

# Ontario Government Makes Emergency Order Regarding Work Redeployment Measures for Municipalities in Relation to Critical Municipal Services

Date : April 22, 2020

On April 16, 2020, the Ontario government issued an emergency order providing municipalities with broad authority to address staffing and work deployment needs related to COVID-19 (the “Order”). The Order ([O. Reg. 157/20](#)) applies to every municipality within the meaning of the *Municipal Act, 2001* in which an emergency is or has been declared under the *Emergency Management and Civil Protection Act* (the “EMCPA”), and allows municipalities to take any reasonably necessary work deployment or staffing measure to respond to, prevent and alleviate the COVID-19 outbreak so as to prevent, reduce or mitigate the effect of the pandemic on critical municipal services.

The Order applies only to critical municipal services, which have been deemed to include:

- The maintenance of municipal long-term care homes;
- The delivery of public health services;
- The operation of homeless shelters and the provision of services to homeless persons;
- The provision of drinking water;
- Waste management and sanitation;
- Wastewater management;
- Public transportation services operated by a municipality;
- The provision of assistance under the *Ontario Works Act, 1997*, if the municipality is designated as a delivery agent under that Act;
- The administration, operation and funding of child care programs and services under the *Child Care and Early Years Act, 2014*;
- The enforcement of by-laws; and
- Services related to the implementation of the municipality’s emergency plan.

In relation to these critical municipal services, the Order permits municipalities to take the actions outlined below despite any other statute, regulation, order, policy, arrangement, or agreement, including a collective agreement, that might state otherwise:

1. Identify staffing priorities and develop, modify and implement redeployment plans, including the following:

- Redeploying staff within different locations in the municipality.
- Changing the assignment of work, including assigning non-bargaining unit employees or

contractors to perform bargaining unit work.

- Changing the scheduling of work or shift assignments.
- Deferring or cancelling vacations, absences or other leaves, regardless of whether such vacations, absences or leaves are established by statute, regulation, agreement or otherwise.
- Employing extra part-time or temporary staff or contractors, including for the purposes of performing bargaining unit work.
- Using volunteers to perform work, including to perform bargaining unit work.
- Providing appropriate training or education as needed to staff and volunteers to achieve the purposes of a redeployment plan.

2. Conduct any skills and experience inventories of staff to identify possible alternative roles in priority areas.

3. Require and collect information from staff, contractors or volunteers about their availability to provide services for the municipality.

4. Require and collect information from staff, contractors or volunteers about their likely or actual exposure to the Virus, or about any other health conditions that may affect their ability to provide services.

5. Cancel or postpone services that are not related to responding to, preventing or alleviating the outbreak of the Virus or services that are not deemed to be critical by a municipality's emergency plan.

6. Suspend, for the duration of the Order, any grievance process with respect to any matter referred to in the Order.

The Order also provides that municipalities may implement their redeployment plans without complying with provisions of a collective agreement, including lay-off, seniority/service or bumping provisions, though they are required to provide at least 24 hours' notice to bargaining agents that represent any affected bargaining units within the municipality before implementing any redeployment plans.

It is important to note that the Order specifically does not apply to:

- Firefighters within the meaning of *the Fire Protection and Prevention Act, 1997*;
- Persons normally employed by a municipality in the operation of ambulance services within the meaning of the *Ambulance Act*, including paramedics;
- As well as the following categories of employees who are already covered under separate

emergency orders enacted by the province since the initial declaration of a provincial state of emergency:

- a) Employees normally employed at municipal drinking water systems or at wastewater collection facilities or wastewater treatment facilities operated by a municipality (and to whom Ontario Regulation 75/20 – Drinking Water Systems and Sewage Works under the EMCPA applies);
- b) Employees normally employed at long-term care homes maintained by a municipality (and to whom Ontario Regulation 77/20 – Work Deployment Measures in Long-Term Care Homes applies); and
- c) Employees normally employed at a board of health if the employer is a municipality (and to whom Ontario Regulation 116/20 – Work Deployment Measures for Boards of Health applies).

The Order lasts until May 6, 2020, unless extended under the EMCPA.

## **In Our View**

The Order is similar in nature to those issued previously for health service providers, long term care homes and boards of health under the EMCPA. The broad staffing and redeployment authority outlined in the Order grants municipalities with the flexibility to allocate and prioritize staffing resources as needed during the outbreak.

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