

Ontario's Additional Restrictions In Anticipation Of Second Wave



Over the past fourteen (14) days, Ontario has seen a sharp increase in new COVID-19 case growth. On September 28, 2020, Premier Ford announced that the province was “officially in the second wave of COVID-19”.

In an effort to contain the Second Wave, the province has implemented significant changes to provincial COVID-19 restrictions.

Reopening Ontario (A flexible response to COVID-19) Act, 2020 (“ROA”)

The province has extended all existing Orders made under the ROA until October 22, 2020. Premier Ford has indicated that additional Orders under the ROA may be implemented before October 22, 2020, particularly in respect of Regions with densely concentrated populations and increasing COVID-19 case growth.

On September 28, 2020, the Premier indicated that if public health indicators did not improve, a strategic return to Stage 2 restrictions would be considered.

New mandatory screening requirements for all businesses

Significant changes have been made to the health screening requirements for all workers and essential visitors attending at any business in Ontario. These restrictions apply across all Regions:

- All businesses (province-wide) will be required to conduct screening for any workers or essential visitors entering the work environment.
- The term “workers” is inclusive of any students, contractors or volunteers that conduct business or business-related activities at the workplace.
- The term “essential visitors” is inclusive of any individuals providing “a service in the establishment” – this category would include delivery persons, maintenance providers, etc.
- The screening requirement does not apply to patrons / customers entering a workplace, or first responders/other emergency services.
- The screening must occur:
 - before the worker / visitor enters; or

- at the point when the worker enters the workplace at the start of their shift;
- or when an essential visitor arrives.
- Anyone who does not pass screening should be advised that they will not be permitted to enter the workplace, that they should self-isolate, and contact their health care provider or Telehealth Ontario.
- The province's COVID-19 screening tool provides questions which must (at a minimum) be used for screening workers/essential visitors. An employer does not have to use the tool; however it must ask the "required questions" listed on the tool.
- The required screening needs to be "active" (i.e. administered live, or via a system that requires the employee to input information) rather than passive (i.e. posting a sign at the door saying "do not enter if you have these symptoms").

These new screening requirements do not affect or reduce any other current requirements, including mandatory face covering rules, PPE requirements, other applicable standards under municipal by-laws or under the Ontario *Occupational Health and Safety Act*.

Current rules for Restaurants, Bars, Food & Drink Establishments

In an effort to curb "outbreak clusters" in restaurants, bars, strip clubs, and other food and drink establishments, the province has amended the Rules for Areas currently in Stage 3. Effective September 26, 2020:

- Additional measures and restrictions apply to restaurants, bars and other food and drink establishments (including nightclubs) by:
 - prohibiting the sale of alcohol after 11:00 p.m.;
 - prohibiting the consumption of alcohol on the premises after 12:00 a.m. until 9:00 a.m. (including employees); and
 - requiring establishments to close by 12:00 a.m. and remain closed until 5:00 a.m. except for takeout or delivery;
- All strip clubs across the province have been ordered to close.

Current Rules for Events / Social Gatherings

In response to regional upticks in new case growth, the province has amended the Rules for Areas currently in Stage 3 for organized public events and social gatherings. In the province's news release, the province indicated that these restrictions are aimed at "unmonitored social gatherings" and organized public events (for instance, functions, parties, dinners, gatherings, BBQs & wedding receptions held in private residences, back yards and other recreational areas). The limits on the number of people allowed to attend an unmonitored social gathering or organized public event, across all Regions, are:

- 10 people at an indoor event or gathering (previous limit of 50); or
- 25 people at an outdoor event or gathering (previous limit of 100).

It is important to note that the new restrictions do not apply to businesses or organizations that operate in accordance with the Rules for Areas currently in Stage 3, which may continue to operate with the original capacity limits that

apply to their operations.

Increased Compliance Measures

To support better compliance with public health guidelines, recent changes have made Ontario's COVID-19 emergency compliance mechanisms:

- The province has created a new offence under the *Emergency Management and Civil Protection Act* for hosting or organizing a gathering in residential premises or other prescribed premises that exceeds the maximum allowable limits;
- Organizers of non-compliant / illegal social gatherings or events will face a minimum fine of \$10,000;
- Individual attendees of non-compliant / illegal social gatherings or events will continue to face penalties of \$750 per incident;
- Police Officers, Special Constables and First Nations Constables have the authority to Order a temporary closure of a premises where there are "reasonable grounds to believe that any gathering exceeding the number of people allowed" is taking place, and require individuals to leave the premises immediately.

These changes have made Ontario's compliance mechanisms the most stringent in Canada.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.