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BARRISTERS + SOLICITORS

COVID-19 – LEGAL AND REGULATORY CHANGES – IMPACT ON BUSINESS
AS OF MARCH 23, 2020

Earlier today, Premier Ford announced that the Government is ordering all non-essential workplaces to close for the next two weeks. Premier Ford stated that this does not mean ceasing operations, but keeping workers out of workplaces or facilities. Details of which businesses will be designated as essential and non-essential will be released Tuesday March 24, 2020. We will be updating this page as new announcements are made, so please keep visiting to access future updates.

As you are aware, the landscape is changing rapidly. In light of the Premier's announcement today, together with Toronto's Mayor, John Tory, also declaring a state of emergency (an inaugural event for the City of Toronto), we anticipate that several points outlined below may be impacted in the coming days as various government agencies adapt policies to come in line with evolving laws. Again, please keep visiting this page to access future updates.

1. Premier Ford Declares a State of Emergency under the *Emergency Management and Civil Protection Act*

- a. **LINKS:** [Ontario News Release](#); [National Post](#); [Globe & Mail](#); [CTV News](#)
- b. **LEGISLATION/REGULATION:** State of emergency declared by Premier pursuant to section 7.0.1 of the [Emergency Management and Civil Protection Act](#)
- c. **SUMMARY:**
 - i. The Premier ordered the following to close immediately:
 1. all facilities providing indoor recreational programs,
 2. all public libraries,
 3. all private schools,
 4. all licensed child care centers,
 5. all bars and restaurants,
 6. all theatres and cinemas, and concert venues;
 7. all non-essential workplaces [further details to be released tomorrow];and any gathering of over 50 people is prohibited.
 - ii. These orders were approved by the Lieutenant Governor in Council and **will remain in place for the next 14 days, with possibility of extension.**
 - iii. Ontario is also investing up to \$304 million to enhance the province's response to Covid-19 by providing money to increase hospital capacity, increase testing and screening, protect frontline workers, fund long-term care homes and residential facilities in developmental services, protect seniors, and protect indigenous communities.
 - iv. legal limitation periods and procedural timelines have been temporarily suspended.

- d. **BUSINESS IMPACT:** Employers may need to temporarily lay off employees as cash-flows disappear. The terms of employment contracts will impact the scope of employer rights. Closures may prevent parties from fulfilling their contractual obligations. Contractual provisions such as “Force Majeure” and “Material Adverse Change” and common law principles of frustration may come into play, depending on the circumstances. Changes to employment laws are outlined below and impacts on employers are detailed in our article ,Key Considerations for Employers managing the fallout from Covid-19, refer back to our website

2. City of Toronto announces 60-day grace period for property tax and utility bills

- a. **LINKS:** [John Tory Tweet/News Release](#); [CityNews](#); [Toronto Star](#) (paywall); [Global News](#)
- b. **SUMMARY:** 60 day-grace period for City of Toronto property tax, water and solid waste utility bill payments for all residents and businesses (note that this extends the previously announced 30 day grace period for businesses)
 - i. Retroactive effect on all bills issued on or after **March 16, 2020**
 - ii. **Late payment penalties** will also be waived for 60 days
- c. **BUSINESS IMPACT:** individuals *and* businesses can now defer payments for a longer time without suffering penalties. This will provide for additional cash-on-hand in the short-term.

3. Government extends other tax deadlines

- a. **LINKS:** [Government of Canada](#) (see "Flexibility for Taxpayers" and "Flexibility for Businesses Filing Taxes" section); [CTV News](#); [National Post](#)
- b. **SUMMARY:**
 - i. For individuals: personal tax filing date has been pushed back to **June 1, 2020**
 - ii. The deadline to pay any income tax owing has been pushed back to **September 1, 2020**. This means that there will not be penalties or interest if the balance due or instalments are paid by **September 1, 2020**.
 - iii. For trusts with a taxation year ending December 31, 2019, the filing date has been pushed back to **May 1, 2020**
 - iv. Corporations can now defer income tax payments owing on or after March 18, 2019 and before September 1, 2020 until **September 1, 2020**, with no interest or penalties.
 - v. CRA will not contact any small or medium business to initiate any GST/HST or Income Tax audits for the next four weeks from March 18, 2020. For the vast majority of businesses, CRA will suspend audit activity.
 - vi. CRA will temporarily recognize taxpayer's electronic signatures for authorization forms T183 and T183CORP, which are forms that authorize tax preparers to file their taxes.
 - vii. The federal government has proposed a temporary wage subsidy as a three-month measure to allow eligible employers to reduce the amount of payroll deductions that are required to be remitted to CRA. Eligible employers include charities, non-profits and certain Canadian-controlled private corporations. The subsidy will equal 10% of remuneration paid from March 18, 2020 to June 20, 2020, up to a maximum of \$1,375 per employee and \$25,000 per employer.
- c. **BUSINESS IMPACT:** Tax deferral is now available to individuals *and* businesses. This will allow individuals and businesses to increase their cash flow in the short term. The

extensions provided also eliminate the need to meet short-term filing deadlines. These measures may give rise to further questions about appropriate tax planning needs for 2020.

4. **Ontario Legislature passes the Employment Standards Amendment Act (Infectious Disease Emergencies), 2020**

- a. **LINKS:** [News Ontario](#);
- b. **LEGISLATION/REGULATION:** *Employment Standards Amendment Act (Infectious Disease Emergencies), 2020* – [Bill 186](#)
This amends the *Employment Standards Act, 2000* – primarily repeals and replaces subsection 50.1 of the *ESA*
- c. **SUMMARY:** Amends the *ESA* to address when emergency leave is available to employees in case of infectious disease emergencies. The changes expand the circumstances in which an employee can take a leave of absence:
 - i. The amendment entitles an employee to a leave of absence without pay, starting on the prescribed date, if the employee will not be performing his or her duties because of a designated infectious disease (including being in quarantine or providing care to someone affected by the designated infectious disease),
 - ii. The employer is also able to direct the employee to not attend the workplace due to a concern about the spread of an infectious disease
- d. **BUSINESS IMPACT:** Employees choosing to, or being directed to self-quarantine, or stay home to care for a relative will be entitled to do so without pay, without risk of losing their job. Employers seeking to change the employment arrangement temporarily in light of Covid-19 should discuss with counsel regarding temporary layoffs or terminations where an employee has taken such steps.

5. **Changes to the Business Credit Availability Program**

- a. **LINKS:** [Government of Canada news release](#);
- b. **SUMMARY:** The government of Canada is implementing the following measures to support individuals and businesses negatively affected by Covid-19:
 - i. [Business Credit Availability Program](#) (BCAP): the program will further support financing in the private sector through the Business Development Bank of Canada (BDC) and Export Development Canada (EDC); here, BDC and EDC will enhance their cooperation with private sector lenders to coordinate financing and credit insurance solutions for Canadian businesses.
 - ii. The Office of the Superintendent of Financial Institutions (OSFI) is lowering the [Domestic Stability Buffer](#) requirement for domestic systemically important banks by 1.25% of risk weighted assets, effective immediately. This action will increase the lending capacity of Canada's large banks and support the supply of credit to the economy during the period of disruption related to Covid-19. The release of the buffer will support in excess of \$300 billion of additional lending capacity.
 - iii. The Bank announced a new [Bankers' Acceptance Purchase Facility](#), which will support a key funding market for small- and medium-size businesses at a time

when they may have increased funding needs and credit conditions are tightening.

- iv. The scope of the [bond buyback](#) program is widening.
 - v. The previously announced [Standing Term Liquidity Facility](#) will soon be launched. Under this program, the Bank could provide loans to eligible financial institutions in need of temporary liquidity support and where the Bank has no concerns about their financial soundness.
 - vi. The government is suspending the coming into force of the new Benchmark Rate for the minimum qualifying rate for insured mortgages until further notice.
- c. **BUSINESS IMPACT:** The Government has taken steps to make it easier for banks to provide credit to businesses, and through the BCAP initiative will be able to provide support to eligible businesses. Clients may be eligible to apply for and receive funding through these programs.

6. **Toronto continuing to process applications for probate and hear urgent matters**

- a. Premier Ford's mandated closure of non-essential workplaces may impact the points below. Please check back tomorrow for further updates.
- b. Applications for Certificates of Appointment (formerly referred to as probate certificates) are still being accepted and processed by the Toronto Estates Office. The Toronto Estates Office counter services are working on reduced hours and requesting for materials to be delivered by courier and not in-person wherever possible.
- c. Judges of the Estates List and Commercial List will continue to hear and decide urgent and time sensitive matters. All regular matters which have been scheduled and are not urgent, or time sensitive, have been adjourned to after June 1, 2020 and are not currently being rescheduled, subject to any further direction from the court.
- d. **BUSINESS IMPACT:** Executors can proceed to apply for probate certificates to gain authority to deal with a deceased individual's personal and business assets. In addition, urgent matters (whether commercial or estates-related) continue to be heard by Judges.

7. **Government releases economic response plan**

- a. **LINKS:** [Government of Canada](#) (and [here](#)); [CBC](#)
- b. **SUMMARY:** The Federal Government has announced an \$82 Billion aid package to help Canadians and businesses cope with the economic impact of COVID19.
 - i. **Support to Canadians:** \$27 billion in direct supports
 - 1. Temporary income support for workers and parents
 - a. 1 week EI waiting period waived
 - b. Medical certificate waived for EI sickness benefits
 - c. Emergency care benefit for workers that don't qualify for EI sickness benefits and parents
 - 2. Longer-term income support for workers
 - a. Emergency Support Benefit for workers facing unemployment who are not eligible for EI
 - b. EI Work Sharing Program, which gives EI benefits for workers on reduced hours
 - 3. Income support for individuals who need it most

- a. \$400 for individuals and \$600 for couples to boost income for those who need help with finances
 - b. Increase to Canada Child Benefit
 - c. Miscellaneous other measures (interest-free period on student loans(!), funds for Indigenous communities, reducing required minimum withdrawals from RRIFs, etc.)
 - 4. Flexibility for taxpayers (see above)
- ii. **Support to Businesses:** \$55 billion to help business liquidity through tax deferrals.
 - 1. Changes to the Canada Account to allow the government to provide additional support to Canadian companies through loans, guarantees, or insurance policies
 - 2. Small employers will receive a temporary wage subsidy of 10% for three months
 - 3. Businesses can defer payment of taxes (above)
 - 4. Business Credit Availability Program (above)
 - 5. Insured Mortgage Purchase Program (above)
- c. **BUSINESS IMPACT:** The supports may be available to businesses and their employees. If businesses need additional liquidity to help cover costs during the economic downturn, these resources may be available to them.

8. **Canada Closes Borders to Most Foreigners under *Aeronautics Act***

- a. **LINKS:** [Government of Canada Release](#); [Global News](#); [National Post](#); [CTV News](#)
- b. **LEGISLATION/REGULATION:** Pursuant to its power under section 4 of the [Aeronautics Act](#),
- c. **SUMMARY:**
 - i. The Minister of Transport now:
 - 1. Requires air operators to deny boarding of a traveller who is symptomatic (regardless of citizenship) **beginning March 19, 2020**; and
 - 2. Requires air carriers on flights to Canada to deny boarding any passenger who is not a Canadian citizen or permanent resident, and has resided in any country other than the US in the last 14 days, **beginning March 18.**
 - ii. The government of Canada also is enhancing support to impacted Canadians abroad by establishing a recoverable fund assistance program.
 - iii. The government will also be redirecting some international inbound flights to four major hubs (Toronto Pearson, Vancouver International, Montreal-Pierre Elliott Trudeau, and Calgary International) **beginning March 18, 2020.**
- d. **BUSINESS IMPACT** Businesses that have employees abroad, or require employees to travel for work purposes have been disrupted. For those employers who still have employees abroad, the repatriation assistance programs may be available to assist such employees.

9. **Canada provides update on exemptions to travel restrictions**

- a. **LINKS:** [Government of Canada](#); [Global News](#)
- b. **SUMMARY:** on March 18, Canada closed its borders to foreign nationals, subject to certain exemptions – on March 20, the Government of Canada announced several

additional exemptions in order to "support the economy" (though such exemptions are not yet in place). Such further exemptions include:

- i. seasonal agricultural workers, fish/seafood workers, caregivers and all other **temporary foreign workers**
 - ii. **international students** who held a valid study permit, or had been approved for a study permit, when the travel restrictions took effect on March 18, 2020
 - iii. **permanent resident applicants** who had been approved for permanent residence before the travel restrictions were announced on March 16, 2020, but who had not yet travelled to Canada
 - iv. However, all individuals entering from abroad must isolate for 14 days upon their arrival in Canada
- c. **BUSINESS IMPACT:** Canadian employers that rely on seasonal, foreign workers can continue to operate. This will be particularly important given that planting and harvesting activities will resume shortly. Employers should inform their employees to arrive in Canada *at least* two weeks before their start date to account for the isolation period.

10. Canada-US border closure for non-essential travel

- a. **LINKS:** [Government Global News](#); [BNN Bloomberg](#)
- b. **SUMMARY:** Trudeau announced that a non-essential travel ban between the US and Canada would take effect last Friday night/early Saturday morning.
 - i. Essential travel will not be stopped, and the new measures will not disrupt the supply chains bringing essential goods to Canada
 - ii. Minister Freeland stated that officials would be taking a negative list approach, screening for people that should not be travelling, such as tourists or for pleasure. The government has stated that people needing to travel for daily life or work, including anyone with "valid work responsibilities" would be allowed to cross.
- c. **BUSINESS IMPACT:** Companies should be aware of travel restrictions and what constitutes essential cross-border travel by employees. More rigorous questioning by CBSA regarding the purpose of travel is expected.