the shopping mall. Patrons may only pick up orders from the outdoor designated location by making a prior appointment, and an item may only be provided for pick-up if the patron ordered the item before arriving at the business premises.

(5) A shopping mall may open outside of the hours described in paragraph 1.2 of subsection (1) only for the purpose of providing access for members of the public to a business or place that,

- (a) is permitted to open during those hours under this Order; and

(b) only has public entrances that open into the interior of the shopping mall.

8.1 Fitting rooms in a business may open if patrons are not permitted to occupy adjacent fitting room stalls at any one time.

9. (1) Businesses that meet the conditions set out in subsection (2) and that sell,

- (a) motor vehicles, including cars, trucks and motorcycles;
- (b) recreational vehicles, including motor homes;
- (c) trailers and travel trailers;
- (d) boats and other watercraft; or
- (e) other motorized vehicles, including power-assisted bicycles, golf carts, scooters, snowmobiles and all-terrain vehicles.

(2) A business described in subsection (1) may only open if they meet the following conditions:

0.1 Members of the public must only be permitted to enter the premises by appointment.

1. Members of the public must not be permitted in areas where the products described in subsection (1) are neither sold nor displayed for sale.

2. If members of the public are permitted to test drive any of the vehicles, boats or watercraft,

- i. the test drive must be limited to no more than 10 minutes,
- ii. a maximum of two people, including up to one sales representative, may be present in the vehicle, boat or watercraft during the test drive, and
- iii. if two people who are not members of the same household are present in the vehicle during the test drive, any windows in the vehicle, boat or watercraft must be opened at all times.
 - 3. They must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.
 - 4. They limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.

9.1 Outdoor garden centres and plant nurseries that meet the following conditions:

1. They must limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.
2. They must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.

9.2 Indoor greenhouses that engage in retail sales to the public that meet the following conditions:

1. They must limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.
2. They must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.

10. Outdoor markets, including farmer's markets and holiday markets, that meet the following conditions:

1. They primarily sell food to the public.
2. Products must only be provided to patrons,
 - i. in a manner that allows members of the public to remain in an outdoor area at all times, or
 - ii. through an alternative method of sale that does not require patrons to enter the indoor area, such as curbside pick-up or delivery.
3. If an area at the market is covered by a roof, canopy, tent, awning or other element, at least two full sides of the entire area must be open to the outdoors and must not be substantially blocked by any walls or other impermeable physical barriers.
4. If an area at the market is equipped with a retractable roof and the roof is retracted, at least one full side of the area must be open to the outdoors and must not be substantially blocked by any walls or other impermeable physical barriers.
5. The outdoor market must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.
6. They must limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.

10.1 (1) Businesses not already described in sections 2 to 10 or in subsection 33 (2) that engage in retail sales to the public and that meet the following conditions:

1. Sales must be exclusively made using an alternative method of sale that does not require patrons to enter the indoor area of the business, including curbside pick-up or delivery.
2. If the business allows patrons to pick up items, it must,
 - i. have a public entrance that opens onto a street or exterior sidewalk, or
 - ii. in the case of a business in a shopping mall, permit patrons to pick up the items at a designated location established by the shopping mall under subsection 8 (3) or (4).
3. An item may only be provided for pick-up if the patron ordered the item before arriving at the business premises.
4. Patrons may only pick up orders by making a prior appointment.
5. They must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.
6. They must ensure that any music played at the place of business is not at a decibel level that exceeds the level at which normal conversation is possible.

(2) Despite anything else in this Order, any business that engages in retail sales to the public and that is not already described in sections 2 to 10 must comply with the conditions set out in subsection (1) of this section.

(3) For greater certainty, cannabis retail stores operating under the authority of a retail store authorization issued under the *Cannabis Licence Act, 2018* may open if they comply with the conditions set out in subsection (1).

(4) A business that, as of December 26, 2020, was permitted to be open only in accordance with the conditions described in subsection (1) as it read on that date may only continue to be open in accordance with the conditions under that subsection as amended whether or not, after that date, it modified its operations or the type of products it sells.

(5) Despite subsection 32 (2) of Ontario Regulation 268/18 (General) made under the *Smoke-Free Ontario Act, 2017*, a person responsible for a specialty vape store as defined in that Regulation that is permitted to be open in accordance with the conditions described in subsection (1) shall not permit an electronic cigarette to be used for the purpose of sampling a vapour product in the specialty vape store.

Services

11. Rental and leasing services, including automobile, commercial and light industrial machinery and equipment rental, that meet the following conditions:

1. They only permit members of the public to enter the business premises by appointment.
2. They limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.
3. They must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.

12. Gas stations and other fuel suppliers.

13. Automated and self-service car washes.

14. Laundromats and drycleaners.

15. Snow clearing and landscaping services.

16. Security services for residences, businesses and other properties.

17. Domestic services that support children, seniors or vulnerable persons, including housekeeping, cooking, indoor and outdoor cleaning and maintenance services.

18. Vehicle and equipment repair and essential maintenance and vehicle and equipment rental services that meet the following conditions:

1. They only permit members of the public to enter the business premises by appointment.
2. They limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.
3. They must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.

19. Courier, postal, shipping, moving and delivery services.

20. Funeral and related services.

21. Staffing services including providing temporary help.

22. (1) Veterinary services and other businesses that provide for the health and welfare of animals, including farms, boarding kennels, stables, animal shelters, and research facilities.

(2) For greater certainty, nothing in this Order precludes a person responsible for a boarding kennel or stable from allowing an animal's owner or their representative to visit the animal, assist in the care or feeding of the animal or, as applicable, ride the animal.

22.1 REVOKED: O. Reg. 221/21, s. 2 (10).

23. Businesses that provide pet services, including pet grooming services, pet sitting services, pet walking services and pet training services, including services for the training and provision of service animals.

24. (1) Operators and providers of the following:

1. Child care centres that meet the conditions set out in subsection (2).
2. Home child care at a person's dwelling.
3. Child care described in paragraph 2 of subsection 6 (3) of the *Child Care and Early Years Act, 2014* that is provided at a person's dwelling.
4. Authorized recreational and skill building programs that meet the conditions set out in subsection (3).

(2) A child care centre may open if it meets the following conditions:

1. The centre shall not operate a before or after school program on any school day for a child unless the child's school is permitted under this Order to provide in-person teaching or instruction to the child on that day.
2. The centre shall not provide child care on school days during typical school hours for a child whose school is not permitted under this Order to provide in-person teaching or instruction to the child on that day and who, immediately before April 12, 2021,

i. was enrolled in school, and

ii. was not registered to attend the centre on those days and during those hours.

3. If the Minister of Education designates a child care centre as an emergency child care centre that provides care for children of individuals listed in Schedule 5, paragraph 2 does not apply with respect to the provision of child care by the centre to the children of those individuals.

(3) A provider of authorized recreational and skill building programs shall not provide such a program to a child on a school day unless the child is enrolled in a school that is permitted under this Order to provide in-person teaching or instruction on that day.

(4) In this section,

“authorized recreational and skill building programs”, “child care”, “child care centre” and “home child care” have the same meaning as in the *Child Care and Early Years Act, 2014*; (“programme autorisé de loisirs et de développement des compétences”, “garde d’enfants”, “centre de garde”, “services de garde en milieu familial”)

“school day” has the same meaning as in the *Education Act*. (“jour d’école”)

25. Hotels, motels, lodges, cabins, cottages, resorts and other shared rental accommodation, including student residences, that meet the following condition:

1. Any indoor pools, communal steam rooms, saunas or whirlpools, indoor fitness centres, or other indoor recreational facilities that are part of the operation of these businesses, are closed.

26. (1) Seasonal campgrounds that meet the following conditions:

1. Campsites must be made available only for trailers and recreational vehicles that,

- i. are used by individuals who are in need of housing, or
- ii. are permitted to be there by the terms of a full season contract.

2. Only campsites with electricity, water service and facilities for sewage disposal may be provided for use.
3. All recreational facilities in the campground and all other shared facilities in the campground, other than washrooms and showers, must be closed.
4. Other areas of the seasonal campground must be closed to the general public and must only be opened for the purpose of preparing the seasonal campground for reopening.

(2) REVOKED: O. Reg. 10/21, s. 2 (8).

27. REVOKED: O. Reg. 779/20, s. 5 (9).

28. (1) Community centres and multi-purpose facilities that open to provide space for any, some or all of the following and that meet the requirements set out in subsection (2):

1. REVOKED: O. Reg. 239/21, s. 2 (2).
2. A child care centre or authorized recreational and skill building program within the meaning of the *Child Care and Early Years Act, 2014*.
3. Mental health support services or addictions support services, so long as no more than ten people are permitted to occupy the space.
4. The provision of social services.

(2) The person responsible for a community centre or multi-purpose facility that is open shall,

- (a) record the name and contact information of every member of the public who attends the community centre or multi-purpose facility;
- (b) maintain the records for a period of at least one month; and
- (c) only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

29. Cheque cashing services.

Financial services

30. Businesses that provide the following financial services:

1. Capital markets and related securities trading and advisory services.
2. Banking/credit union activities including credit intermediation.
3. Insurance.
4. Land registration services.
5. Pension and benefits payment services.
6. Financial services including payroll and payment processing and accounting and tax services.

31. (1) Real estate agent services that do not host, provide or support any open house events.

(2) Nothing in subsection (1) prevents a real estate agency from showing a property by appointment.

Telecommunications and IT infrastructure/service providers

32. Information Technology (IT) services, including online services, software products and the facilities necessary for their operation and delivery.

33. (1) Telecommunications providers and services (phone, internet, radio, cell phones etc.) and facilities necessary for their operation and delivery.

(2) Retail stores operated by a telecommunications provider or service may only permit members of the public to enter the premises by appointment and only for the purchase of cell phones, for repairs or for technical support.

(3) Retail stores described in subsection (2) must limit the number of persons in the place of business so that the total number of persons in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 1.

(4) Retail stores described in subsection (2) must open no earlier than 7 a.m. and close no later than 8 p.m. and must not deliver goods to patrons outside of the hours of 6 a.m. to 9 p.m.

34. Newspapers, radio and television broadcasting.

Maintenance

35. Maintenance, repair and property management services that manage and maintain the safety, security, sanitation and operation of institutional, commercial, industrial and residential properties and buildings.

Transportation services

36. Businesses and facilities that provide transportation services, including,

- (a) transportation services provided by air, water, road and rail, including taxis and other private transportation providers; and
- (b) support services for transportation services, including,
 - (i) logistical support, distribution services, warehousing and storage, truck stops and tow operators, and
 - (ii) services that support the operations and safety of transportation systems including maintenance and repairs.

Marinas

37. (1) Marinas, boating clubs and other organizations that maintain docking facilities for members or patrons that meet the following condition:

- 1. Any clubhouse, restaurant, pool, communal steam room, sauna or whirlpool, meeting room, fitness centre or other recreational facility on the premises must be closed to the public, except for any portion of those areas that,

- i. is used to provide first aid services,
- ii. is used to provide take-out or delivery service,
- iii. contains a washroom, or
- iv. provides access to an area described in subparagraph i, ii or iii.

(2) For greater certainty, nothing in this Order precludes a person responsible for a marina, boating club or other organization that maintains docking facilities for members or patrons from operating a grocery or convenience store on the premises or from providing fuel supply, boat or watercraft repair and servicing, boat or watercraft docking and boat or watercraft launching services.

38. Businesses that provide and support online retail, including by providing warehousing, storage and distribution of goods that are ordered online.

Manufacturing

39. Businesses that extract, manufacture, process and distribute goods, products, equipment and materials, including businesses that manufacture inputs to other manufacturers (e.g. primary metal/steel, blow molding, component manufacturers, chemicals, etc. that feed the end-product manufacturer), regardless of whether those other manufacturers are inside or outside of Ontario, together with businesses that support and facilitate the movement of goods within integrated North American and global supply chains.

Agriculture and food production

40. Businesses that produce food and beverages, and agricultural products including plants, including by farming, harvesting, aquaculture, hunting and fishing.

41. Businesses that process, manufacture or distribute food, beverages, crops, agricultural products, animal products and by-products.

42. Businesses that support the food or agricultural products supply chains and the health and safety of food, animals and plants.

Construction

43. Construction activities or projects and related services, including land surveying and demolition services, that,

- (a) are associated with the health care sector or long-term care, including new facilities, expansions, renovations and conversion of spaces that could be repurposed for health care space;

- (b) ensure safe and reliable operations of, or provide new capacity in,
 - (i) municipal infrastructure, or
 - (ii) provincial infrastructure, including but not limited to, the transit, transportation, resource, energy and justice sectors;
- (c) support the operations of, or provide new capacity in, electricity generation, transmission, distribution and storage, natural gas distribution, transmission and storage or in the supply of resources;
- (d) support the operations of, or provide new capacity in, schools, colleges, universities or child care centres within the meaning of the *Child Care and Early Years Act, 2014*;
- (e) are required for,
 - (i) the maintenance and operations of petrochemical plants and refineries,
 - (ii) significant industrial petrochemical projects where preliminary work commenced before April 17, 2021, or
 - (iii) industrial construction and modifications to existing industrial structures limited solely to work necessary for the production, maintenance or enhancement of personal protective equipment, medical devices such as ventilators and other identified products directly related to combatting the COVID-19 pandemic;
- (f) would provide additional capacity in the production, processing, manufacturing or distribution of food, beverages or agricultural products;
- (g) were commenced before April 17, 2021 and that would,
 - (i) provide additional capacity for businesses that provide logistical support, distribution services, warehousing, storage or shipping and delivery services,
 - (ii) provide additional capacity in the operation and delivery of Information Technology (IT) services or telecommunications services, or
 - (iii) provide additional capacity to, or enhance the efficiency or operations of, businesses that extract, manufacture, process and distribute goods, products, equipment and materials;
- (h) support the operations of broadband internet and cellular technologies and services;
- (i) are residential construction activities or projects and related services;
- (j) prepare a site for an institutional, commercial, industrial or residential development, including any necessary excavation, grading, roads or utilities infrastructure;
- (k) are necessary to temporarily close construction sites that have paused, or that are not active, to ensure ongoing public safety;

- (l) are funded in whole or in part by,
 - (i) the Crown in right of Canada or in right of Ontario,
 - (ii) an agency of the Crown in right of Canada or in right of Ontario, or
 - (iii) a municipality;
- (m) are,
 - (i) intended to provide shelter or supports for vulnerable persons or affordable housing, and
 - (ii) being funded in whole or in part by, or are being undertaken by,
 - (A) the Crown in right of Canada or in right of Ontario,
 - (B) an agency of the Crown in right of Canada or in right of Ontario,
 - (C) a municipality,
 - (D) a service manager as defined the *Housing Services Act, 2011*,
 - (E) a registered charity within the meaning of the *Income Tax Act (Canada)*,
or
 - (F) a not-for-profit corporation; or
- (n) support the operations of, or provide new capacity for, veterinary facilities within the meaning of the *Veterinarians Act*.

Lawn care

43.1 Lawn care services, snow clearing and landscaping services.

43.2 REVOKED: O. Reg. 239/21, s. 2 (3).

Land surveyors

44. Land surveyors.

Resources and energy

45. Businesses that provide and ensure the domestic and global continuity of supply of resources, including, resource exploration, mining, forestry, aggregates, petroleum, petroleum by-products and chemicals.

46. Electricity generation, transmission, distribution and storage and natural gas distribution, transmission and storage.

Community services

47. Businesses that deliver or support the delivery of community services including,

- (a) sewage treatment and disposal;
- (b) collecting, transporting, storing, processing, disposing or recycling of any type of waste;
- (c) potable drinking water;
- (d) critical infrastructure repair and maintenance including roads, dams, bridges, etc.;
- (e) environmental rehabilitation, management and monitoring, and spill clean-up and response;
- (f) administrative authorities that regulate and inspect businesses;
- (g) professional and social services that support the legal and justice system;
- (h) government services including but not limited to policing and law enforcement, fire and emergency services, paramedics, coroner and pathology services, corrections and court services, licences and permits; and
- (i) allotment gardens or community gardens.

Facilities for indoor or outdoor sports and recreational fitness activities

48. (1) Facilities for indoor or outdoor sports and recreational fitness activities that meet the conditions set out in subsection (2), (3) or (3.1), as applicable.

(2) A facility for indoor or outdoor sports and recreational fitness activities may open if it meets the following conditions:

1. The facility is,
 - i. operated by, or for the sole use of, persons who are athletes, coaches or officials training or competing to be a part of Team Canada at the next summer or winter Olympic Games or Paralympic Games, if the persons are,
 - A. identified by a national sport organization that is either funded by Sport Canada or recognized by the Canadian Olympic Committee or the Canadian Paralympic Committee, and
 - B. permitted to train, compete, coach or officiate under the safety protocols put in place by a national sport organization mentioned in sub-subparagraph A, or
 - ii. operated by a sports team in one of the following leagues:
 - A. Canadian Elite Basketball League.
 - B. Canadian Football League.
 - C. Major League Baseball.

D. Major League Soccer.

E. National Basketball Association.

F. National Hockey League.

G. National Lacrosse League.

2. If the facility is operated by a sports team, the team's league must have established a health and safety protocol for the use of training facilities, and the facility must be operated in compliance with the health and safety protocol.

3. The only persons permitted to enter and use the facility must be,

- i. players, athletes, coaches or officials who are using the facility for the purposes of training or conditioning, and
- ii. such staff as are strictly necessary to operate the facility and support the training or conditioning of the players.

(3) A facility for indoor or outdoor sports and recreational fitness activities may open if it meets the following conditions:

1. The facility must open solely for the purpose of providing space for any, some or all of the following:

- i. REVOKED: O. Reg. 239/21, s. 2 (4).
- ii. A child care centre or authorized recreational and skill building program within the meaning of the *Child Care and Early Years Act, 2014*.
- iii. Mental health support services or addictions support services, so long as no more than ten people are permitted to occupy the space.
- iv. The provision of social services.

2. The person responsible for the facility must,

- i. record the name and contact information of every member of the public who attends the space described in paragraph 1,
- ii. maintain the records for a period of at least one month, and
- iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

(3.1) A facility for indoor or outdoor sports and recreational fitness activities may, but is not required to, open if it meets the following conditions:

1. The facility must be open solely for the purpose of allowing use of the facility by,
 - i. persons with a disability, within the meaning of the *Accessibility for Ontarians with Disabilities Act, 2005*, who,
 - A. have received a written instruction for physical therapy from a regulated health professional who is qualified to provide the instruction, and
 - B. are not able to engage in the physical therapy elsewhere,
 - ii. such staff as are strictly necessary to operate the facility and support the provision of the physical therapy, and
 - iii. such support persons or service animals as may be necessary for the person with a disability.
2. The facility must have established a health and safety protocol for the use of the facility that is consistent with sections 2, 3, 4, 5 and 10 of Schedule 1, and the facility must be operated in compliance with the health and safety protocol.
3. The person responsible for the facility must,
 - i. record the name and contact information of every person described in paragraph 1 who enters and uses the facility,
 - ii. maintain the records for a period of at least one month, and
 - iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

(3.2) Despite paragraph 1 of subsection (3) and paragraph 1 of subsection (3.1), a facility may be open for both purposes described subsections (3) and (3.1) if the facility meets the conditions in both subsections.

(4) For greater certainty, no indoor or outdoor sports or recreational classes are permitted at any indoor or outdoor sport and recreational facilities.

Recreation

49. Businesses whose primary purpose is to operate an outdoor recreational amenity that is permitted to open under section 4 of Schedule 3.

50. Horse racing facilities that meet the following conditions:

1. They are only open for training and not for racing.
2. No members of the public are permitted at the facility.

Research

51. Businesses and organizations that maintain research facilities and engage in research, including medical research and other research and development activities.

Health care and social services

52. Organizations and providers that deliver home care services or personal support services to seniors and persons with disabilities.

53. Regulated health professionals.

54. Professionals or organizations that provide in-person counselling services.

55. Organizations that provide health care including retirement homes, hospitals, clinics, long-term care facilities, independent health facilities and mental health and addictions counselling supports.

56. Laboratories and specimen collection centres.

57. Manufacturers, wholesalers, distributors and retailers of pharmaceutical products and medical supplies, including medications, medical isotopes, vaccines and antivirals, medical devices and medical supplies.

58. Manufacturers, distributors and businesses that provide logistical support of or for products and/or services that support the delivery of health care in all locations.

59. Organizations that provide critical personal support services in home or residential services for individuals with physical disabilities.

60. Organizations that support the provision of food, shelter, safety or protection, and/or social services and other necessities of life to economically disadvantaged and other vulnerable individuals.

61. Businesses that are primarily engaged in the provision of health and safety training and that meet the following conditions:

1. The instructional space for any in-person training must be operated to enable students to maintain a physical distance of at least two metres from every other person in the instructional space, except where necessary for teaching and

instruction that cannot be effectively provided if physical distancing is maintained.

2. The total number of students permitted to be in each instructional space at any one time must be limited to the number that can maintain a physical distance of at least two metres from every other person in the business or place, and in any event cannot exceed 10 persons.

Media industries

62. Sound recording, production, publishing and distribution businesses.

63. (1) Commercial film and television production, including all supporting activities such as hair, makeup and wardrobe, that meet the following conditions:

1. No studio audiences may be permitted to be on the film or television set.
 - 1.1 No more than 50 performers may be permitted to be on the film or television set.
2. The set must be configured and operated in such a way as to enable persons on the set to maintain a physical distance of at least two metres from other persons, except where necessary for the filming of the film or television production.
3. Persons who provide hair or makeup services must wear appropriate personal protective equipment.
4. Singers and players of brass or wind instruments must be separated from any other performers by plexiglass or some other impermeable barrier.
5. The person responsible for the film or television production must ensure that the production operates in accordance with the guidance document titled “Film and television industry health and safety during COVID-19” issued by the Film and Television Health and Safety Advisory Committee of the Ministry of Labour, Training and Skills Development, as amended from time to time.

(2) For greater certainty, for the purposes of this section, the film or television set may be located in any business or place, including any business or place that is otherwise required to be closed under this Order.

64. Film and television post-production, visual effects and animation studios.

65. Book and periodical production, publishing and distribution businesses.

66. (1) Commercial and industrial photography.

(2) For greater certainty, subsection (1) does not permit retail photo studios to open.

67. Interactive digital media businesses, including,

- (a) computer system software or application developers and publishers; and
- (b) video game developers and publishers.

68. REVOKED: O. Reg. 10/21, s. 2 (10).

O. Reg. 654/20, s. 4; O. Reg. 708/20, s. 1; O. Reg. 779/20, s. 5; O. Reg. 6/21, s. 2; O. Reg. 10/21, s. 2; O. Reg. 14/21, s. 1; O. Reg. 21/21, s. 1; O. Reg. 38/21, s. 1; O. Reg. 39/21, s. 1; O. Reg. 40/21, s. 1; O. Reg. 50/21, s. 1; O. Reg. 57/21, s. 1; O. Reg. 96/21, s. 7; O. Reg. 100/21, s. 1; O. Reg. 103/21, s. 1; O. Reg. 126/21, s. 2; O. Reg. 144/21, s. 2; O. Reg. 162/21, s. 2; O. Reg. 216/21, s. 1; O. Reg. 221/21, s. 2; O. Reg. 239/21, s. 2; O. Reg. 267/21, s. 1; O. Reg. 278/21, s. 1; O. Reg. 296/21, s. 1; O. Reg. 297/21, s. 1; O. Reg. 316/21, s. 1; O. Reg. 344/21, s. 1; O. Reg. 440/21, s. 5.

SCHEDULE 3

PLACES THAT MUST CLOSE OR THAT ARE SUBJECT TO CONDITIONS IN SHUTDOWN ZONE

Public libraries

1. (1) Public libraries may only open if they comply with the following conditions:
 1. Circulating materials must be reserved over the telephone or online.
 2. Circulating materials may only be exchanged with members of the public through contactless drop-off, pick-up or delivery.
 3. Patrons must only be permitted to enter the premises to facilitate contactless drop-off and pick-up or to access computers, photocopiers or similar services.
 4. Patrons must not be permitted to be in the book stacks, or to handle circulating materials that are shelved, or in other areas of library storage.
 5. Circulating materials returned to the library must be disinfected or quarantined for an appropriate period of time before they are recirculated.
 6. The person responsible for the public library must comply with subsection (3), if applicable.

(2) The conditions set out in paragraphs 3 and 4 of subsection (1) do not apply with respect to any space the library provides for,

- (a) REVOKED: O. Reg. 239/21, s. 3 (1).
- (b) a provider of child care within the meaning of the *Child Care and Early Years Act, 2014*;
- (c) mental health support services or addictions support services, so long as no more than 10 people are permitted to occupy the space; or
- (d) the provision of social services.

- (3) The person responsible for a public library shall,
- (a) record the name and contact information of every member of the public who attends the space described in subsection (2);
 - (b) maintain the records for a period of at least one month; and
 - (c) only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

Post-secondary institutions

2. (1) Post-secondary institutions may only open if they meet the following conditions:

- 1. In-person teaching or instruction may only be provided if the following conditions are met:
 - i. The subject matter of the teaching or instruction requires that it be taught in-person, such as clinical training or training related to a trade.
 - ii. The instructional space must be operated to enable students to maintain a physical distance of at least two metres from every other person in the instructional space, except where necessary for teaching and instruction that cannot be effectively provided if physical distancing is maintained.
 - iii. The total number of students permitted to be in each instructional space at the institution at any one time must be limited to the number that can maintain a physical distance of at least two metres from every other person in the business or place, and in any event cannot exceed,
 - A. 50 persons, in the case of an instructional program described in subsection (1.1), and
 - B. 10 persons, in any other case.
- 2. If in-person teaching or instruction at the institution involves singing or the playing of brass or wind instruments,
 - i. every person who is singing or playing must be separated from every other person by plexiglass or some other impermeable barrier, and
 - ii. every person in the instructional space must remain at least two metres apart from every other person in the instructional space.
- 3. Any in-person examinations must be provided in accordance with the following rules:

- i. Every person in the examination room must remain at least two metres apart from every other person in the examination room.
- ii. The total number of persons who may take the examination in the same room at the same time cannot exceed,
 - A. 50 persons, in the case of an examination for an instructional program described in subsection (1.1), and
 - B. 10 persons, in any other case.

(1.1) An instructional program referred to in sub-subparagraphs 1 iii A and 3 ii A of subsection (1) is an instructional program in any of the following fields or an instructional program to train an individual for any of the following occupations, as the case may be:

- 0.1 Dental hygiene.
- 0.2 Dentistry.
 - 1. Diagnostic cardiac sonography.
 - 2. Diagnostic medical sonography.
 - 3. Diagnostic ultrasound.
 - 4. Medical imaging.
 - 5. Medical laboratory assistant.
 - 6. Medical laboratory technician.
 - 6.1 Medical laboratory technologist.
 - 7. Medical radiation technology.
 - 8. Medicine.
 - 9. Mental health and addictions services, including psychology services, social work services and counselling services.
 - 9.1 Midwifery.
 - 10. Nursing.
 - 10.1 Optometry.
 - 11. Paramedic.
 - 12. Personal support worker, supportive care worker, home care worker or a similar occupation.
 - 13. Pharmacy/pharmacy technician.
 - 13.1 Physician assistant.

14. Public health inspector, if the program is accredited by the Canadian Institute of Public Health Inspectors.
15. Rehabilitation sciences (nutrition, speech language pathology, occupational science, and physiotherapy).
16. Respiratory therapy.
17. Veterinary medicine.

(2) In this section,

“post-secondary institution” means,

- (a) a university,
- (b) a college of applied arts and technology,
- (c) a private career college,
- (d) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*,
- (e) an institution that is authorized to grant a degree by an act of the Legislature,
- (f) a person who is delivering in-person teaching or instruction in accordance with a consent given under section 4 of the *Post-secondary Education Choice and Excellence Act, 2000*,
- (g) a person approved to provide training for apprenticeship programs under paragraph 5 of section 64 of the *Ontario College of Trades and Apprenticeship Act, 2009*, or
- (h) any other institution that is a designated learning institution within the meaning of section 211.1 of the *Immigration and Refugee Protection Regulations (Canada)*, other than a school or private school within the meaning of the *Education Act*.

Schools and private schools

3. (1) Schools and private schools within the meaning of the *Education Act* shall not provide in-person teaching or instruction.

(2) Despite subsection (1), schools and private schools within the meaning of the *Education Act* may open,

- (a) to the extent necessary to facilitate the operation of a child care centre within the meaning of the *Child Care and Early Years Act, 2014*;
- (b) if approved by the Minister of Education, to the extent necessary to facilitate the operation of an extended day program, as defined in the *Education Act*, for the provision of emergency child care for the children of individuals listed in

Schedule 5 during the period when schools are not permitted to provide in-person teaching or instruction;

- (c) to allow staff of the school or private school to provide remote teaching, instruction or support to pupils, so long as the school or private school operates in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health; or
- (d) to the extent necessary to provide in-person instruction to pupils with special education needs who cannot be accommodated through remote learning and who wish to attend a school or their private school for in-person instruction, so long as the school or private school operates in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health.

(3) Subsections (1) and (2) do not apply to schools that meet the condition set out in subsection (4) and that are operated by,

- (a) a band, a council of a band or the Crown in right of Canada;
- (b) an education authority that is authorized by a band, a council of a band or the Crown in right of Canada; or
- (c) an entity that participates in the Anishinabek Education System.

(4) A school described in subsection (3) may open if it meets the following condition:

- 1. If a person who holds a study permit issued under the *Immigration and Refugee Protection Act* (Canada) and who entered Canada on or after November 17, 2020 attends the school, in-person teaching or instruction may only be provided to that person if the school or private school,

- i. has a plan respecting COVID-19 that has been approved by the Minister of Education, and
- ii. operates in accordance with the approved plan.

Recreational amenities

4. (1) Each person responsible for an indoor or outdoor recreational amenity that is not in compliance with this section, and that is not a facility for indoor or outdoor sports and recreational fitness activities that is permitted to open under section 48 of Schedule 2, must ensure that it is closed.

(2) The following outdoor recreational amenities may open if they are in compliance with subsection (3):

- 1. Parks and recreational areas.

2. Baseball diamonds.
3. Batting cages.
4. Soccer, football and sports fields.
5. Tennis, platform tennis, table tennis and pickleball courts.
6. Basketball courts.
7. BMX parks.
8. Skate parks.
9. Golf courses and driving ranges.
10. Frisbee golf locations.
11. Cycling tracks and bike trails.
12. Horse riding facilities.
13. Shooting ranges, including those operated by rod and gun clubs.
14. Ice rinks.
15. Tobogganing hills.
16. Snowmobile, cross country ski, dogsledding, ice skating and snow shoe trails.
17. Playgrounds.
18. Portions of parks or recreational areas containing outdoor fitness equipment.
19. Archery ranges.
20. Boat and watercraft launches.
21. Lawn game courts, including lawn bowling, bocce and croquet courts.
- 21.1 Horseshoe pits.
22. Splash pads and spray pads.

(3) An outdoor recreational amenity described in subsection (2) may only open if,

- (a) any person who enters or uses the amenity maintains a physical distance of at least two metres from any other person who is using the amenity;
- (b) team sports are not practised or played within the amenity;
- (c) other sports or games that are likely to result in individuals coming within two metres of each other are not practised or played within the amenity; and
- (d) any locker rooms, change rooms, showers, clubhouses, restaurants, pools, meeting rooms, fitness centres or other recreational facilities on the premises remain closed, except to the extent they provide access to equipment storage, a washroom or a portion of the amenity that is used to provide first aid.

(4) Clause (3) (a) does not require persons who are all members of the same household or one other person from outside that household who lives alone or a caregiver for any member of the household to maintain a physical distance of at least two metres from each other while in the amenity.

(5) Clause (3) (d) does not prohibit a restaurant on the premises from providing take-out or delivery service.

(6) Each person responsible for a boat or watercraft shall ensure that if a group of persons uses that boat or watercraft together for recreational purposes, the members of the group are all members of the same household or one other person from outside that household who lives alone or a caregiver for any member of the household.

(7) Clauses 3 (a), (b) and (c) do not apply with respect to an amenity, or a particular area of an amenity, during periods when the amenity or the particular area is exclusively being used by persons who are athletes, coaches and officials training or competing to be a part of Team Canada at the next summer or winter Olympic Games or Paralympic Games if the persons are,

- (a) identified by a national sport organization that is either funded by Sport Canada or recognized by the Canadian Olympic Committee or the Canadian Paralympic Committee; and
- (b) permitted to train, compete, coach or officiate under the safety protocols put in place by a national sport organization mentioned in clause (a).

Museums, etc.

5. Museums, galleries, aquariums, zoos, science centres, landmarks, historic sites, botanical gardens and similar attractions must be closed to members of the public.

O. Reg. 654/20, s. 4; O. Reg. 707/20, s. 1; O. Reg. 779/20, s. 6 (1), (5)-(8); O. Reg. 789/20, s. 1; O. Reg. 6/21, s. 3; O. Reg. 10/21, s. 3 (3); O. Reg. 21/21, s. 2; O. Reg. 36/21, s. 1; O. Reg. 56/21, s. 1; O. Reg. 221/21, s. 3; O. Reg. 239/21, s. 3; O. Reg. 278/21, s. 2; O. Reg. 295/21, s. 1; O. Reg. 297/21, s. 2; O. Reg. 299/21, s. 1; O. Reg. 310/21, s. 1; O. Reg. 348/21, s. 1; O. Reg. 344/21, s. 2; O. Reg. 374/21, s. 1; O. Reg. 440/21, s. 6.

SCHEDULE 4

ORGANIZED PUBLIC EVENTS, CERTAIN GATHERINGS IN SHUTDOWN ZONE

Gatherings, Stage 1 areas

1. (1) Subject to sections 2 to 4, no person shall attend,

- (a) an organized public event that is held indoors;

- (b) a social gathering that is held indoors, including a social gathering associated with a gathering described in clause (d);
- (c) an organized public event or social gathering of more than 5 people that is held outdoors, including a social gathering associated with a gathering described in clause (d); or
- (d) a gathering, whether indoors or outdoors, for the purposes of a wedding, a funeral or a religious service, rite or ceremony of more than 10 people.

(2) A person attending an organized public event, social gathering or a gathering for the purposes of a wedding, a funeral or a religious service, rite or ceremony shall comply with public health guidance on physical distancing.

(3) For greater certainty, subsections (1) and (2) apply with respect to an organized public event, social gathering or a gathering for the purposes of a wedding, a funeral or a religious service, rite or ceremony, even if it is held at a private dwelling.

(4) REVOKED: O. Reg. 297/21, s. 3 (2).

Exception, single household, etc.

2. Section 1 does not apply with respect to,

- (a) a gathering of members of a single household;
- (b) a gathering that includes members of a household and one other person from another household who lives alone; or
- (c) a gathering that includes persons described in clause (a) or (b), and a caregiver for any of those persons.

Exception, retirement homes

2.1 Section 1 does not apply with respect to a gathering in a retirement home within the meaning of the *Retirement Homes Act, 2010* if it is in compliance with the policies or guidance, if any, issued by the Retirement Homes Regulatory Authority.

Exception — outdoor vigil, June 8, 2021

2.2 (1) Section 1 does not apply with respect to an outdoor vigil held at the London Muslim Mosque in the City of London on June 8, 2021 if,

- (a) the number of persons attending the vigil does not exceed the number that can maintain a physical distance of at least two metres from every other person in the space where the vigil is held; and
- (b) every person attending the vigil wears a mask or face covering unless the person is subject to an exception set out in subsection 2 (4) of Schedule 1.

Exception, attendance at business

3. The prohibitions on attendance at an organized public event in subsection 1 (1) do not apply with respect to attendance at a business for a purpose related to providing or receiving the goods or services provided by the business if the business is not required to close under this Order.

Gathering in motor vehicles for religious service, rite or ceremony

4. (1) This section applies with respect to gatherings for the purposes of a wedding, funeral, religious service, rite or ceremony if the persons attending the gathering, other than those conducting the service, rite or ceremony, do so in a motor vehicle.

(2) Clause 1 (1) (d) does not apply to a person who attends a gathering to which this section applies if the person follows all of the following precautions that apply to the person:

1. Each person attending the gathering, other than the persons conducting the service, rite or ceremony, must remain within a motor vehicle that is designed to be closed to the elements, except,
 - i. where necessary to use a washroom, or
 - ii. as may otherwise be necessary for the purposes of health and safety.
2. The driver of a motor vehicle must ensure that it is positioned at least two metres away from other motor vehicles.
3. A person who ordinarily uses a non-motorized vehicle because of their religious belief and who attends the gathering must remain within their non-motorized vehicle except where necessary to use a washroom or as may otherwise be required for health and safety, and paragraph 2 applies with necessary modifications.

O. Reg. 654/20, s. 4; O. Reg. 10/21, s. 4; O. Reg. 221/21, s. 4; O. Reg. 295/21, s. 2; O. Reg. 297/21, s. 3; O. Reg. 310/21, s. 2; O. Reg. 344/21, s. 3; O. Reg. 440/21, s. 7; O. Reg. 452/21, s. 1.

SCHEDULE 5

INDIVIDUALS ELIGIBLE FOR EMERGENCY CHILD CARE

1. An individual who is,
 - i. a regulated health professional, or
 - ii. an unregulated health care provider working in health care delivery, either directly or indirectly.

- 1.1 An individual who works for a manufacturer or distributor of pharmaceutical products or medical supplies, including medications, medical isotopes, vaccines, antivirals, medical devices, sanitizers and disinfectants.
 - 1.1.1 An individual who performs work in relation to the administration, manufacturing or distribution of COVID-19 vaccines and whose work cannot be performed remotely.
- 1.2 An individual who works in a pharmacy as defined in the *Drug and Pharmacies Regulation Act*.
- 1.3 An individual who works in an establishment where goods or services are sold or offered for sale to the public, if a pharmacy as defined in the *Drug and Pharmacies Regulation Act* is located within the establishment.
2. A police officer as defined in the *Police Services Act*.
3. A special constable appointed pursuant to section 53 of the *Police Services Act*.
4. A member of a police force other than a police officer as defined in the *Police Services Act*.
5. A First Nations Constable appointed pursuant to section 54 of the *Police Services Act* or a member of a police service in which policing is delivered by First Nations Constables.
6. A provincial offences officer as defined in the *Provincial Offences Act*.
 - 6.1 An individual employed by the Ministry of the Attorney General or a municipality in Ontario who is required to work on site to support the administration of the Ontario Court of Justice, the Superior Court of Justice or the Court of Appeal for Ontario, including,
 - i. court services representatives, court and client representatives, court clerks, court registrars, court reporters, enforcement officers and any other administrative officers and employees that are considered necessary for the administration of the courts,
 - ii. business professionals and Crown prosecutors of the Criminal Law Division, and
 - iii. employees of the Victim/Witness Assistance Program.
 - 6.2 An individual who provides essential justice-related frontline services to Indigenous persons involved in the justice system and who is employed by an Indigenous community or Indigenous organization through a program funded by the Ministry of the Attorney General or the Ministry of the Solicitor General, including,
 - i. the Indigenous Courtwork Program,
 - ii. the Indigenous Bail Verification and Supervision Program, or

iii. the Indigenous Bail Beds Program.

6.3 An individual who is engaged in the delivery of frontline victim services funded by the Ministry of the Attorney General under the Ontario Victim Services program.

7. An individual employed as a firefighter as defined in the *Fire Protection and Prevention Act, 1997*.

8. An individual who is,

i. engaged in providing fire protection services as defined in the *Fire Protection and Prevention Act, 1997*,

ii. employed in a fire department as defined in the *Fire Protection and Prevention Act, 1997*, or

iii. employed in the Office of the Fire Marshal.

9. A paramedic as defined in the *Ambulance Act*.

10. A coroner as defined in the *Coroners Act*.

11. A worker in a correctional institution as defined in the *Ministry of Correctional Services Act* or an independent contractor who supplies services to correctional institutions, including, but not limited to, employees of Trilcor.

12. Probation and parole officers as described in the *Ministry of Correctional Services Act*, institutional liaison officers, court liaison officers, individuals employed as assistant area managers and area managers of staff at probation and parole offices and the administrative and support staff at these offices.

13. An individual employed in the Institutional Services Division of the Ministry of the Solicitor General, including a person employed in a correctional institution as defined in section 1 of the *Ministry of Correctional Services Act*.

14. An individual employed in the Operational Support Division of the Correctional Services Recruitment and Training Centre in the Ministry of the Solicitor General who,

i. provides facilities or maintenance services, or

ii. is a Senior Staff Development Officer or Manager of Customized Training.

15. An employee of Compass Group Canada Ltd. who works at or provides services in relation to the Cook Chill Food Production Centre.

16. An individual employed in the Ministry of the Solicitor General who performs one or more of the following functions for the Institutional Services Division or Community Services Division:

- i. Performing electronic monitoring services.
- ii. Performing CPIC searches.
- iii. Preparing community supervision orders.

- 17. An individual employed in the Ministry of the Solicitor General at the Centre for Forensic Sciences who is involved in supporting and conducting forensic testing and analysis.
- 18. An individual employed in the Ministry of the Solicitor General at the Provincial Forensic Pathology Unit.
- 19. An individual employed in the Provincial Emergency Operations Centre or at the Ministry of the Solicitor General's Emergency Operations Centre.
- 20. An animal welfare inspector appointed pursuant to the *Provincial Animal Welfare Services Act, 2019* or an individual employed by the Ministry of the Solicitor General in the Animal Welfare Services Branch who is directly involved in supporting animal welfare inspectors.
- 21. An individual employed in the operation of,

- i. a place of secure custody designated under section 24.1 of the *Young Offenders Act* (Canada), whether in accordance with section 88 of the *Youth Criminal Justice Act* (Canada) or otherwise, or
- ii. a place of secure temporary detention as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*.

- 21.1 Persons, other than foster parents, who deliver or directly support the delivery of residential care, treatment and supervision to children and young persons residing in residential settings licensed under the *Child, Youth and Family Services Act, 2017*.
- 21.2 An individual employed by a children's aid society designated under section 34 of the *Child, Youth and Family Services Act, 2017* to provide services necessary for the performance of a children's aid society's functions, as set out in subsection 35 (1) of that Act.
- 21.3 An individual employed by a service agency as defined in section 1 of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*, to provide services and supports, within the meaning of section 4 of that Act, to adults with developmental disabilities.
- 21.4 An individual who is engaged in the delivery of services funded by the Ministry of Children, Community and Social Services under the Violence Against Women Support Services or the Anti-Human Trafficking Community Supports programs.

- 21.5 A staff member of a transfer payment recipient funded by the Ministry of Children, Community and Social Services who is engaged or employed to deliver interpreting or intervenor services for persons who are deaf, deafened, hard of hearing or deafblind.
22. Persons employed in the Direct Operated Facilities Branch of the Ministry of Children, Community and Social Services.
23. An individual who performs work that is essential to the delivery of core services in a municipality or First Nation community, as determined by the municipality or First Nation.
24. An individual who performs work of a critical nature in their service area or community, as determined by the Minister of Education or his delegate in consultation with the relevant service system manager or First Nation as those terms are defined under the *Child Care and Early Years Act, 2014*.
25. An individual who works in a child care centre or who otherwise provides child care in accordance with the requirements in this Order.
- 25.0.1 An individual appointed as an inspector under subsection 28 (1) of the *Child Care and Early Years Act, 2014*.
- 25.0.2 Any individual whose child was registered in an emergency child care program delivered by a consolidated municipal service manager or district social service administration board during the time period beginning on April 6, 2021 and ending on April 16, 2021.
- 25.1 A staff member of a school as defined in the *Education Act* who provides, or supports the provision of, in-person instruction at a school to pupils with special education needs who cannot be accommodated through remote learning.
- 25.2 A staff member of a school as defined in the *Education Act* who,
- i. provides or supports the provision of in-person teaching or instruction in a school that is permitted to provide in-person teaching and instruction under this Order, and
 - ii. has a child who is enrolled at a school that is not permitted to provide in-person teaching or instruction under this Order and who is not receiving in-person teaching or instruction.
26. A member of the Canadian Armed Forces or an employee of the Department of National Defence.
27. All persons employed in the Ministry of Natural Resources and Forestry who are engaged in,
- i. prevention, mitigation, preparedness, response or recovery actions, as applicable, with respect to,

- A. fires as defined in the *Forest Fires Prevention Act*,
 - B. floods,
 - C. dam failures, or
 - D. emergencies relating to oil and gas exploration or production, hydrocarbon underground storage, and salt solution mining, or
- ii. the provision of support services to Conservation Officers through the operation of the Ministry's Provincial Communications Unit.
- 28. A person who holds a licence issued under section 13 of the *Private Security and Investigative Services Act, 2005* to act as a security guard.
 - 29. Staff as defined in the *Retirement Homes Act, 2010*.
 - 30. Licensees as defined in the *Retirement Homes Act, 2010* who are individuals and who work or provide services at a retirement home.
 - 31. Staff as defined in the *Long-Term Care Homes Act, 2007*.
 - 32. An individual who is an inspector appointed under the *Food Safety and Quality Act, 2001* or a field-person or officer appointed under the *Milk Act*.
 - 33. An individual employed in the Ministry of Labour, Training and Skills Development in Radiation Protection Services.
 - 34. An individual who is employed by any of the following entities to carry out work that is deemed by the entity to be critical to the ongoing generation, transmission, distribution and storage of electricity, or the ongoing refining, transmission, distribution and storage of gas or other type of hydrocarbon, sufficient to meet the demands of the province of Ontario:
 - i. The Independent Electricity System Operator.
 - ii. A generator, transmitter or distributor within the meaning of the *Electricity Act, 1998*.
 - iii. A gas distributor or gas transmitter within the meaning of the *Ontario Energy Board Act, 1998*.
 - iv. A distributor as defined in subsection 40 (3) of the *Technical Standards and Safety Act, 2000* that is not already described in subparagraph ii or iii.
 - v. An oil refinery.
 - 35. An individual who performs work that is essential to the operation of, or who conducts COVID-19 sampling and analysis related to,

- i. a municipal drinking water system as defined in section 2 of the *Safe Drinking Water Act, 2002*,
- ii. a non-municipal year-round residential system as defined in section 1 of Ontario Regulation 170/03 (*Drinking Water Systems*) made under the *Safe Drinking Water Act, 2002*, or
- iii. a wastewater treatment facility or a wastewater collection facility as those terms are defined in section 1 of Ontario Regulation 129/04 (*Licensing of Sewage Works Operators*) made under the *Ontario Water Resources Act* and to which that Regulation applies.

35.0.1 An individual employed in the Ministry of the Environment, Conservation and Parks who performs work in relation to the following and whose work cannot be performed remotely:

- i. Laboratory services.
- ii. Environmental monitoring and reporting.
- iii. Responding to environmental incidents.
- iv. The operation of Ontario Parks.

35.1 An individual employed in a business involved in the collecting, transporting, storing, processing, disposing or recycling of any type of waste.

36. An employee of a hotel or motel that is acting as an isolation centre, health care centre, vaccine clinic or that is housing essential workers.

37. An individual working in a homeless shelter or providing services to homeless persons.

38. An individual who works for a business that processes, manufactures or distributes food or beverages.

38.1 An individual who works in a supermarket, grocery store, convenience store, farmer's market or other store that primarily sells food, other than an establishment described in section 6 of Schedule 2.

38.2 An individual who works at a business that produces food, beverages, or agricultural products including plants, including by farming, harvesting, aquaculture, hunting or fishing.

38.3 An individual who works at a business that supports the food or agricultural products supply chains.

38.4 An individual who is engaged in work that involves driving a Class A or D motor vehicle as described in Ontario Regulation 340/94 (*Drivers' Licences*) made under the *Highway Traffic Act*.

38.5 An individual employed by a municipal transit agency, Metrolinx or the Ontario Northland Transportation Commission whose work cannot be performed remotely.

38.6 An individual who works for a business described in section 43 of Schedule 2.

39. Members, officers and special constables appointed under the *Royal Canadian Mounted Police Act* who are working in Ontario.

40. Officers as defined in the *Customs Act* (Canada) who are working in Ontario.

41. Employees of the Canada Post Corporation who are working in Ontario.

O. Reg. 779/20, s. 7; O. Reg. 789/20, s. 2; O. Reg. 6/21, s. 4; O. Reg. 26/21, s. 1; O. Reg. 278/21, s. 3; O. Reg. 440/21, s. 8.

STEP 1

SCHEDULE 6

GENERAL RULES AT STEP 1

Closures

1. (1) Each person responsible for a business, or a part of a business, that is not listed in Schedule 7 or 8 shall ensure that the business, or part of the business, is closed.

(2) Each person responsible for a business, or part of a business, that is listed in Schedule 7 or 8 subject to conditions shall ensure that the business, or part of the business, either meets those conditions or is closed.

(3) Each person responsible for a place, or a part of a place, that is required to be closed by Schedule 8 shall ensure that the place, or part of the place, is closed in accordance with that Schedule.

(4) Each person responsible for a place, or a part of a place, that is listed in Schedule 8 subject to conditions shall ensure that the place, or part of a place, either meets those conditions or is closed.

(5) Each person responsible for a business or place, or part of a business or place, that does not comply with sections 2 to 11 of this Schedule shall ensure that it is closed.

(6) Despite subsections (1) to (5), temporary access to a business or place, or part of a business or place, that is required to be closed is authorized, unless otherwise prohibited by any applicable law, for the purposes of,

(a) performing work at the business or place in order to comply with any applicable law;

(b) preparing the business or place to be reopened;

- (c) allowing for inspections, maintenance or repairs to be carried out at the business or place;
- (d) allowing for security services to be provided at the business or place; and
- (e) attending at the business or place temporarily,
 - (i) to deal with other critical matters relating to the closure of the business or place, if the critical matters cannot be attended to remotely, or
 - (ii) to access materials, goods or supplies that may be necessary for the business or place to be operated remotely.

(7) Nothing in this Order precludes a business or organization from operating remotely for the purpose of,

- (a) providing goods by mail or other forms of delivery or making goods available for pick-up; and
- (b) providing services online, by telephone or by other remote means.

(8) Nothing in this Order precludes a business or place from providing access to an outdoor recreational amenity that is permitted to open under section 4 of Schedule 8, including by opening such limited areas of the business or place as are necessary to enable access.

(9) Nothing in this Order precludes operations or delivery of services by the following in Ontario:

1. Any government.
2. 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.

General compliance

2. (1) The person responsible for a business or organization that is open shall ensure that the business or organization operates in accordance with all applicable laws, including the *Accessibility for Ontarians with Disabilities Act, 2005* and the *Occupational Health and Safety Act* and the regulations made under them.

(2) The person responsible for a business or organization that is open shall operate the business or organization in compliance with the advice, recommendations and instructions of public health officials, including any advice, recommendations or instructions on physical distancing, cleaning or disinfecting.

(3) The person responsible for a business or organization that is open shall 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 screening individuals by, among other things,

- (a) posting signs at all entrances to the premises of the business or organization, in a conspicuous location visible to the public, that inform individuals on how to screen themselves for COVID-19 prior to entering the premises; and
- (b) actively screening every person who works at the business or organization before they enter the premises of the business or organization.

(4) REVOKED: O. Reg. 440/21, s. 10 (3).

(5) The person responsible for a business or organization that is open shall ensure that any person in the indoor area of the premises of the business or organization, or in a vehicle that is operating as part of the business or organization, wears a mask or face covering in a manner that covers their mouth, nose and chin during any period when they are in the indoor area unless the person in the indoor area,

- (a) is a child who is younger than two years of age;
- (b) is attending a school or private school within the meaning of the *Education Act* that is operated in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health;
- (c) is attending a child care program at a place that is in compliance with the child care re-opening guidance issued by the Ministry of Education;
- (d) is receiving residential services and supports in a residence listed in the definition of “residential services and supports” in subsection 4 (2) of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*;
- (e) is in a correctional institution or in a custody and detention program for young persons in conflict with the law;
- (f) is performing or rehearsing in a film or television production or in a concert, artistic event, theatrical performance or other performance;
- (g) has a medical condition that inhibits their ability to wear a mask or face covering;
- (h) is unable to put on or remove their mask or face covering without the assistance of another person;
- (i) needs to temporarily remove their mask or face covering while in the indoor area,
 - (i) to receive services that require the removal of their mask or face covering,
 - (ii) to engage in an athletic or fitness activity,

- (iii) to consume food or drink, or
- (iv) as may be necessary for the purposes of health and safety;
- (j) is being accommodated in accordance with the *Accessibility for Ontarians with Disabilities Act, 2005*;
- (k) is being reasonably accommodated in accordance with the *Human Rights Code*; or
- (l) performs work for the business or organization, is in an area that is not accessible to members of the public and is able to maintain a physical distance of at least two metres from every other person while in the indoor area.

(6) Subsection (5) does not apply with respect to premises that are used as a dwelling if the person responsible for the business or organization ensures that persons in the premises who are not entitled to an exception set out in subsection (5) wear a mask or face covering in a manner that covers their mouth, nose and chin in any common areas of the premises in which persons are unable to maintain a physical distance of at least two metres from other persons.

(6.1) The person responsible for a business or organization shall ensure that every person who performs work for the business or organization and whose mask or face covering is temporarily removed to consume food or drink under subclause (5) (i) (iii) is separated from every other person by,

- (a) a distance of at least two metres; or
- (b) plexiglass or some other impermeable barrier.

(7) For greater certainty, it is not necessary for a person to present evidence to the person responsible for a business or place that they are entitled to any of the exceptions set out in subsection (5).

(8) A person shall wear appropriate personal protective equipment that provides protection of the person's eyes, nose and mouth if, in the course of providing services, the person,

- (a) is required to come within two metres of another person who is not wearing a mask or face covering in a manner that covers that person's mouth, nose and chin during any period when that person is in an indoor area; and
- (b) is not separated by plexiglass or some other impermeable barrier from a person described in clause (a).

Work from home except where necessary

2.1 (1) Each person responsible for a business or organization that is open shall ensure that any person who performs work for the business or organization conducts their work remotely, unless the nature of their work requires them to be on-site at the workplace.

(2) Subsection (1) does not apply to a business or organization described in subsection 1 (9).

Capacity limits for businesses or facilities open to the public

3. (1) Subject to any other provisions set out in this Order, the person responsible for a place of business or facility that is open to the public shall limit the number of members of the public in the place of business or facility so that,

- (a) the members of the public are able to maintain a physical distance of at least two metres from every other person in the business or facility; and
- (b) the total number of members of the public in the business or facility at any one time does not exceed 50 per cent capacity, as determined in accordance with subsection (2).

(2) For the purposes of this Order, the maximum number of members of the public permitted in a business or facility that is operating at 50 per cent capacity is determined by taking the total square metres of floor area accessible to the public in the business or facility, not including shelving and store fixtures, dividing that number by 8 and rounding the result down to the nearest whole number.

(3) For the purposes of this Order, the maximum number of members of the public permitted in a business or facility that is operating at 25 per cent capacity is determined by taking the total square metres of floor area accessible to the public in the business or facility, not including shelving and store fixtures, dividing that number by 16 and rounding the result down to the nearest whole number.

(3.1) For the purposes of this Order, the maximum number of members of the public permitted in a business or facility that is operating at 15 per cent capacity is determined by taking the total square metres of floor area accessible to the public in the business or facility, not including shelving and store fixtures, dividing that number by 26.67 and rounding the result down to the nearest whole number.

(4) For greater certainty, subsection (1) does not require persons who are in compliance with public health guidance on households to maintain a physical distance of at least two metres from each other while in a place of business or facility.

(5) The person responsible for a place of business or facility that engages in retail sales to the public must post a sign in a conspicuous location visible to the public that states the maximum capacity they are permitted to operate under.

(6) Subsection (1) does not apply to schools and private schools within the meaning of the *Education Act* that are,

- (a) operating in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health; or
- (b) operated by,
 - (i) a band, a council of a band or the Crown in right of Canada,
 - (ii) an education authority that is authorized by a band, a council of a band or the Crown in right of Canada, or
 - (iii) an entity that participates in the Anishinabek Education System.

Requirements that apply to individuals

4. (1) Every person on the premises of a business or organization that is open shall wear a mask or face covering in a manner that covers their mouth, nose and chin during any period in which they are in an indoor area of the premises.

(2) Every person shall wear a mask or face covering in a manner that covers their mouth, nose and chin during any period in which they are,

- (a) in attendance at an organized public event or gathering permitted by this Order; and
- (b) within two metres of another individual who is not part of their household.

(3) Subsections (1) and (2) do not require a person to wear a mask or face covering if they are subject to an exception set out in subsection 2 (5).

(4) Every member of the public in a place of business or facility that is open to the public, and every person in attendance at an organized public event or gathering permitted by this Order, shall maintain a physical distance of at least two metres from every other person, except from their caregiver or from members of the person's household.

(5) The physical distancing described in subsection (4) is not required,

- (a) where necessary to complete a transaction or to receive a service, if the member of the public wears a mask or face covering in a manner that covers their mouth, nose and chin or is subject to an exception set out in subsection 2 (5);
- (b) when passing one another in a confined location, such as in a hallway or aisle, if the member of the public wears a mask or face covering in a manner that covers their mouth, nose and chin or is subject to an exception set out in subsection 2 (5); and
- (c) in situations where another provision of this Order expressly authorizes persons to be closer than two metres from each other.

(6) For greater certainty, nothing in subsection (5) affects the obligation of persons who provide services to comply with subsection 2 (8).

(7) No person shall use an indoor or outdoor recreational amenity that is required to close under this Order.

Physical distancing and masks or face coverings in lines, etc.

5. (1) The person responsible for a business or place that is open must not permit patrons to line up or congregate outside of the business or place unless they are maintaining a physical distance of at least two metres from other groups of persons.

(2) The person responsible for a business or place that is open must not permit patrons to line up inside the business or place unless they are,

(a) maintaining a physical distance of at least two metres from other groups of persons; and

(b) wearing a mask or face covering in a manner that covers their mouth, nose and chin, unless they are entitled to any of the exceptions set out in subsection 2 (5).

Safety plan

6. (1) The person responsible for a business that is open shall prepare and make available a safety plan in accordance with this section, or ensure that one is prepared and made available.

(2) The safety plan shall describe the measures and procedures which have been implemented or will be implemented in the business to reduce the transmission risk of COVID-19.

(3) Without limiting the generality of subsection (2), the safety plan shall describe how the requirements of this Order 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.

(4) The safety plan shall be in writing and shall be made available to any person for review on request.

(5) The person responsible for the business shall ensure that a copy of the safety plan is posted in a conspicuous place where it is most likely to come to the attention of individuals working in or attending the business.

7. REVOKED: O. Reg. 440/21, s. 10 (8).

Meeting or event space

8. (1) The person responsible for a business or place that is open may only rent out meeting or event space if the meeting or event space is only rented out,

- (a) for a day camp for children described in section 24 of Schedule 7;
- (b) to a provider of child care within the meaning of the *Child Care and Early Years Act, 2014*;
- (c) for the purpose of the provision of social services;
- (d) for the purpose of collective bargaining, so long as no more than ten people are permitted to occupy the rented space;
- (e) for the purpose of delivering or supporting the delivery of court services;
- (f) for operations by or on behalf of a government;
- (g) for the purpose of delivering or supporting the delivery of government services;
- (h) for the purpose of delivering or supporting mental health support services or addictions support services, so long as no more than ten people are permitted to occupy the rented space; or
- (i) for the purpose of conducting in-person examinations for the registration, licensing or accreditation of persons in any of the fields or occupations described in subsection 2 (2) of Schedule 8, so long as no more than 50 students are permitted to occupy the rented space.

(1.1) The person responsible for a business or place that rents out meeting or event space must ensure that the business or place actively screens individuals in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they enter the indoor premises of the business or place.

(2) The person responsible for a business or place that is open shall,

- (a) record the name and contact information of every member of the public who attends a meeting or event;
- (b) maintain the records for a period of at least one month; and
- (c) only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

(3) Subsection (2) does not apply to the rental of meeting or event space for the purpose of delivering or supporting the delivery of court services.

9. REVOKED: O. Reg. 440/21, s. 10 (9).

Driving instruction

10. (1) The person responsible for a business or place shall ensure that no in-person driving instruction is provided by or at the business or place.

(2) Subsection (1) does not apply to in-person driving instruction for drivers of commercial motor vehicles,

(a) where the instruction is part of the Ontario Driver Certification Program administered by the Ministry of Transportation and involves the operation of motor vehicles for which,

(i) a class of driver's licence other than Class G, G1, G2, M, M1 or M2 is required, or

(ii) an air brake endorsement is required; or

(b) that is provided by a private career college that is in compliance with section 2 of Schedule 8.

(3) In this section,

“commercial motor vehicle” has the same meaning as in subsection 1 (1) of the *Highway Traffic Act*.

Cleaning requirements

11. (1) The person responsible for a business or place that is open shall ensure that,

(a) any washrooms, locker rooms, change rooms, showers or similar amenities made available to the public are cleaned and disinfected as frequently as is necessary to maintain a sanitary condition; and

(b) any equipment that is rented to, provided to or provided for the use of members of the public must be cleaned and disinfected as frequently as is necessary to maintain a sanitary condition.

(2) For greater certainty, clause (1) (b) applies to computers, electronics and other machines or devices that members of the public are permitted to operate.

12, 13. REVOKED: O. Reg. 440/21, s. 10 (10).

O. Reg. 96/21, s. 10; O. Reg. 117/21, s. 2; O. Reg. 126/21, s. 3; O. Reg. 144/21, s. 3; O. Reg. 162/21, s. 3; O. Reg. 216/21, s. 2; O. Reg. 313/21, s. 1; O. Reg. 440/21, s. 10.

SCHEDULE 7

BUSINESSES THAT MAY OPEN AT STEP 1

Supply chains

1. Businesses that supply businesses or places that are permitted to open within Ontario, or that supply businesses or services that have been declared essential in a jurisdiction outside of Ontario, with the support, products, supplies, systems, or services, including processing, packaging, warehousing, distribution, delivery, and maintenance necessary to operate.

Retailers

2. (1) The following businesses that engage in retail sales to the public and that meet the conditions set out in subsection (2):

1. Supermarkets, grocery stores, convenience stores, indoor farmers' markets and other stores that primarily sell food, other than establishments described in section 3.
2. Pharmacies.
3. Discount and big box retailers selling groceries.
4. Safety supply stores.
5. Businesses that primarily sell, rent or repair assistive devices, aids or supplies, mobility devices, aids or supplies or medical devices, aids or supplies.
6. Optical stores that sell prescription eyewear to the public.
7. Retail stores operated by telecommunications providers.
8. Stores, other than establishments described in section 3, that sell liquor, including beer, wine and spirits.
9. Outdoor garden centres and plant nurseries.
10. Indoor greenhouses.

(2) The business must comply with the following conditions:

1. They must limit the total number of members of the public in the place of business so that the total number of members of the public in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 6.
2. They must ensure that any music played at the place of business is not at a decibel level that exceeds the level at which normal conversation is possible.

(3) For greater certainty, paragraph 1 of subsection (1) includes stores that predominately sell one category of food.

(4) Nothing in this section permits a business located within an indoor farmer's market to exceed 15 per cent capacity for in-store shopping unless it is a business that primarily sells food.

3. (1) Restaurants, bars, food trucks, concession stands and other food or drink establishments that meet the conditions set out in subsection (2).

(2) A business described in subsection (1) may open only if it complies with the following conditions:

1. No indoor dining or buffet-style service may be provided.
2. Patrons must be seated at all times in any outdoor dining area of the establishment except,

- i. while entering the area and while moving to their table,
- ii. while placing or picking up an order,
- iii. while paying for an order,
- iv. while exiting the area,
- v. while going to or returning from a washroom,
- vi. while lining up to do anything described in subparagraphs i to v, or
- vii. where necessary for the purposes of health and safety.

3. The outdoor dining area must be configured so that patrons seated at different tables are separated by,

- i. a distance of at least two metres, or
- ii. plexiglass or some other impermeable barrier.

4. The person responsible for the establishment must,

- i. record the name and contact information of every patron that enters an area of the establishment, unless the patron temporarily enters the area to place, pick up or pay for a takeout order,
- ii. maintain the records for a period of at least one month, and
- iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

5. REVOKED: O. Reg. 440/21, s. 11 (3).

6. No patron may be permitted to line up or congregate outside of the establishment unless they are maintaining a physical distance of at least two metres from other groups of persons inside or outside the establishment.

6.1 No patron may be permitted to line up inside the establishment unless they are,

- i. maintaining a physical distance of at least two metres from other groups of persons inside or outside the establishment, and
- ii. wearing a mask or face covering in a manner that covers their mouth, nose and chin, unless they are entitled to any of the exceptions set out in subsection 2 (5) of Schedule 6.

7. No more than four people may be seated together at an outdoor table at the establishment unless everyone seated at the table is,

- i. a member of the same household,
- ii. a member of up to one other household who lives alone, or
- iii. a caregiver for any member of either household.

8. The total number of patrons permitted to be seated outdoors at the establishment must be limited to the number that can maintain a physical distance of at least two metres from every other person at the establishment.

9. The person responsible for the establishment must post a sign in a conspicuous location visible to the public that states the maximum capacity they are permitted to operate under.

10. Music must not be played at a decibel level that exceeds the level at which normal conversation is possible.

11. No person shall dance, sing or perform music at the establishment.

12. If an outdoor dining area at the establishment is covered by a roof, canopy, tent, awning or other element, at least two full sides of the entire outdoor dining area must be open to the outdoors and must not be substantially blocked by any walls or other impermeable physical barriers.

13. If an outdoor dining area at the establishment is equipped with a retractable roof and the roof is retracted, at least one full side of the outdoor dining area must be open to the outdoors and must not be substantially blocked by any walls or other impermeable physical barriers.

14. The establishment must actively screen any dine-in patrons in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they enter the premises of the establishment.

(3) Despite subsection (2), the following establishments may provide indoor dining if they meet the conditions set out in paragraphs 1, 2, 3, 4, 6, 8.1, 9, 10, 12, and 13 of subsection 1 (1) of Schedule 2 to Ontario Regulation 263/20 made under the Act:

1. Establishments on hospital premises.
2. Establishments in airports.
3. Establishments located within a business or place where the only patrons permitted at the establishment are persons who perform work for the business or place in which the establishment is located.

(4) The physical distancing described in subsections 3 (1) and 4 (4) of Schedule 6 is not required when patrons are seated together at a table in an establishment.

(5) The capacity limits set out in clause 3 (1) (b) of Schedule 6 do not apply to outdoor dining areas in an establishment.

4. Nightclubs and strip clubs that open solely as food or drink establishments and that comply with the conditions set out in section 3.

5. (1) Shopping malls that comply with the following conditions:

1. Despite section 7, the only businesses in the shopping mall that may open for in-person retail sales to the public are,

- i. businesses described in section 2, and
- ii. any other businesses that have a public entrance that opens onto a street or exterior sidewalk.

2. Members of the public must only be permitted to enter the shopping mall,

- i. for the purpose of accessing a business or place that is permitted to be open under this Order,
- ii. for the purpose of accessing a designated location described in subsection (4) or (5),
- iii. for the purpose of delivering or supporting the delivery of court services,
- iv. for operations by or on behalf of a government, or
- v. for the purpose of delivering or supporting the delivery of government services.

3. Members of the public who enter the shopping mall for a reason described in paragraph 2 must not be permitted to loiter in any area of the shopping mall that is not related to the purpose of their visit.

4. If a business or place in the shopping mall has a public entrance that opens onto a street or exterior sidewalk,
 - i. members of the public may only be permitted to enter and exit the business or place through a public entrance that opens onto a street or exterior sidewalk, and
 - ii. members of the public must be prohibited from entering or exiting the business or place through any entrance that opens directly into the shopping mall.
5. Any interior dining spaces inside the shopping mall, including any tables and seating in food courts, must be closed.
6. The shopping mall must ensure that any music played at the shopping mall is not at a decibel level that exceeds the level at which normal conversation is possible.
7. If the shopping mall is an indoor shopping mall, the shopping mall must actively screen individuals in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they enter the indoor premises of the mall.

(2) Any business in the shopping mall that is not permitted to open for in-person retail sales to the public may open for the purpose of,

- (a) making sales using an alternative method of sale that does not require patrons to enter the shopping mall, including curbside pick-up or delivery; or
- (b) permitting patrons to pick up items at a designated location established by the shopping mall under subsection (4) or (5).

(3) For greater certainty, paragraph 5 of subsection (1) does not prevent a restaurant, bar or other food or drink establishment within a shopping mall from opening and operating in compliance with section 3.

(4) A shopping mall may establish a single designated location inside the shopping mall for the purpose of allowing patrons to pick up an order from a business or place inside the shopping mall. Patrons may only pick up orders from the indoor designated location by making a prior appointment, and an item may only be provided for pick-up if the patron ordered the item before arriving at the business premises.

(5) A shopping mall may establish any number of designated locations outside the shopping mall for the purpose of allowing patrons to pick up an order from a business or place inside the shopping mall. Patrons may only pick up orders from the outdoor designated location by making a prior appointment, and an item may only be provided for pick-up if the patron ordered the item before arriving at the business premises.

5.1 REVOKED: O. Reg. 440/21, s. 11 (8).

5.2 (1) Businesses that meet the conditions set out in subsection (2) and that sell,

- (a) motor vehicles, including cars, trucks and motorcycles;
- (b) recreational vehicles, including motor homes;
- (c) trailers and travel trailers;
- (d) boats and other watercraft; or
- (e) other motorized vehicles, including power-assisted bicycles, golf carts, scooters, snowmobiles and all-terrain vehicles.

(2) A business described in subsection (1) may only open if they meet the following conditions:

- 1. Members of the public must not be permitted in areas where the products described in subsection (1) are neither sold nor displayed for sale.
- 2. If members of the public are permitted to test drive any of the vehicles, boats or watercraft,
 - i. the test drive must be limited to no more than 10 minutes,
 - ii. a maximum of two people, including up to one sales representative, may be present in the vehicle, boat or watercraft during the test drive, and
 - iii. if two people who are not members of the same household are present in the vehicle during the test drive, any windows in the vehicle, boat or watercraft must be opened at all times.

6. Outdoor markets, including farmer's markets and holiday markets, that meet the following conditions:

- 1. They primarily sell food to the public.
- 2. If an area at the market is covered by a roof, canopy, tent, awning or other element, at least two full sides of the entire area must be open to the outdoors and must not be substantially blocked by any walls or other impermeable physical barriers.
- 3. If an area at the market is equipped with a retractable roof and the roof is retracted, at least one full side of the area must be open to the outdoors and must not be substantially blocked by any walls or other impermeable physical barriers.
- 4. The market must limit the number of members of the public in the place of business so that the total number of members of the public in the place of business at any one time does not exceed 25 per cent capacity, as determined in accordance with subsection 3 (3) of Schedule 6.

7. (1) Businesses not already described in sections 2 to 6 that engage in retail sales to the public and that comply with the following conditions:

1. They must limit the number of members of the public in the place of business so that the total number of members of the public in the place of business at any one time does not exceed 15 per cent capacity, as determined in accordance with subsection 3 (3.1) of Schedule 6.
2. They must ensure that any music played at the place of business is not at a decibel level that exceeds the level at which normal conversation is possible.

(2) Despite anything else in this Order, any business that engages in retail sales to the public and that is not already described in sections 1 to 6 must comply with the conditions set out in subsection (1).

(3) Cannabis retail stores operating under the authority of a retail store authorization issued under the *Cannabis Licence Act, 2018* may open if they comply with the conditions set out in subsection (1) and provide products to patrons through in-person sales or through an alternative method of sale, such as curbside pick-up or delivery.

(4) A business that, as of December 26, 2020, was permitted to be open only in accordance with the conditions described in subsection (1) as it read on that date may only continue to be open in accordance with the conditions under that subsection as amended whether or not, after that date, it modified its operations or the type of products it sells.

(5) Despite subsection 32 (2) of Ontario Regulation 268/18 (General) made under the *Smoke-Free Ontario Act, 2017*, a person responsible for a specialty vape store as defined in that Regulation that is permitted to be open in accordance with the conditions described in subsection (1) shall not permit an electronic cigarette to be used for the purpose of sampling a vapour product in the specialty vape store.

Services

8. Rental and leasing services, including automobile, commercial and light industrial machinery and equipment rental.

9. Gas stations and other fuel suppliers.

10. Automated and self-service car washes.

11. Laundromats and drycleaners.

12. Lawn care services, snow clearing and landscaping services.

13. Security services for residences, businesses and other properties.

14. Domestic services that support children, seniors or vulnerable persons, including housekeeping, cooking, indoor and outdoor cleaning and maintenance services.

15. Vehicle and equipment repair and essential maintenance and vehicle and equipment rental services.

16. Courier, postal, shipping, moving and delivery services.

17. Funeral and related services.

18. Staffing services including providing temporary help.

19. (1) Veterinary services and other businesses that provide for the health and welfare of animals, including farms, boarding kennels, stables, animal shelters, and research facilities.

(2) For greater certainty, nothing in this Order precludes a person responsible for a boarding kennel or stable from allowing an animal's owner or their representative to visit the animal, assist in the care or feeding of the animal or, as applicable, ride the animal.

20. Businesses that provide pet services, including pet grooming services, pet sitting services, pet walking services and pet training services, including services for the training and provision of service animals.

21. (1) Child care providers, subject to subsections (2) and (3).

(2) A child care centre may open if it meets the following conditions:

1. The centre shall not operate a before or after school program on any school day for a child unless the child's school is permitted under this Order to provide in-person teaching or instruction to the child on that day.
2. The centre shall not provide child care on school days during typical school hours for a child whose school is not permitted under this Order to provide in-person teaching or instruction to the child on that day and who, immediately before April 12, 2021,

i. was enrolled in school, and

ii. was not registered to attend the centre on those days and during those hours.

3. If the Minister of Education designates a child care centre as an emergency child care centre that provides care for children of individuals listed in Schedule 10, paragraph 2 does not apply with respect to the provision of child care by the centre to the children of those individuals.

(3) A provider of authorized recreational and skill building programs shall not provide such a program to a child on a school day unless the child is enrolled in a school that is permitted under this Order to provide in-person teaching or instruction on that day.

(4) In this section,

“authorized recreational and skill building programs”, “child care”, “child care centre” and “child care provider” have the same meaning as in the *Child Care and Early Years Act, 2014*; (“programme autorisé de loisirs et de développement des compétences”, “garde d’enfants”, “centre de garde”, “fournisseur de services de garde”)

“school day” has the same meaning as in the *Education Act*. (“jour d’école”)

21.1 Businesses providing short term rental accommodation that meet the following condition:

1. Any indoor pools, communal steam rooms, saunas or indoor whirlpools, indoor fitness centres, or other indoor recreational facilities that are part of the operation of these businesses, are closed.

22. Hotels, motels, lodges, cabins, cottages, resorts and other shared rental accommodation, including student residences, that meet the following condition:

1. Any indoor pools, communal steam rooms, saunas or indoor whirlpools, indoor fitness centres, or other indoor recreational facilities that are part of the operation of these businesses, are closed.

22.1 (1) Establishments that operate for the purposes of providing access to sensory deprivation pods that are being used for a therapeutic purpose prescribed by, or administered by, a regulated health professional and that comply with the following conditions:

1. Persons who provide services in the business must wear appropriate personal protective equipment.
2. No member of the public may be permitted to enter the premises except by appointment.
3. No member of the public may be permitted to be in the premises except for the period of time during which they are receiving sensory deprivation pod services.
4. The total number of patrons permitted indoors in the establishment must be limited to the number that can maintain a physical distance of at least two metres from every other person in the establishment, and in any event cannot exceed the lesser of,

i. five patrons, and

ii. 25 per cent capacity as determined in accordance with subsection 3 (3) of Schedule 6.

(2) Paragraph 3 of subsection (1) does not apply to a single caregiver accompanying an individual receiving the sensory deprivation pod service or to a single child of such individual.

23. Campgrounds that meet the following condition:

1. Any restaurant, indoor pool, communal steam room, sauna or indoor whirlpool, meeting room, indoor fitness centre or other indoor recreational facility on the premises must be closed to the public, except for any portion of those areas that,

i. is used to provide first aid services,

ii. is used to provide take-out or delivery service or outdoor dining in accordance with section 3,

iii. contains a washroom, or

iv. provides access to an area described in subparagraph i, ii or iii.

24. (1) Day camps for children that are operated in a manner consistent with the safety guidelines for COVID-19 for day camps produced by the Office of the Chief Medical Officer of Health.

(2) REVOKED: 345/21, s. 1 (1).

24.1 REVOKED: O. Reg. 440/21, s. 11 (17).

25. (1) Community centres and multi-purpose facilities that open to provide space for any, some or all of the following and that meet the requirements set out in subsection (2):

1. A day camp for children described in section 24.

2. A provider of child care within the meaning of the *Child Care and Early Years Act, 2014*.

3. Mental health support services or addictions support services, so long as no more than ten people are permitted to occupy the space.

4. The provision of social services.

(2) The person responsible for a community centre or multi-purpose facility that is open shall,

- (a) record the name and contact information of every member of the public who attends the community centre or multi-purpose facility;
- (b) maintain the records for a period of at least one month; and
- (c) only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

26. Cheque cashing services.

Financial services

27. Businesses that provide the following financial services:

- 1. Capital markets and related securities trading and advisory services.
- 2. Banking/credit union activities including credit intermediation.
- 3. Insurance.
- 4. Land registration services.
- 5. Pension and benefits payment services.
- 6. Financial services including payroll and payment processing and accounting and tax services.

28. (1) Real estate agent services that do not host, provide or support any open house events.

(2) Nothing in subsection (1) prevents a real estate agency from showing a property by appointment.

Telecommunications and IT infrastructure/service providers

29. Information Technology (IT) services, including online services, software products and the facilities necessary for their operation and delivery.

30. (1) Telecommunications providers and services (phone, internet, radio, cell phones etc.) and facilities necessary for their operation and delivery.

(2) For greater certainty, retail stores operated by telecommunications providers are required to comply with the rules set out in section 2.

31. Newspapers, radio and television broadcasting.

Maintenance

32. Maintenance, repair and property management services that manage and maintain the safety, security, sanitation and operation of institutional, commercial, industrial and residential properties and buildings.

Transportation services

33. Businesses and facilities that provide transportation services, including,

- (a) transportation services provided by air, water, road and rail, including taxis and other private transportation providers; and
- (b) support services for transportation services, including,
 - (i) logistical support, distribution services, warehousing and storage, truck stops and tow operators, and
 - (ii) services that support the operations and safety of transportation systems including maintenance and repairs.

34. (1) Marinas, boating clubs and other organizations that maintain docking facilities for members or patrons that meet the following condition:

- 1. Any clubhouse, restaurant, indoor pool, communal steam room, sauna or indoor whirlpool, meeting room, indoor fitness centre or other indoor recreational facility on the premises must be closed to the public, except for any portion of those areas that,

- i. is used to provide first aid services,
- ii. is used to provide take-out or delivery service or outdoor dining in accordance with section 3,
- iii. contains a washroom, or
- iv. provides access to an area described in subparagraph i, ii or iii.

(2) For greater certainty, nothing in this Order precludes a person responsible for a marina, boating club or other organization that maintains docking facilities for members or patrons from operating a grocery or convenience store on the premises or from providing fuel supply, watercraft repair and servicing, watercraft docking and watercraft launching services.

35. Businesses that provide and support online retail, including by providing warehousing, storage and distribution of goods that are ordered online.

Manufacturing

36. Businesses that extract, manufacture, process and distribute goods, products, equipment and materials, including businesses that manufacture inputs to other manufacturers (e.g. primary metal/steel, blow molding, component manufacturers, chemicals, etc. that feed the end-product manufacturer), regardless of whether those other manufacturers are inside or outside of Ontario, together with businesses that support and facilitate the movement of goods within integrated North American and global supply chains.

Agriculture and food production

37. Businesses that produce food and beverages, and agricultural products including plants, including by farming, harvesting, aquaculture, hunting and fishing.

38. Businesses that process, manufacture or distribute food, beverages, crops, agricultural products, animal products and by-products.

39. Businesses that support the food or agricultural products supply chains and the health and safety of food, animals and plants.

Construction

40. Construction activities or projects and related services that support construction activities or projects, including demolition services.

41. Land surveyors.

Resources and energy

42. Businesses that provide and ensure the domestic and global continuity of supply of resources, including, resource exploration, mining, forestry, aggregates, petroleum, petroleum by-products and chemicals.

43. Electricity generation, transmission, distribution and storage and natural gas distribution, transmission and storage.

Community services

44. Businesses that deliver or support the delivery of community services including,

- (a) sewage treatment and disposal;
- (b) collecting, transporting, storing, processing, disposing or recycling of any type of waste;
- (c) potable drinking water;

- (d) critical infrastructure repair and maintenance including roads, dams, bridges, etc.;
- (e) environmental rehabilitation, management and monitoring, and spill clean-up and response;
- (f) administrative authorities that regulate and inspect businesses;
- (g) professional and social services that support the legal and justice system;
- (h) government services including but not limited to policing and law enforcement, fire and emergency services, paramedics, coroner and pathology services, corrections and court services, licences and permits; and
- (i) allotment gardens or community gardens.

Facilities for indoor or outdoor sports and recreational fitness activities

45. (1) Facilities for indoor or outdoor sports and recreational fitness activities that meet the conditions set out in subsection (2), (3), (4) or (7), as applicable.

(2) A facility for indoor or outdoor sports and recreational fitness activities may open if it meets the following conditions:

1. The facility is,
 - i. operated by, or for the sole use of, persons who are athletes, coaches or officials training or competing to be a part of Team Canada at the next summer or winter Olympic Games or Paralympic Games, if the persons are,
 - A. identified by a national sport organization that is either funded by Sport Canada or recognized by the Canadian Olympic Committee or the Canadian Paralympic Committee, and
 - B. permitted to train, compete, coach or officiate under the safety protocols put in place by a national sport organization mentioned in sub-subparagraph A, or
 - ii. operated by a sports team in one of the following leagues:
 - A. Canadian Elite Basketball League.
 - B. Canadian Football League.
 - C. Major League Baseball.
 - D. Major League Soccer.
 - E. National Basketball Association.

F. National Hockey League.

G. National Lacrosse League.

2. If the facility is operated by a sports team, the team's league must have established a health and safety protocol for the use of training facilities, and the facility must be operated in compliance with the health and safety protocol.

3. The only persons permitted to enter and use the facility must be,

- i. players, athletes, coaches or officials who are using the facility for the purposes of training or conditioning, and
- ii. such staff as are strictly necessary to operate the facility and support the training or conditioning of the players.

(3) A facility for indoor or outdoor sports and recreational fitness activities may open if it meets the following conditions:

1. The facility must open solely for the purpose of providing space for any, some or all of the following:

- i. A day camp for children described in section 24.
- ii. A provider of child care within the meaning of the *Child Care and Early Years Act, 2014*.
- iii. Mental health support services or addictions support services, so long as no more than ten people are permitted to occupy the space.
- iv. The provision of social services.

2. The person responsible for the facility must,

- i. record the name and contact information of every member of the public who attends the space described in paragraph 1,
- ii. maintain the records for a period of at least one month, and
- iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

(4) A facility for indoor or outdoor sports and recreational fitness activities may, but is not required to, open if it meets the following conditions:

1. The facility must be open solely for the purpose of allowing use of the facility by,

- i. persons with a disability, within the meaning of the *Accessibility for Ontarians with Disabilities Act, 2005*, who,
 - A. have received a written instruction for physical therapy from a regulated health professional who is qualified to provide the instruction, and
 - B. are not able to engage in the physical therapy elsewhere,
- ii. such staff as are strictly necessary to operate the facility and support the provision of the physical therapy, and
- iii. such support persons or service animals as may be necessary for the person with a disability.
 - 2. The facility must have established a health and safety protocol for the use of the facility that is consistent with sections 2, 3, 4, 5, 6 and 11 of Schedule 6, and the facility must be operated in compliance with the health and safety protocol.
 - 3. The person responsible for the facility must,

- i. record the name and contact information of every person described in paragraph 1 who enters and uses the facility,
- ii. maintain the records for a period of at least one month, and
- iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

(5) Despite paragraph 1 of subsection (3) and paragraph 1 of subsection (4), a facility may be open for both purposes described subsections (3) and (4) if the facility meets the conditions in both subsections.

(6) For greater certainty, no indoor or outdoor sports or recreational classes are permitted at any indoor or outdoor sport and recreational facilities, except as permitted under subsection (7).

(7) A facility for outdoor sports and recreational fitness activities, including a facility for indoor sports and recreational fitness activities that has such outdoor facilities, may be open if it complies with the following conditions:

- 1. The only activities permitted on the premises are outdoor fitness classes, personal training and training for team and individual sports.
- 2. No patrons are permitted to be in the indoor areas of the facility, except as may be necessary,

- i. to access a washroom,
 - ii. to access an outdoor area that can only be accessed through an indoor route, or
 - iii. as may be necessary for the purposes of health and safety.
3. No more than 10 patrons may participate,
- i. in an outdoor fitness class at any one time, or
 - ii. as a group in personal training or in training for team or individual sports.
4. No spectators are permitted to be at the facility. However, a person under the age of 18 years who is engaged in activities in the facility may be accompanied by one parent or guardian.
5. Any person who enters or uses the facility must maintain a physical distance of at least three metres from any other person who is using the facility.
6. For greater certainty, team sports must not be practised or played at the facility, with the exception of training sessions for members of a sports team that do not include games or scrimmage games.
7. Activities that are likely to result in individuals coming within three metres of each other must not be practised or played at the facility.
8. The person responsible for the facility must,
- i. record the name and contact information of every member of the public who enters the facility,
 - ii. maintain the records for a period of at least one month, and
 - iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.
9. The facility must actively screen individuals in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they enter the facility.
- (8) Despite paragraph 1 of subsection (2) , paragraph 1 of subsection (3) and paragraph 1 of subsection (4), a facility may be open for both a purpose described in subsection (2), (3) or (4) as applicable and a purpose described in subsection (7) if the facility meets the conditions in both subsections.
- (9) REVOKED: O. Reg. 440/21, s. 11 (21).

Personal physical fitness, etc.

45.1 Personal physical fitness and sports trainers that meet the following conditions:

1. Any services must be provided outside.
2. Services may not be provided to more than 10 patrons at one time.
3. No spectators are permitted. However, a person under the age of 18 years who is engaged in physical fitness or sports training activities may be accompanied by one parent or guardian.
4. Any person who is engaged in physical fitness or sports training activities must maintain a physical distance of at least three metres from any other person.
5. Training sessions for members of a sports team cannot include games or scrimmage games.
6. Activities that are likely to result in individuals coming within three metres of each other must not be practised or played.
7. The personal trainer or sports trainer must,
 - i. record the name and contact information of every member of the public who they are providing services to,
 - ii. maintain the records for a period of at least one month, and
 - iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.
8. The personal trainer or sports trainer must actively screen individuals in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they engage in personal physical fitness or sports training activities.

Recreation

46. (1) Subject to subsection (2), businesses whose primary purpose is to operate an outdoor recreational amenity that is permitted to open under section 4 of Schedule 8.

(2) Amusement parks and water parks must be closed.

47. Outdoor horse racing tracks, car racing tracks and other similar venues may open for training and races if they comply with the following conditions:

1. No members of the public are permitted at the venue.

2. Only persons who are essential to the training, race or operation of the venue are permitted to be on the premises of the venue.

Research

48. Businesses and organizations that maintain research facilities and engage in research, including medical research and other research and development activities.

Health care and social services

49. Organizations and providers that deliver home care services or personal support services to seniors and persons with disabilities.

50. Regulated health professionals.

50.1 Osteopathic manual practitioners.

51. Professionals or organizations that provide in-person counselling services.

52. Organizations that provide health care including retirement homes, hospitals, clinics, long-term care facilities, independent health facilities and mental health and addictions counselling supports.

53. Laboratories and specimen collection centres.

54. Manufacturers, wholesalers, distributors and retailers of pharmaceutical products and medical supplies, including medications, medical isotopes, vaccines and antivirals, medical devices and medical supplies.

55. Manufacturers, distributors and businesses that provide logistical support of or for products and/or services that support the delivery of health care in all locations.

56. Organizations that provide critical personal support services in home or residential services for individuals with physical disabilities.

57. Organizations that support the provision of food, shelter, safety or protection, and/or social services and other necessities of life to economically disadvantaged and other vulnerable individuals.

Teaching and instruction

57.1 Businesses that open to provide in-person teaching and instruction and that meet the following conditions:

1. The instructional space for the in-person teaching and instruction must be outdoors.

2. The students must maintain a physical distance of at least two metres from every other person in the instructional space, except where necessary for teaching and instruction that cannot be effectively provided if physical distancing is maintained.
3. The total number of students permitted to be in each instructional space at any one time must be limited to 10 persons.
4. If the in-person teaching or instruction involves singing or the playing of brass or wind instruments,
 - i. every person who is singing or playing must be separated from every other person by plexiglass or some other impermeable barrier, or
 - ii. every person in the instructional space must remain at least three metres apart from every other person in the instructional space.
5. Students must be actively screened in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they enter the business.
6. The person responsible for the business shall,
 - i. record the name and contact information of every student who attends the in-person teaching and instruction,
 - ii. maintain the records for a period of at least one month, and
 - iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

58. Businesses that are primarily engaged in the provision of health and safety training and that meet the following conditions:

1. The instructional space for any in-person training must be operated to enable students to maintain a physical distance of at least two metres from every other person in the instructional space, except where necessary for teaching and instruction that cannot be effectively provided if physical distancing is maintained.
2. The total number of students permitted to be in each instructional space at any one time must be limited to the number that can maintain a physical distance of at least two metres from every other person in the business or place, and in any event cannot exceed 10 persons.

Media industries

59. Sound recording, production, publishing and distribution businesses.

60. (1) Commercial film and television production, including all supporting activities such as hair, makeup and wardrobe, that meet the following conditions:

1. No studio audiences may be permitted to be on the film or television set.
 - 1.1 No more than 50 performers may be permitted to be on the film or television set.
2. The set must be configured and operated in such a way as to enable persons on the set to maintain a physical distance of at least two metres from other persons, except where necessary for the filming of the film or television production.
3. Persons who provide hair or makeup services must wear appropriate personal protective equipment.
4. REVOKED: O. Reg. 440/21, s. 11 (28).
5. The person responsible for the film or television production must ensure that the production operates in accordance with the guidance document titled “Film and television industry health and safety during COVID-19” issued by the Film and Television Health and Safety Advisory Committee of the Ministry of Labour, Training and Skills Development, as amended from time to time.

(2) For greater certainty, for the purposes of this section, the film or television set may be located in any business or place, including any business or place that is otherwise required to be closed under this Order.

61. Film and television post-production, visual effects and animation studios.

62. Book and periodical production, publishing and distribution businesses.

63. Commercial and industrial photography.

63.1 Photography studios and services that meet the following conditions:

1. Photography may only be provided by appointment.
2. Any in-person services provided to patrons, including the taking of photographs, must be provided outdoors.
3. Patrons must be actively screened in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before photography is provided.

64. Interactive digital media businesses, including,

- (a) computer system software or application developers and publishers; and
- (b) video game developers and publishers.

Entertainment

65. (1) Concert venues, theatres and cinemas that meet the conditions set out in subsection (2) or (3).

(2) Concert venues, theatres and cinemas may open for the purpose of rehearsing or performing a recorded or broadcasted concert, artistic event, theatrical performance or other performance on outdoor premises if they comply with the following conditions:

1. No spectators may be permitted anywhere on the premises.
2. Only persons who are essential to the rehearsal or performance are permitted anywhere on the premises.
3. No more than 10 performers may be permitted to participate in the rehearsal or performance.
4. Every performer and other person who performs work for the concert venue, theatre or cinema must maintain a physical distance of at least three metres from every other person.
5. No performer or other person who performs work for the concert venue, theatre or cinema may be permitted in an indoor area of the concert venue, theatre or cinema, except,
 - i. where necessary to use a washroom,
 - ii. where necessary to access an outdoor area that can only be accessed through an indoor route, or
 - iii. as may otherwise be required for the purposes of health and safety.
6. The person responsible for the concert venue, theatre or cinema must,
 - i. record the name and contact information of every performer or other person who is present at the rehearsal or performance,
 - ii. maintain the records for a period of at least one month, and
 - iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.
7. The person responsible for the concert venue, theatre or cinema must ensure that individuals are actively screened in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they enter the premises.

(3) Concert venues, theatres and cinemas may open if they comply with the following conditions:

1. The movie, concert, artistic event, theatrical performance or other performance must be provided in a drive-in or drive-through format.
2. Each person in attendance at the drive-in cinema or the drive-in or drive-through concert, event or performance, other than persons who perform work for the drive-in cinema or the drive-in or drive-through concert, event or performance, must remain within a motor vehicle designed to be closed to the elements except,
 - i. where necessary to purchase admission,
 - ii. where necessary to use a washroom, or
 - iii. as may otherwise be required for the purposes of health and safety.
3. Every motor vehicle at the drive-in cinema or the drive-in or drive-through concert, event or performance may only contain members of a single household plus a maximum of one additional person from outside that household who lives alone.
4. The driver of a motor vehicle at the drive-in cinema or the drive-in or drive-through concert, event or performance must ensure that it is positioned at least two metres away from other motor vehicles.

66. Businesses that provide outdoor tour and guide services, including guided hunting trips, tastings and tours for wineries, breweries and distilleries, trail riding tours, walking tours and bicycle tours, but not motor vehicle tours or boat tours, may open if they comply with the following conditions:

1. The tour must be operated to enable every person on the tour, including tour guides, to maintain a physical distance of at least two metres from every other person, except where necessary,
 - i. to facilitate payment, or
 - ii. for the purposes of health and safety.
2. Every person on the tour must wear a mask or face covering in a manner that covers their mouth, nose and chin during any period in which they come within two metres of another person, unless they are entitled to any of the exceptions set out in subsection 2 (5) of Schedule 6.
3. The number of members of the public on the tour must not exceed the number of persons that would permit compliance with paragraph 1 while on the tour, and in any event cannot exceed 10 persons.

4. Every member of the public who intends to participate in the tour must be actively screened in accordance with the advice, recommendations and instructions of the Office of the Chief Medical Officer of Health before they participate in the tour.
5. The persons on the tour must remain outdoors at all times, except where necessary to use a washroom or as may otherwise be required for the purposes of health and safety.
6. The tour or guide service must,
 - i. record the name and contact information of every patron that participates in the tour,
 - ii. maintain the records for a period of at least one month, and
 - iii. only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

O. Reg. 96/21, s. 10; O. Reg. 103/21, s. 2; O. Reg. 126/21, s. 4; O. Reg. 144/21, s. 4; O. Reg. 162/21, s. 4; O. Reg. 216/21, s. 3; O. Reg. 221/21, s. 5; O. Reg. 239/21, s. 4; O. Reg. 345/21, s. 1; O. Reg. 440/21, s. 11.

SCHEDULE 8

PLACES THAT MUST CLOSE OR THAT ARE SUBJECT TO CONDITIONS AT STEP 1

Public libraries

1. (1) Public libraries may only open if they comply with the following conditions:
 1. Circulating materials must be reserved over the telephone or online.
 2. Circulating materials may only be exchanged with members of the public through contactless drop-off, pick-up or delivery.
 3. Patrons must only be permitted to enter the premises to facilitate contactless drop-off and pick-up or to access computers, photocopiers or similar services.
 4. Patrons must not be permitted to be in the book stacks, or to handle circulating materials that are shelved, or in other areas of library storage.
 5. REVOKED: O. Reg. 440/21, s. 12 (2).
 6. The person responsible for the public library must comply with subsection (3), if applicable.
- (2) The conditions set out in paragraphs 3 and 4 of subsection (1) do not apply with respect to any space the library provides for,

- (a) a day camp for children described in section 24 of Schedule 7;
- (b) a provider of child care within the meaning of the *Child Care and Early Years Act, 2014*;
- (c) mental health support services or addictions support services, so long as no more than ten people are permitted to occupy the space; or
- (d) the provision of social services.

(3) The person responsible for a public library shall,

- (a) record the name and contact information of every member of the public who attends the space described in subsection (2);
- (b) maintain the records for a period of at least one month; and
- (c) only disclose the records to a medical officer of health or an inspector under the *Health Protection and Promotion Act* on request for a purpose specified in section 2 of that Act or as otherwise required by law.

Post-secondary institutions

2. (1) Post-secondary institutions may only open if they meet the following conditions:

1. In-person teaching or instruction may only be provided if the following conditions are met:

- i. The subject matter of the teaching or instruction requires that it be taught in-person, such as clinical training or training related to a trade.
- ii. The instructional space must be operated to enable students to maintain a physical distance of at least two metres from every other person in the instructional space, except where necessary for teaching and instruction that cannot be effectively provided if physical distancing is maintained.
- iii. The total number of students permitted to be in each instructional space at the institution at any one time must be limited to the number that can maintain a physical distance of at least two metres from every other person in the business or place, and in any event cannot exceed,
 - A. 50 persons, in the case of an instructional program described in subsection (2), and
 - B. 10 persons, in any other case.

2. If in-person teaching or instruction at the institution involves singing or the playing of brass or wind instruments,

- i. every person who is singing or playing must be separated from every other person by plexiglass or some other impermeable barrier, or
- ii. every person in the instructional space must remain at least three metres apart from every other person in the instructional space.

3. Any in-person examinations must be provided in accordance with the following rules:

- i. Every person in the examination room must remain at least two metres apart from every other person in the examination room.
- ii. The total number of persons who may take the examination in the same room at the same time cannot exceed,
 - A. 50 persons, in the case of an examination for an instructional program described in subsection (2), and
 - B. 10 persons, in any other case.

(2) An instructional program referred to in sub-subparagraphs 1 iii A and 3 ii A of subsection (1) is an instructional program in any of the following fields or an instructional program to train an individual for any of the following occupations, as the case may be:

- 0.1 Dental hygiene.
- 0.2 Dentistry.
 - 1. Diagnostic cardiac sonography.
 - 2. Diagnostic medical sonography.
 - 3. Diagnostic ultrasound.
 - 4. Medical imaging.
 - 5. Medical laboratory assistant.
 - 6. Medical laboratory technician.
 - 6.1 Medical laboratory technologist.
 - 7. Medical radiation technology.
 - 8. Medicine.
 - 9. Mental health and addictions services, including psychology services, social work services and counselling services.
 - 9.1 Midwifery.
 - 10. Nursing.

- 10.1 Optometry.
- 11. Paramedic.
- 12. Personal support worker, supportive care worker, home care worker or a similar occupation.
- 13. Pharmacy/pharmacy technician.
- 13.1 Physician assistant.
- 14. Public health inspector, if the program is accredited by the Canadian Institute of Public Health Inspectors.
- 15. Rehabilitation sciences (nutrition, speech language pathology, occupational science, and physiotherapy).
- 16. Respiratory therapy.
- 17. Veterinary medicine.

(3) In this section,

“post-secondary institution” means,

- (a) a university,
- (b) a college of applied arts and technology,
- (c) a private career college,
- (d) an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*,
- (e) an institution that is authorized to grant a degree by an act of the Legislature,
- (f) a person who is delivering in-person teaching or instruction in accordance with a consent given under section 4 of the *Post-secondary Education Choice and Excellence Act, 2000*,
- (g) a person approved to provide training for apprenticeship programs under paragraph 5 of section 64 of the *Ontario College of Trades and Apprenticeship Act, 2009*, or
- (h) any other institution that is a designated learning institution within the meaning of section 211.1 of the *Immigration and Refugee Protection Regulations* (Canada), other than a school or private school within the meaning of the *Education Act*.

Schools and private schools

3. (1) Schools and private schools within the meaning of the *Education Act* shall not provide in-person teaching or instruction.

(2) Despite subsection (1), schools and private schools within the meaning of the *Education Act* may open,

- (a) to the extent necessary to facilitate the operation of a child care centre within the meaning of the *Child Care and Early Years Act, 2014*;
- (b) if approved by the Minister of Education, to the extent necessary to facilitate the operation of an extended day program, as defined in the *Education Act*, for the provision of emergency child care for the children of individuals listed in Schedule 10 during the period when schools are not permitted to provide in-person teaching or instruction;
- (c) to allow staff of the school or private school to provide remote teaching, instruction or support to pupils, so long as the school or private school operates in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health;
- (d) to the extent necessary to provide in-person instruction to pupils with special education needs who cannot be accommodated through remote learning and who wish to attend a school or their private school for in-person instruction, so long as the school or private school operates in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health; or
- (e) to facilitate the operation of a day camp for children described in section 24 of Schedule 7.

(3) Subsections (1) and (2) do not apply to schools that meet the condition set out in subsection (4) and that are operated by,

- (a) a band, a council of a band or the Crown in right of Canada;
- (b) an education authority that is authorized by a band, a council of a band or the Crown in right of Canada; or
- (c) an entity that participates in the Anishinabek Education System.

(4) A school described in subsection (3) may open if it meets the following condition:

- 1. If a person who holds a study permit issued under the *Immigration and Refugee Protection Act (Canada)* and who entered Canada on or after November 17, 2020 attends the school, in-person teaching or instruction may only be provided to that person if the school or private school,

- i. has a plan respecting COVID-19 that has been approved by the Minister of Education, and
- ii. operates in accordance with the approved plan.

(5) A school or private school may allow persons, other than persons allowed to be at the school or private school under subsection (2), to enter the school or private school temporarily, as necessary,

- (a) to prepare for an end-of-school-year celebration ceremony described in subsection 1 (5) of Schedule 9, if the person is a staff member or student at the school or private school and is required to be indoors for such preparation;
- (b) to use a washroom or as may otherwise be required for the purposes of health and safety while attending the end-of-school-year celebration; or
- (c) to return goods or supplies or retrieve personal belongings.

Recreational amenities

4. (1) Each person responsible for an indoor or outdoor recreational amenity that is not in compliance with this section, and that is not a facility for indoor or outdoor sports and recreational fitness activities that is permitted to open under section 45 of Schedule 7, must ensure that it is closed.

(2) The following outdoor recreational amenities may open if they are in compliance with subsection (3):

1. Parks and recreational areas.
2. Baseball diamonds.
3. Batting cages.
4. Soccer, football and sports fields.
5. Tennis, platform tennis, table tennis and pickleball courts.
6. Basketball courts.
7. BMX parks.
8. Skate parks.
9. Golf courses and driving ranges.
10. Frisbee golf locations.
11. Cycling tracks.
12. Trails.
13. Horse riding facilities.
14. Shooting ranges, including those operated by rod and gun clubs.
15. Playgrounds.
16. Portions of parks or recreational areas containing outdoor fitness equipment.
17. Archery ranges.

18. Boat and watercraft launches.
19. Lawn game courts, including lawn bowling, bocce and croquet courts.
20. Horseshoe pits.
21. Outdoor pools, splash pads, spray pads, whirlpools, wading pools and water slides.

(3) An outdoor recreational amenity described in subsection (2) may only open if the following conditions are met:

1. Subject to paragraph 2, any person who enters or uses the amenity must maintain a physical distance of at least two metres from any other person who is using the amenity.
2. Any person who engages in physical exercise in the amenity, including by engaging in a training session, sport or game, must maintain a physical distance of at least three metres from any other person who is using the amenity.
3. Team sports must not be practised or played within the amenity, with the exception of training sessions for members of a sports team that do not include games or scrimmage games.
4. Other sports or games that are likely to result in individuals coming within three metres of each other must not be played within the amenity.
5. Clubhouses on the premises must be closed, except to the extent that they,
 - i. are used in conjunction with an outdoor pool, splash pad, spray pad, whirlpool, wading pool or water slide, or
 - ii. provide access to equipment storage, a washroom or a portion of the amenity that is used to provide first aid.

(4) Paragraphs 1 and 2 of subsection (3) do not apply in respect of the following persons who enter or use an outdoor recreational amenity:

1. Parasport participants and their attendants or guides.
2. Members of a single household.

(5) Paragraphs 1 to 4 of subsection (3) do not apply with respect to an amenity, or a particular area of an amenity, during periods when the amenity or the particular area is exclusively being used by persons who are athletes, coaches and officials training or competing to be a part of Team Canada at the next summer or winter Olympic Games or Paralympic Games if the persons are,

- (a) identified by a national sport organization that is either funded by Sport Canada or recognized by the Canadian Olympic Committee or the Canadian Paralympic Committee; and

(b) permitted to train, compete, coach or officiate under the safety protocols put in place by a national sport organization mentioned in clause (a).

(6) Each person responsible for a boat or watercraft shall ensure that if a group of persons uses that boat or watercraft together for recreational purposes, the members of the group are all members of the same household or one other person from outside that household who lives alone or a caregiver for any member of the household.

Museums, etc.

5. (1) Subject to subsections (2) and (3), museums, galleries, aquariums, zoos, science centres, landmarks, historic sites, botanical gardens and similar attractions must be closed to members of the public.

(2) An attraction described in subsection (1) may open to provide drive-in or drive-through access to the public if it complies with the conditions set out in section 65 of Schedule 7, subject to any necessary modifications.

(3) An outdoor attraction described in subsection (1) may open if it complies with the following conditions:

1. The number of members of the public in the attraction must be limited so that the total number of members of the public in the outdoor ticketed area of the attraction at any one time does not exceed 15 per cent capacity, determined by taking the total square metres of outdoor ticketed area accessible to the public in the attraction, dividing that number by 26.67 and rounding the result down to the nearest whole number.
2. The person responsible for the attraction must post a sign in a conspicuous location visible to the public that states the maximum capacity they are permitted to operate under.
3. No member of the public may enter a ticketed area of the attraction unless they have made a reservation to do so.
4. No member of the public may be permitted access to interactive exhibits or exhibits that would create a high risk of personal contact.
5. No member of the public may be permitted to enter any indoor area of the premises, except,

i. to access a washroom,

ii. to access an outdoor area that can only be accessed through an indoor route, or

iii. as may be necessary for the purposes of health and safety.

6. No amusement rides or tour vehicles may be operated by the attraction.

O. Reg. 96/21, s. 10; O. Reg. 348/21, s. 2; O. Reg. 440/21, s. 12.

SCHEDULE 9

ORGANIZED PUBLIC EVENTS, CERTAIN GATHERINGS AT STEP 1

Gatherings, Stage 1 areas

1. (1) Subject to sections 2 to 4, no person shall attend,
 - (a) an organized public event that is held indoors;
 - (b) a social gathering that is held indoors, including a social gathering associated with a gathering described in clause (d);
 - (c) an organized public event or social gathering of more than 10 people that is held outdoors, including a social gathering associated with a wedding, funeral or a religious service, rite or ceremony, but not including the wedding, funeral or a religious service, rite or ceremony itself;
 - (d) an indoor gathering for the purposes of a wedding, a funeral or a religious service, rite or ceremony where the number of persons occupying any particular room in a building or structure while attending the gathering exceeds 15 per cent of the capacity of the room; or
 - (e) an outdoor gathering for the purposes of a wedding, a funeral or a religious service, rite or ceremony where the number of persons attending the gathering exceeds the number that can maintain a physical distance of at least two metres from every other person in the space where the gathering is held.
- (2) A person attending an organized public event, social gathering or a gathering for the purposes of a wedding, a funeral or a religious service, rite or ceremony shall comply with public health guidance on physical distancing.
- (3) For greater certainty, subsections (1) and (2) apply with respect to an organized public event, social gathering or a gathering for the purposes of a wedding, a funeral or a religious service, rite or ceremony, even if it is held at a private dwelling.
- (4) For greater certainty, the limits in clauses (1) (b) and (c) apply to a social gathering associated with a wedding, a funeral or a religious service, rite or ceremony, such as a wedding reception, while the limits that apply to the wedding, funeral or religious service, rite or ceremony itself are set out in clauses (1) (d) and (e).
- (5) Clause (1) (c) does not apply with respect to an outdoor end-of-school-year celebration ceremony held by a school or private school within the meaning of the *Education Act* that is in compliance with a direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health.

(6) All persons participating in an end-of-school-year celebration ceremony described in subsection (5) must remain outdoors at all times, except as permitted under subsection 3 (5) of Schedule 8.

Exception, single household, etc.

2. Section 1 does not apply with respect to,

- (a) a gathering of members of a single household;
- (b) a gathering that includes members of a household and one other person from another household who lives alone; or
- (c) a gathering that includes persons described in clause (a) or (b), and a caregiver for any of those persons.

Exception, retirement homes

2.1 Section 1 does not apply with respect to a gathering in a retirement home within the meaning of the *Retirement Homes Act, 2010* if it is in compliance with the policies or guidance, if any, issued by the Retirement Homes Regulatory Authority.

Exception, attendance at business

3. The prohibitions on attendance at an organized public event in subsection 1 (1) do not apply with respect to attendance at a business for a purpose related to providing or receiving the goods or services provided by the business if the business is not required to close under this Order.

Gathering in motor vehicles for religious service, rite or ceremony

4. (1) This section applies with respect to gatherings for the purposes of a wedding, funeral, religious service, rite or ceremony if the persons attending the gathering, other than those conducting the service, rite or ceremony, do so in a motor vehicle.

(2) Clause 1 (1) (e) does not apply to a person who attends a gathering to which this section applies if the person follows all of the following precautions that apply to the person:

- 1. Each person attending the gathering, other than the persons conducting the service, rite or ceremony, must remain within a motor vehicle that is designed to be closed to the elements, except,
 - i. where necessary to use a washroom, or
 - ii. as may otherwise be necessary for the purposes of health and safety.

2. The driver of a motor vehicle must ensure that it is positioned at least two metres away from other motor vehicles.
 3. A person who ordinarily uses a non-motorized vehicle because of their religious belief and who attends the gathering must remain within their non-motorized vehicle except where necessary to use a washroom or as may otherwise be required for the purposes of health and safety, and paragraph 2 applies with necessary modifications.
- O. Reg. 96/21, s. 10; O. Reg. 189/21, s. 1; O. Reg. 221/21, s. 6; O. Reg. 440/21, s. 13.

SCHEDULE 10

INDIVIDUALS ELIGIBLE FOR EMERGENCY CHILD CARE

1. An individual who is,
 - i. a regulated health professional, or
 - ii. an unregulated health care provider working in health care delivery, either directly or indirectly.
2. An individual who works for a manufacturer or distributor of pharmaceutical products or medical supplies, including medications, medical isotopes, vaccines, antivirals, medical devices, sanitizers and disinfectants.
3. An individual who performs work in relation to the administration, manufacturing or distribution of COVID-19 vaccines and whose work cannot be performed remotely.
4. An individual who works in a pharmacy as defined in the *Drug and Pharmacies Regulation Act*.
5. An individual who works in an establishment where goods or services are sold or offered for sale to the public, if a pharmacy as defined in the *Drug and Pharmacies Regulation Act* is located within the establishment.
6. A police officer as defined in the *Police Services Act*.
7. A special constable appointed pursuant to section 53 of the *Police Services Act*.
8. A member of a police force other than a police officer as defined in the *Police Services Act*.
9. A First Nations Constable appointed pursuant to section 54 of the *Police Services Act* or a member of a police service in which policing is delivered by First Nations Constables.
10. A provincial offences officer as defined in the *Provincial Offences Act*.
11. An individual employed by the Ministry of the Attorney General or a municipality in Ontario who is required to work on site to support the

administration of the Ontario Court of Justice, the Superior Court of Justice or the Court of Appeal for Ontario, including,

- i. court services representatives, court and client representatives, court clerks, court registrars, court reporters, enforcement officers and any other administrative officers and employees that are considered necessary for the administration of the courts,
- ii. business professionals and Crown prosecutors of the Criminal Law Division, and
- iii. employees of the Victim/Witness Assistance Program.

12. An individual who provides essential justice-related frontline services to Indigenous persons involved in the justice system and who is employed by an Indigenous community or Indigenous organization through a program funded by the Ministry of the Attorney General or the Ministry of the Solicitor General, including,

- i. the Indigenous Courtwork Program,
- ii. the Indigenous Bail Verification and Supervision Program, or
- iii. the Indigenous Bail Beds Program.

13. An individual who is engaged in the delivery of frontline victim services funded by the Ministry of the Attorney General under the Ontario Victim Services program.

14. An individual employed as a firefighter as defined in the *Fire Protection and Prevention Act, 1997*.

15. An individual who is,

- i. engaged in providing fire protection services as defined in the *Fire Protection and Prevention Act, 1997*,
- ii. employed in a fire department as defined in the *Fire Protection and Prevention Act, 1997*, or
- iii. employed in the Office of the Fire Marshal.

16. A paramedic as defined in the *Ambulance Act*.

17. A coroner as defined in the *Coroners Act*.

18. A worker in a correctional institution as defined in the *Ministry of Correctional Services Act* or an independent contractor who supplies services to correctional institutions, including, but not limited to, employees of Trilcor.

19. Probation and parole officers as described in the *Ministry of Correctional Services Act*, institutional liaison officers, court liaison officers, individuals employed as assistant area managers and area managers of staff at probation and parole offices and the administrative and support staff at these offices.
20. An individual employed in the Institutional Services Division of the Ministry of the Solicitor General, including a person employed in a correctional institution as defined in section 1 of the *Ministry of Correctional Services Act*.
21. An individual employed in the Operational Support Division of the Correctional Services Recruitment and Training Centre in the Ministry of the Solicitor General who,
 - i. provides facilities or maintenance services, or
 - ii. is a Senior Staff Development Officer or Manager of Customized Training.
22. An employee of Compass Group Canada Ltd. who works at or provides services in relation to the Cook Chill Food Production Centre.
23. An individual employed in the Ministry of the Solicitor General who performs one or more of the following functions for the Institutional Services Division or Community Services Division:
 - i. Performing electronic monitoring services.
 - ii. Performing CPIC searches.
 - iii. Preparing community supervision orders.
24. An individual employed in the Ministry of the Solicitor General at the Centre for Forensic Sciences who is involved in supporting and conducting forensic testing and analysis.
25. An individual employed in the Ministry of the Solicitor General at the Provincial Forensic Pathology Unit.
26. An individual employed in the Provincial Emergency Operations Centre or at the Ministry of the Solicitor General's Emergency Operations Centre.
27. An animal welfare inspector appointed pursuant to the *Provincial Animal Welfare Services Act, 2019* or an individual employed by the Ministry of the Solicitor General in the Animal Welfare Services Branch who is directly involved in supporting animal welfare inspectors.
28. An individual employed in the operation of,
 - i. a place of secure custody designated under section 24.1 of the *Young Offenders Act* (Canada), whether in accordance with section 88 of the *Youth Criminal Justice Act* (Canada) or otherwise, or

ii. a place of secure temporary detention as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*.

29. Persons, other than foster parents, who deliver or directly support the delivery of residential care, treatment and supervision to children and young persons residing in residential settings licensed under the *Child, Youth and Family Services Act, 2017*.
30. An individual employed by a children's aid society designated under section 34 of the *Child, Youth and Family Services Act, 2017* to provide services necessary for the performance of a children's aid society's functions, as set out in subsection 35 (1) of that Act.
31. An individual employed by a service agency as defined in section 1 of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*, to provide services and supports, within the meaning of section 4 of that Act, to adults with developmental disabilities.
32. An individual who is engaged in the delivery of services funded by the Ministry of Children, Community and Social Services under the Violence Against Women Support Services or the Anti-Human Trafficking Community Supports programs.
33. A staff member of a transfer payment recipient funded by the Ministry of Children, Community and Social Services who is engaged or employed to deliver interpreting or intervenor services for persons who are deaf, deafened, hard of hearing or deafblind.
34. Persons employed in the Direct Operated Facilities Branch of the Ministry of Children, Community and Social Services.
35. An individual who performs work that is essential to the delivery of core services in a municipality or First Nation community, as determined by the municipality or First Nation.
36. An individual who performs work of a critical nature in their service area or community, as determined by the Minister of Education or his delegate in consultation with the relevant service system manager or First Nation as those terms are defined under the *Child Care and Early Years Act, 2014*.
37. An individual who works in a child care centre or who otherwise provides child care in accordance with the requirements in this Order.
38. An individual appointed as an inspector under subsection 28 (1) of the *Child Care and Early Years Act, 2014*.
39. Any individual whose child was registered in an emergency child care program delivered by a consolidated municipal service manager or district social service administration board during the time period beginning on April 6, 2021 and ending on April 16, 2021.
40. A staff member of a school as defined in the *Education Act* who provides, or supports the provision of, in-person instruction at a school to pupils with

special education needs who cannot be accommodated through remote learning.

41. A staff member of a school as defined in the *Education Act* who,
 - i. provides or supports the provision of in-person teaching or instruction in a school that is permitted to provide in-person teaching and instruction under this Order, and
 - ii. has a child who is enrolled at a school that is not permitted to provide in-person teaching or instruction under this Order and who is not receiving in-person teaching or instruction.

42. A member of the Canadian Armed Forces or an employee of the Department of National Defence.

43. All persons employed in the Ministry of Natural Resources and Forestry who are engaged in,
 - i. prevention, mitigation, preparedness, response or recovery actions, as applicable, with respect to,
 - A. fires as defined in the *Forest Fires Prevention Act*,
 - B. floods,
 - C. dam failures, or
 - D. emergencies relating to oil and gas exploration or production, hydrocarbon underground storage, and salt solution mining, or
 - ii. the provision of support services to Conservation Officers through the operation of the Ministry's Provincial Communications Unit.

44. A person who holds a licence issued under section 13 of the *Private Security and Investigative Services Act, 2005* to act as a security guard.
45. Staff as defined in the *Retirement Homes Act, 2010*.
46. Licensees as defined in the *Retirement Homes Act, 2010* who are individuals and who work or provide services at a retirement home.
47. Staff as defined in the *Long-Term Care Homes Act, 2007*.
48. An individual who is an inspector appointed under the *Food Safety and Quality Act, 2001* or a field-person or officer appointed under the *Milk Act*.
49. An individual employed in the Ministry of Labour, Training and Skills Development in Radiation Protection Services.
50. An individual who is employed by any of the following entities to carry out work that is deemed by the entity to be critical to the ongoing generation,

transmission, distribution and storage of electricity, or the ongoing refining, transmission, distribution and storage of gas or other type of hydrocarbon, sufficient to meet the demands of the province of Ontario:

- i. The Independent Electricity System Operator.
- ii. A generator, transmitter or distributor within the meaning of the *Electricity Act, 1998*.
- iii. A gas distributor or gas transmitter within the meaning of the *Ontario Energy Board Act, 1998*.
- iv. A distributor as defined in subsection 40 (3) of the *Technical Standards and Safety Act, 2000* that is not already described in subparagraph ii or iii.
- v. An oil refinery.

51. An individual who performs work that is essential to the operation of, or who conducts COVID-19 sampling and analysis related to,

- i. a municipal drinking water system as defined in section 2 of the *Safe Drinking Water Act, 2002*,
- ii. a non-municipal year-round residential system as defined in section 1 of Ontario Regulation 170/03 (Drinking Water Systems) made under the *Safe Drinking Water Act, 2002*, or
- iii. a wastewater treatment facility or a wastewater collection facility as those terms are defined in section 1 of Ontario Regulation 129/04 (Licensing of Sewage Works Operators) made under the *Ontario Water Resources Act* and to which that Regulation applies.

52. An individual employed in the Ministry of the Environment, Conservation and Parks who performs work in relation to the following and whose work cannot be performed remotely:

- i. Laboratory services.
- ii. Environmental monitoring and reporting.
- iii. Responding to environmental incidents.
- iv. The operation of Ontario Parks.

53. An individual employed in a business involved in the collecting, transporting, storing, processing, disposing or recycling of any type of waste.

54. An employee of a hotel or motel that is acting as an isolation centre, health care centre, vaccine clinic or that is housing essential workers.
55. An individual working in a homeless shelter or providing services to homeless persons.
56. An individual who works for a business that processes, manufactures or distributes food or beverages.
57. An individual who works in a supermarket, grocery store, convenience store, farmer's market or other store that primarily sells food, other than an establishment described in section 3 of Schedule 7.
58. An individual who works at a business that produces food, beverages, or agricultural products including plants, including by farming, harvesting, aquaculture, hunting or fishing.
59. An individual who works at a business that supports the food or agricultural products supply chains.
60. An individual who is engaged in work that involves driving a Class A or D motor vehicle as described in Ontario Regulation 340/94 (Drivers' Licences) made under the *Highway Traffic Act*.
61. An individual employed by a municipal transit agency, Metrolinx or the Ontario Northland Transportation Commission whose work cannot be performed remotely.
62. An individual who works for a business described in section 40 of Schedule 7.
63. Members, officers and special constables appointed under the *Royal Canadian Mounted Police Act* who are working in Ontario.
64. Officers as defined in the *Customs Act* (Canada) who are working in Ontario.
65. Employees of the Canada Post Corporation who are working in Ontario.

O. Reg. 440/21, s. 14.

O. Reg. 363/20 “Stages of Reopening”:

SCHEDULE 1

AREAS IN THE SHUTDOWN ZONE, AREAS AT STEP 1

Shutdown Zone

1. No areas are in the Shutdown Zone.

Step 1

2. The following areas are at Step 1:

1. Brant County Health Unit.
2. Chatham-Kent Health Unit.
3. City of Hamilton Health Unit.
4. City of Ottawa Health Unit.
5. City of Toronto Health Unit.
6. The District of Algoma Health Unit.
7. Durham Regional Health Unit.
8. The Eastern Ontario Health Unit.
9. Grey Bruce Health Unit.
10. Haldimand-Norfolk Health Unit.
11. Haliburton, Kawartha, Pine Ridge District Health Unit.
12. Halton Regional Health Unit.
13. Hastings and Prince Edward Counties Health Unit.
14. Huron Perth Health Unit.
15. Kingston, Frontenac and Lennox and Addington Health Unit.
16. Lambton Health Unit.
17. Leeds, Grenville and Lanark District Health Unit.
18. Middlesex-London Health Unit.
19. Niagara Regional Area Health Unit.
20. North Bay Parry Sound District Health Unit.
21. Northwestern Health Unit.
22. Oxford Elgin St. Thomas Health Unit.
23. Peel Regional Health Unit.

24. Peterborough County — City Health Unit.
25. Porcupine Health Unit.
26. Renfrew County and District Health Unit.
27. Simcoe Muskoka District Health Unit.
28. Sudbury and District Health Unit.
29. Thunder Bay District Health Unit.
30. Timiskaming Health Unit.
31. Waterloo Health Unit.
32. Wellington-Dufferin-Guelph Health Unit.
33. Windsor-Essex County Health Unit.
34. York Regional Health Unit.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO - and -

**ADAMSON BARBECUE LIMITED AND WILLIAM
ADAMSON SKELLY**

Applicant (Respondent on Motion)

Respondents (Moving Parties on Motion)

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceedings commenced at the City of Toronto

**FACTUM OF
HER MAJESTY THE QUEEN IN RIGHT OF
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