

Goodmans^{LLP} Update

Under a State of Emergency, What Orders can the Ontario Government Enact?

The *Emergency Management and Civil Protection Act* (the “Act”) gives the provincial government broad-ranging powers to act in the public interest by declaring a state of emergency.

The current version of the Act was developed following a review of Ontario’s response to the March 2003 SARS outbreak and the August 2003 power outage, which revealed deficiencies in Ontario’s ability to respond to emergency situations.

Yesterday, in response to the spread of COVID-19, the Government of Ontario declared a [State of Emergency](#) under the Act.

By declaring a State of Emergency, the Act gives the provincial cabinet the ability to make orders in respect of:

1. Implementing any emergency plans formulated under section municipalities or the province;
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 certain protections, 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; and
14. Consistent with the order-making powers listed above, 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.

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The orders are temporary and are to be exercised in a manner that limits their intrusiveness. Notably, if an order made under the Act conflicts with any statute, regulation, rule, by-law, other order or instrument of a legislative nature, including a licence or approval, the emergency order made under the Act prevails.

To date, Ontario has only issued two Orders under the Act:

- an Order closing bars and restaurants (except for providing takeout or delivery), public libraries, all facilities providing indoor recreational programs, private schools (as defined in the Education Act), licensed child care centres, concert venues, and other similar venues where people typically gather, and
- an Order prohibiting public events of over 50 people, including parades and events and communal services within places of worship.

Notwithstanding the issuance of these Orders, the Ontario government confirmed all essential services remain available, such as grocery stores, convenience stores, pharmacies, manufacturing facilities, and public transit.

If you have questions about how the Ontario government's powers under the Act may assist or impact you during this state of emergency, please contact the authors or any member of our [Litigation Group](#).

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