

# Second Wave of COVID-19 in Ontario Brings Changes to the Provincial Public Health Landscape

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With the second wave of COVID-19 now in full swing within our borders, the Ontario government and public health authorities continue to work to adapt the public health landscape in an effort to improve their ongoing response to the pandemic. Some of the most notable developments we have seen in the past days and weeks in this regard have included the extension of COVID-19 orders, as well as the implementation of the framework and of related restrictions in specified regions, as will be detailed below.

## Extension of COVID-19 Orders

On November 20, 2020, the government announced that it would, once again, be extending the emergency orders that remain in place under the [Reopening Ontario \(A Flexible Response to COVID-19\) Act, 2020](#) (the “Act”). This most recent extension means that subject to any amendments or revocations, these orders will remain in effect until at least December 21, 2020.

## Implementation of the Framework

Besides the extension of COVID-19 orders, the other most significant recent development with respect to the provincial government’s response to the pandemic has been the implementation of an entirely new [COVID-19 Response Framework: Keeping Ontario Safe and Open](#) (the “Framework”). Developed in consultation with the province’s Chief Medical Officer of Health and other health experts, the Framework is intended to allow for the implementation of appropriate public health measures in response to the ongoing pandemic in a way that is targeted, incremental and responsive. Ultimately, it is supposed to allow for a more gradual but earlier introduction of preventative measures in order to avoid broad closures similar to those experienced early on in the pandemic, as well as to provide for the incremental introduction and/or removal of additional public health and workplace safety measures where necessary.

More specifically, the Framework – which applies to businesses and organizations operating within a particular public health unit region – categorizes public health unit regions into one of five possible levels:

- Green – Prevent

- Yellow – Protect
- Orange – Restrict
- Red – Control
- Grey – Lockdown

Each level is associated with specific types of general public health and workplace safety measures, as well as more targeted measures for businesses and organizations operating in specific sectors including the following:

- Restaurants, bars and food & drink establishments,
- Sports and recreational fitness,
- Meeting and event spaces,
- Retail,
- Personal care services,
- Casinos, bingo halls and gaming establishments,
- Cinemas, and
- Performing arts facilities.

The general and targeted measures required to be taken by business and organizations at each level are detailed and extensive. Employers should make sure to remain abreast of the general rules applicable to their public health unit region at any given time, as well as any targeted rules applicable to their specific sector. For public health unit regions in levels green, yellow or orange, the current rules can be found in the [Rules for Areas in Stage 3](#), whereas for public health unit regions in level red, the current rules can be found in the [Rules for Areas in Stage 2](#).

## Initial Classification Under Framework

Final decisions regarding moving public health unit regions into the framework (as will be detailed below) were made by the government based on epidemiological data, health system capacity and public health system capacity in consultation with the Chief Medical Officer of Health, local medical officers of health and other experts. The government has indicated that it will review these decisions every two weeks based on the same type of criteria, and will also continuously review the impact of the implementation of these measures over a 28-day period.

As of November 7, 2020, at 12:01 a.m., when the Framework first came into effect, the province's public health unit regions were initially classified as follows:

- **Red – Control:** Peel Regional Health Unit
- **Orange – Restrict:** Ottawa Public Health and York Region Public Health
- **Yellow – Protect:** Brant County Health Unit, City of Hamilton Public Health Services,

Durham Region Health Department, Eastern Ontario Health Unit, Haldimand-Norfolk Health Unit, Halton Region Public Health, Niagara Region Public Health, Region of Waterloo Public Health and Emergency Services, Simcoe Muskoka District Health Unit, and Wellington-Dufferin-Guelph Public Health

- **Green – Prevent:** All other public health unit regions *except* Toronto Public Health Unit and Peel Region

Toronto Public Health Unit and Peel Region was initially delayed in entering the Framework and remained in a modified stage 2 until November 14, 2020.

## **Current Classification Under Framework**

As the COVID-19 outbreak continues to remain a serious public health concern, many regions have seen movement related to their classification within the Framework since its inception:

- On November 14, 2020, Toronto was moved into the Framework and classified as Red – Control, with additional restrictions imposed by regional public health authorities in an effort to further curb their local caseload.
- On November 16, 2020, given the severity of their respective ongoing outbreaks, Hamilton, Halton and York joined Toronto in the Red – Control zone, also with additional local restrictions, while a number of other regions were also moved to the Orange – Restrict (including the City of Ottawa Health Unit) and Yellow – Protect levels of the Framework.
- Most recently, on November 20, 2020, given the increasing severity of their respective ongoing outbreaks, the government announced that Toronto and Peel would be moved into the most restrictive level of the Framework, being Grey – Lockdown effective November 23, 2020 at 12:01 a.m. Lockdown restrictions will remain in effect for those regions for at least 28 days.

In order to effect the move back to a lockdown situation for the first time in months, the government was required to amend existing regulations under the Act related to the [Rules for Areas in Stage 1](#) so as to better align them with the new Framework. Again, because these rules are detailed and extensive, and because they are similar but not identical to those that were in place during the initial pandemic lockdown situation earlier this year, employers should make sure to remain abreast of them in the event that their region is or becomes subject to another lockdown.

## **Safety Plan Requirement under the Framework**

[COVID-19 workplace safety plans](#) were first introduced as a requirement for some businesses

under the province's [original phased system for COVID-19-related public health measures](#). Amongst other things, safety plans must be prepared in writing, posted conspicuously, and describe the measures and procedures which have been implemented or which will be implemented within the workplace in order to reduce the risk of transmitting COVID-19, including but not limited to screening, physical distancing, cleaning and disinfecting of surfaces or objects, and the use of masks or other PPE.

Under the new Framework, safety plans continue to be required for some businesses who are now classified in the Yellow – Protect, Orange – Restrict, Red – Control and Lockdown levels. Subject businesses include:

- Restaurants, bars and food establishments,
- Sports and recreational facilities,
- Meeting and event spaces,
- Malls,
- Personal care services,
- Casinos, bingo halls and other gaming establishments,
- Cinemas, and
- Performing arts facilities.

Though not required, all other businesses that continue to operate during the pandemic are encouraged to voluntarily prepare a safety plan as well.

## In Our View

Along with the announcement of its new Framework, the Ontario Government also announced it would be making more than \$300 million in financial support available to businesses that are required to close or to significantly restrict services in areas recognized as Red – Control or Lockdown. Beginning on November 16, 2020, eligible businesses including but not limited to bars, restaurants, gyms and cinemas were able to apply directly to the province for temporary property tax and energy cost rebates for the period(s) of time during which they are required to temporarily close or restrict services.

As all levels of government continue to figure out how best to manage the ongoing repercussions of the COVID-19 pandemic, Emond Harnden continues to monitor and report on any new developments that might affect employers or the workplace. For further information on your rights and obligations as an employer dealing with COVID-19 or other matters, please contact [Vicky Satta](#) at [613-940-2753](tel:613-940-2753), [Sébastien Huard](#) at [613-940-2744](tel:613-940-2744), [J.D. Sharp](#) at [613-940-2739](tel:613-940-2739), [Colleen Dunlop](#) at [613-940-2734](tel:613-940-2734) or [Jennifer Birrell](#) at [613-940-2740](tel:613-940-2740).