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When Do Ontario Acts and Regulations Come into Force?

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The cover of 'The Ontario Gazette' is visible in the foreground. It features the Ontario coat of arms and the text 'Extra', 'The Ontario Gazette', and 'PUBLISHED BY AUTHORITY.' Below this, it says 'THURSDAY, APRIL 25th, 1896.'

Extra
The Ontario Gazette
PUBLISHED BY AUTHORITY.
THURSDAY, APRIL 25th, 1896.

Each year in Ontario, the legislative and executive branches of government pass bills and issue regulations. This lawmaking activity raises a key question: when do these laws take effect and become legally binding?

In answering this question, this paper focuses upon the legal framework for the commencement of legislation established by the *Legislation Act, 2006*.

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Introduction

In Ontario, as in the other jurisdictions, there is a fundamental distinction between law-making activity and the “coming into force” of a law. Laws are created through the passage of Acts and the issuance of regulations (which are also known as “subordinate” or “delegated” legislation). However, legislation does not become enforceable and binding on persons until it comes into force.¹ In Ontario, the principles applicable to the coming into force of Acts and regulations are found mainly in the *Legislation Act, 2006*.²

This paper examines the ways in which Acts and regulations in Ontario may come into force and become binding, and discusses select technical matters relating to these processes.

What Is the Effect of an Act Not Yet In Force?

As noted above, an Act has no legal effect and is not binding on the public until it comes into force. However, once a bill is enacted, it is recognized by the courts as law and may be considered when interpreting other legislation.³

In addition, the *Legislation Act, 2006* provides that the commencement provisions and short title provisions in an Act are deemed to come into force on the day the Act receives Royal Assent, regardless of when the Act is specified to come into force.⁴ The *Legislation Act, 2006* also provides that a power conferred by an Act to make regulations or appointments or do any other thing may be exercised at any time after Royal Assent even if the Act is not yet in force. Until the Act comes into force, the exercise of such a power has no effect except as may be necessary to make the Act effective when it comes into force.⁵

On [e-Laws](#), the website providing digital access to official copies of Ontario's statutes and regulations, an Act or section thereof that is not yet in force is highlighted in grey.⁶

How Does an Act Come into Force?

Overview

In Ontario, after a bill is carried on three readings in the Legislative Assembly, Royal Assent occurs when the Lieutenant Governor agrees to the bill on behalf of the King. The Clerk of the Assembly must indicate the date of Royal Assent on the Act, and the date of assent forms part of the Act.⁷ A bill that receives Royal Assent and is endorsed by the Clerk of the Assembly as having received Royal Assent is official law.⁸

Each Act contains a commencement provision dictating the manner in which the Act will come into force.⁹ On e-Laws, commencement provisions are omitted from the consolidated versions of statutes but can be found in the source law versions.¹⁰

An Act may come into force on one or a combination of the following dates:

- on the date of Royal Assent;
- on some other date(s) specified in the Act; or
- on a date set out in a proclamation subsequent to Royal Assent.

A Legislature may choose to delay commencement of a law for many reasons, such as to await certain events or to give notice to the public. A delayed commencement also allows time to prepare for the administration of an Act, e.g., by holding consultations and preparing regulations and explanatory materials.¹¹

Conversely, in order to ensure that a statute will have retroactive application, a Legislature may deem it to have come into force on a date prior to commencement.¹²

Further, commencement may never actually occur, as a statute or section thereof may be repealed before it is ever brought into force.¹³

Time of Commencement of Acts

Whatever method is used to set the commencement date, an Act comes into force at the first instant of the day on which it comes into force, unless otherwise provided.¹⁴

However, unless otherwise provided, an Act that comes into force on Royal Assent is not effective against a person before the earlier of the following times:

1. When the person has actual notice of it.
2. The last instant of the day on which it comes into force.¹⁵

In Force on Royal Assent

Act is Silent

Prior to the passage of the *Legislation Act, 2006*, legislation entered into force upon assent only when this was expressly provided for in the legislation itself.¹⁶

Now, section 8(1) of the *Legislation Act, 2006* states that “unless otherwise provided, an Act comes into force on the day it receives Royal Assent.”¹⁷ Therefore, silence as to the method of commencement of an Act means that the Act enters into force upon assent.

Act Specifies Royal Assent

Despite s. 8(1) of the *Legislation Act, 2006*, Acts generally are not silent with respect to their coming-into-force date. It is common for an Act to be brought into force by way of a provision stating: “This Act comes into force on the day it receives Royal Assent.” See, for example, s.11 of the *Ontario Society for the Prevention of Cruelty to Animals Amendment Act, 2015*.¹⁸

In Force on a Fixed Date

The commencement provision may provide that the Act comes into force on a date or dates either before or after the date of Royal Assent.

Fixed Date after Royal Assent

In some cases, a commencement date subsequent to the date of assent is specified. The expression “this Act comes into force on (date)” is typically used.

In other cases, the coming into force date is linked to the date of Royal Assent; since the date of Royal Assent is unknown at the time of drafting, it cannot be specified. For example, the *Modernizing Regulation of the Legal Profession Act, 2013* provides that certain sections come into force “on the later of April 7, 2014 and the day this Act receives Royal Assent,” while other sections come into force “three months after the day this Act receives Royal Assent.”¹⁹

A commencement date may also be linked to the coming into force of another provision. For example, the commencement provision of the *Smart Growth for Our Communities Act, 2015* provides that s. 18(2) came into force 121 days after s. 18(1) of the Act was proclaimed in force.²⁰

It is possible for legislation to specify that provisions, if unproclaimed, will take effect on a particular date. The *Amendments Because of the Supreme Court of Canada Decision in M. v. H. Act, 1999*, for example, stated that provisions that had not been proclaimed in force by March 1, 2000 came into force on that day.²¹

Fixed Date before Royal Assent – Retroactivity

There is a presumption that legislation is not intended to be retroactive. However, this presumption can be rebutted by “express words or by necessary implication.”²²

This means that even where an Act does not expressly state that it is meant to apply retroactively, circumstances may make it clear that it is intended to apply to facts that predate the legislation. However, express provisions are often included in legislation; this is because the presumption against retroactivity is strong.²³

For instance, the *Keeping Students in Class Repeal Act, 2022* received Royal Assent on November 14, 2022. Its commencement provision indicates that it is “deemed to have come into force on November 3, 2022.”

There are limits, however, on the power of a Legislature to give retroactive effect to statutory provisions. The *Canadian Charter of Rights and Freedoms* limits the power of a Legislature to create retroactive (or *ex post facto*) criminal offences and gives offenders the benefit of the lesser punishment where the penalty for an offence is changed after it is committed.²⁴

In Force on Proclamation

General

An Act may contain a provision that reads, “This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.”²⁵ Under the *Legislation Act, 2006*, procedurally, when an Act authorizes the Lieutenant Governor to do anything by proclamation, the proclamation “shall be issued under an order of the Lieutenant Governor in Council recommending that the proclamation be issued.”²⁶

Amending or Revoking a Proclamation

Under the *Legislation Act, 2006*,

a proclamation that brings an Act into force may be amended or revoked by a further proclamation before the commencement date specified in the original proclamation, but not on or after that date.²⁷

For instance, a proclamation was issued on January 23, 2013, naming March 1, 2013 as the date subsection 5(17) of Schedule 2 to the *Open for Business Act, 2010* would come into force.²⁸ A second proclamation was issued on February 27, 2013 changing the in force date to September 1, 2013.²⁹ Before that date, a third proclamation was issued on June 12, 2013 revoking the proclamation.³⁰

A further example is the proclamation issued on April 18, 2018 naming a commencement date of July 1, 2018 for the *Smoke-Free Ontario Act, 2017*.³¹ This proclamation was revoked on June 29, 2018.³² A second proclamation was issued on October 17, 2018 proclaiming most of the Act in force on that date.³³

A proclamation that specifies different commencement dates for different provisions may be amended or revoked with respect to a particular provision before the commencement date specified for that provision, but not on or after that date.³⁴

Proclaiming Part of an Act

There is no requirement that all sections of an Act be proclaimed in force at the same time.³⁵ Rather, the *Legislation Act, 2006* states that

if an Act provides that it is to come into force on a day to be named by proclamation, proclamations may be issued at different times for different parts, portions or sections of the Act.³⁶

Some Acts give specific authority for a proclamation to “apply to one or more...provisions, and proclamations may be issued at different times with respect to any of those provisions.”³⁷

Occasionally, the Legislature may restrict the government’s discretion and require that an Act be brought into force in its entirety. The *Ministry of Energy Act, 2011* contains the following commencement provision:

14. (1) The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) A proclamation under subsection (1) may only be made in respect of the entire Schedule.³⁸

Judicial Consideration of Partial Proclamation of an Act

In *Reference re Criminal Law Amendment Act*, the Supreme Court considered whether the Governor in Council exceeded its power by proclaiming an Act in force, but declining to proclaim certain subsections and sub-subsections of that Act.³⁹ The majority concluded that the statute granted the executive the discretion to proclaim or not proclaim sections and subsections, and that the Court should not examine the manner in which the executive exercises that discretion.

Pierre-André Côté notes that “as each statute forms a whole, enactment in stages may alter its meaning,” but goes on to say that “it is doubtful, however, except in the case of a flagrant abuse of power by the executive, that the courts would intervene to invalidate a proclamation or order on the grounds that the effect of enactment by stages was to change the meaning of the statute.”⁴⁰

However, Ruth Sullivan notes that “it is not at all clear that the Supreme Court of Canada would take the same deferential attitude today [as it did in *Reference re Criminal Law Amendment Act*]. The power to bring legislation into force, like any other delegated authority, is subject to the limits fixed by Parliament both express and implied.”⁴¹

What Happens When an Act or Provision Remains Unproclaimed?

In the United Kingdom, it has been suggested that “whenever Parliament passes an Act it intends, unless the contrary intention appears, that all its provisions shall be brought into force within a reasonable time” and this matter may be subject to judicial review.⁴²

However, Sullivan notes that, while the exercise of the power to proclaim is subject to judicial review, the possibility of review on the non-exercise of that power is “more doubtful.”⁴³

Ontario has codified a process for the repeal of legislation that remains unproclaimed for nine years or more.⁴⁴ The *Legislation Act, 2006* requires the Attorney General to table an annual report in the Legislature listing all unproclaimed Acts and provisions that were enacted nine years or more before December 31 of the preceding calendar year and which remain unproclaimed on that date.⁴⁵

An Act or provision listed in this report is automatically repealed on December 31 of the calendar year in which the report is tabled unless:

- it comes into force on or before December 31 of that calendar year; or
- during that calendar year, the Legislative Assembly adopts a resolution that it not be repealed.⁴⁶

The Attorney General must publish a list of the Acts and provisions repealed in this way each year on the e-Laws website.⁴⁷ For example, in 2012, three unproclaimed Acts were repealed: the *Collision Repair Standards Act, 2002*, the *Sustainable Water and Sewage Systems Act, 2002*, and the *Rescuing Children from Sexual Exploitation Act, 2002*.⁴⁸ In 2020 certain sections of the *Not-for-Profit Corporations Act, 2010* were repealed after remaining unproclaimed for over nine years.⁴⁹

Varied In-Force Dates

Two or more of the above “in force” methods may be incorporated in the same Act such that different provisions of the Act come into force on different dates.⁵⁰

Regulations

The *Legislation Act, 2006* defines a “regulation” as a

regulation, rule, order or by-law of a legislative nature made or approved under an Act of the Legislature by the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council, but does not include,

a by-law of a municipality or local board as defined in the Municipal Affairs Act,

an order of the Ontario Land Tribunal.⁵¹

Some Acts specify that certain instruments are not regulations within the meaning of Part III of the *Legislation Act, 2006* or that Part III does not apply to certain instruments.⁵²

Filing of Regulations

The *Legislation Act, 2006* provides that a regulation that is not filed has no effect.⁵³

Regulations must be filed with the Registrar of Regulations.⁵⁴ A regulation that is filed with the Registrar of Regulations under Part III of the *Legislation Act, 2006* (or a predecessor of that Part) is official law.⁵⁵ If the regulation was made by the Lieutenant Governor in Council, a certified true copy of the regulation must be filed. If it was made by any other person or entity, the original, signed regulation must be filed. Since 2020, upon request and with the Registrar’s acceptance, a regulation in electronic format may be filed.⁵⁶

Filing must occur within four months after the making of a regulation or after the date of its approval if approval of the regulation is required. An exception, however, applies if the regulation-making authority and regulation-approving authority, if any, give approval for a later filing.⁵⁷ A regulation that is not filed has no legal effect.⁵⁸

Publication of Regulations

Every regulation must be published:

- promptly after its filing on the e-Laws website;⁵⁹ and
- in the *The Ontario Gazette* within one month after its filing or in accordance with such other timelines prescribed by regulation.⁶⁰

These publication requirements may have significant legal consequences in respect of enforceability. This is because unless the regulation itself or its authorizing Act provides otherwise, a regulation is not effective against a person before the earliest of the following times:

- when the person has actual notice of it;
- the last instant of the day on which it is published on the e-Laws website; and
- the last instant of the day on which it is published in *The Ontario Gazette*.⁶¹

Statutory Provisions on Bringing a Regulation into Force

Some Acts impose requirements or restrictions on the timing of the coming into force of regulations made under them. For example, the *Insurance Act* sets criteria for when regulations dealing with certain ratios, percentages, amounts, and calculations may come into force. It states that such regulations do “not come into force until the day thirty days after it is filed with the Registrar of Regulations or such later day as may be set out in the regulation.”⁶² Another example is s. 7(5) of the *Endangered Species Act, 2007* which provides that: “a regulation under this section comes into force on the day it is filed.”⁶³

The *Emergency Management and Civil Protection Act* provides that an order made under certain sections takes effect immediately upon its making (or, if it so provides, may be retroactive to a date specified in the order).⁶⁴

Ways of Setting the In Force Date of a Regulation

As with an Act, each regulation contains information on how it will come into force.⁶⁵ On e-Laws, these provisions are omitted from the consolidated versions of regulations, but can be found in the source law versions.⁶⁶ On e-Laws, a regulation or section thereof that is not yet in force is highlighted in grey.

Silence

Subsection 22(2) of the *Legislation Act, 2006* provides that a regulation comes into force on the day on which it is filed, unless the regulation or its authorizing statute provides otherwise. Therefore, if a regulation and authorizing Act are silent as to the in force date of a regulation, it takes effect upon the date of filing.

Upon Filing

Despite s. 22(2), Ontario regulations are generally not silent with respect to their in-force dates. It is common for a regulation to state that it comes into force on the date of filing. For example, O. Reg. 637/21 made under the *Employment Standards Act, 2000* provides that it “comes into force on the day it is filed.”⁶⁷

In Force on a Fixed Date – Prospective

As with an Act, a regulation may provide in a straightforward manner that it comes into force on a specified date(s) in the future. For example, O. Reg. 236/14 made under the *Insurance Act*, which was filed on November 27, 2014, set out a commencement date of January 1, 2015.⁶⁸ Similarly, O. Reg. 494/22 made under the *Health Insurance Act*, which was filed on September 29, 2022, set out a commencement date of April 1, 2023.⁶⁹

Alternatively, a regulation-maker may seek to ensure that a regulation will come into force no earlier than a particular date. For example, a regulation made under the *Child and Family Services Act*, which was filed on June 2, 2017, stated that it came into force “on the later of July 1, 2017 and the day it is filed.”⁷⁰

In some cases, the coming into force date is linked to the filing date of the regulation. For instance, a 2015 regulation made under the (now repealed) *Ontario College of Trades and Apprenticeship Act, 2009*, provided that it would come into force “two years after the day it is filed.”⁷¹

Further, although regulations are not proclaimed into force, they may provide that they come into force when an Act or part of an Act is proclaimed in force. For example, O. Reg. 132/14 made under the *Provincial Offences Act* provided in s. 3 that it would come into force “on the later of the day subsection 1(40) of Schedule 4 to the *Good Government Act, 2009* comes into force and the day this Regulation is filed.” Similarly, the coming into force date may be linked to the coming into force date of an Act or provision of an Act. O. Reg. 486/22 made under the *Public Hospitals Act* provides in s. 2 that it will come into force “on the later of the day that is 60 days after the day section 2 of the *More Beds, Better Care Act, 2022* comes into force and the day this Regulation is filed.”

In Force on a Fixed Date – Retroactive

As with an Act, a regulation or part of a regulation may be deemed to have come into force on a retroactive date. There are different ways of expressing the retroactive date.⁷²

Sullivan notes that “it is presumed that the legislature does not intend to delegate a power to legislate retroactively or retrospectively or to interfere with vested rights.” However, this presumption can be rebutted by express or implied authorization.⁷³ An Act may expressly authorize the making of regulations that are deemed to have come into force on a day before the regulation is filed.⁷⁴

An Act may grant wide or limited discretion for regulations to operate retroactively. For instance, one formulation for a broad discretion for retroactive regulations can be found in the *Land Transfer Tax Act*: “A regulation is, if it so provides, effective with reference to a period before it was filed.”⁷⁵ Another example of broad authorization for retroactive regulations can be found in the *Animal Health Act, 2009*:

*If a regulation provides that a provision of the regulation is deemed to have come into force on a day before the regulation is filed, the provision is deemed to have come into force on that day.*⁷⁶

The *Employment Standards Act, 2000* specifies that “A regulation referred to in subsection [141](2.2) that specifies a date may specify a date that is earlier than the day on which the regulation is made.”⁷⁷

The *Education Act* provides an example of authority for retroactive regulations limited to regulations made only under a specified provision and for a specified purpose, as follows:

A regulation made under subsection [58.1](2) may provide that it shall be deemed to have come into force and taken effect on the day of filing or at such earlier or later time as is stated in the regulation, for any purpose related to representation on or elections to a district school board or school authority.⁷⁸

Further, a statute may authorize retroactivity only to a specified date. A provision of the *Planning Act* relating to transitional matters provides, for instance, that,

*a regulation made under clause [70.5](1)(a) may be retroactive to December 12, 2005.*⁷⁹

Assorted In Force Dates

A regulation can establish different in force dates for different provisions. For example, O. Reg. 166/14, made under the *Ontario Disability Support Program Act, 1997*, and filed on August 15, 2014, provides:

(1) Subject to subsections (2) and (3), this Regulation comes into force on the day it is filed.

(2) Sections 1, 2, 3, 4, 6 and 7,

(a) come into force on September 1, 2014, if this Regulation is filed on or before September 1, 2014; and

(b) are deemed to have come into force on September 1, 2014, if this Regulation is filed after September 1, 2014.

(3) Sections 5 and 8 come into force on March 1, 2015.⁸⁰

Can Regulations be Made under Unproclaimed Legislation?

The *Legislation Act, 2006* states that where an Act confers regulation-making powers, such powers “may be exercised at any time after Royal Assent even if the Act is not yet in force.”⁸¹

Thus, regulations may be made under the authority of an unproclaimed (or otherwise not yet in force) Act; however, in general, the exercise of the regulation-making powers will have “no effect” until the Act comes into force.⁸²

The ability to make regulations under an Act not yet in force can be useful where the Act provides that some of its elements will be set out in a regulation. Regulations that are made before an Act comes into force allow the Act to be fully operational once it does come into force.⁸³

Notes

¹ Ruth Sullivan, *Sullivan on the Construction of Statutes*, 7th ed. (Markham: LexisNexis Canada Inc., 2022), p. 693.

² *Legislation Act, 2006*, S.O. 2006, c. 21, Sched. F. The *Legislation Act, 2006* was proclaimed in force on July 25, 2007. It repealed and replaced the *Statutes Act*, the *Regulations Act*, and the *Interpretation Act*, and assembled all provisions about the publication, citation, and interpretation of Ontario legislation into a single piece of legislation.

³ Sullivan, pp. 695, 696; *Reference re Criminal Law Amendment Act, 1968-69*, [1970] S.C.J. No. 38; *Royal Bank of Canada v. Saskatchewan Power Corp.*, [1990] S.J. No. 706.

⁴ *Legislation Act, 2006*, s. 8(2).

⁵ *Ibid.* s. 10.

⁶ [E-Laws](#) provides online access to official copies of Ontario's statutes and regulations.

⁷ *Legislation Act, 2006*, s. 11(1).

The date of Royal Assent is included in the enacted version of a bill, which can be found on the following two websites:

- On the "[All bills](#)" page of the Legislative Assembly of Ontario website: locate the bill version of the Act. If Royal Assent occurred, its date can be found under the "Status" tab. Alternatively, it can be found on the title page of the pdf version of the Royal Assent version of a bill.

On [e-Laws](#): the Royal Assent date appears above the table of contents near the top of the source law version of an Act.

⁸ *Legislation Act, 2006*, s. 34(1). Information about bills that have received Royal Assent is found in the "Parliamentary Notice" section of [The Ontario Gazette](#).

⁹ The commencement provision is generally the second-last section of an Act. Commencement provisions can be located on the following two publicly available websites:

- On the "[All bills](#)" page of the website of the Legislative Assembly of Ontario website: in the Royal Assent version of a bill.
- On [e-Laws](#): in the source law version of an Act.

Infrequently, a commencement provision is amended before an Act comes into force. In such a case, the amended commencement date would not be reflected in the Royal Assent version or the original source law version of an Act. On e-Laws, amended commencement provisions are reflected in two places: 1) in a note shaded in grey above the relevant amendment, and 2) by expanding the "Section Amendments with date in force (d/m/y)" below the commencement provision and determining whether a commencement provision was amended. See for example: *Not-for-Profit Corporations Act, 2010*, S.O. 2010, c. 15, s. 249. Subsequent amendments to amending

provisions can be tracked by expanding the Legislative History above the table of contents at the top of an Act.

¹⁰ Consolidated law is a version of a statute or regulation that shows: any amendments made to the statute or regulation, and any changes made to the statute or regulation under the change powers. Source law is law as made by the person or body with the authority to make it. In the case of statutes, the source law is the statute as enacted by the Legislature. For further information, see e-Laws, [Definitions](#).

¹¹ Sullivan, p. 699 and F.A.R. Bennion, D. Bailey and L. Norbury, *Bennion on Statutory Interpretation*, 7th ed. (London: LexisNexis, 2017), pp. 169-170. See also Bryan Schwarz and Darla Rettie, “Rick Mantey: Exposing the invisible,” (2001) 28:2 *Manitoba Law Journal* 187 at 194-195.

¹² Sullivan, p. 702.

¹³ For example, the *Making Ontario Open for Business Act, 2018*, S.O. 2018, c. 14 which repealed certain not-yet-in-force provisions of Schedule 1 to the *Fair Workplaces, Better Jobs Act, 2017*, S.O. 2017, c. 22.

¹⁴ *Legislation Act, 2006*, s. 9(1).

¹⁵ *Ibid.*, s. 9(2).

¹⁶ In fact, until 1918, silence in an Ontario Act meant that the Act came into force upon assent. In 1919, the rule was changed to indicate that unless otherwise provided, an Act came into force on the 60th day after assent. Yet a different rule was adopted in 1925 and continued to apply until 2007. In particular, during this period the *Statutes Act* held that, in general, unless otherwise provided, every Act took effect on the 60th day after the end of the session at which it was passed. See *The Interpretation Act*, S.O. 1867-68, c. 1, s. 4; *The Statute Law Amendment Act, 1918*, S.O. 1918, c. 20, s. 1; *The Statutes Act, 1925*, S.O. 1925, c. 6, s. 2; and the *Statutes Act*, R.S.O. 1990, c. S.21, s. 5. Section 134, para. 4 of the *Legislation Act, 2006* repealed the *Statutes Act*.

¹⁷ *Legislation Act, 2006*, s. 8(1).

¹⁸ *Ontario Society for the Prevention of Cruelty to Animals Amendment Act, 2015*, S.O. 2015, c. 10, s. 11.

¹⁹ *Modernizing Regulation of the Legal Profession Act, 2013*, S.O. 2013, c. 17, s. 28(2) and (3). This Act also brings sections into effect upon Royal Assent and proclamation and so would fall in the “varied in force” date category discussed below.

²⁰ *Smart Growth for Our Communities Act, 2015*, S.O. 2015, c. 26, s. 39.

²¹ *Amendments Because of the Supreme Court of Canada Decision in M. v. H. Act, 1999*, S.O. 1999, c. 6, s. 68(3). Sections 1–24 and 26–68 came into force in this way.

²² Sullivan, p. 772, footnote 173. And on p. 770, Sullivan notes that “a court must determine whether there are sufficient grounds to infer that the legislature intended its new legislation to apply despite its impact on those affected.”

²³ *Ibid.*, p. 770. Sullivan notes that “There is no fixed formula for signaling a retroactive intent. Any sufficient indication that the legislation is meant to change the law for the past as well as the future will do.”

²⁴ Peter W. Hogg and Wade K. Wright, *Constitutional Law of Canada*, loose-leaf, 5th ed. suppl. (Toronto: Thomson Reuters Canada Ltd., 2022), at para.

51:26; *Canadian Charter of Rights and Freedoms*, s. 11(g), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c. 11.

²⁵ For a list of proclamations applicable to Acts contained in the Revised Statutes of Ontario, 1990 or Acts enacted on or after January 1, 1991, see the [Table of Proclamations](#) published on the e-Laws website. This list also sets out provisions that have not yet been proclaimed into force.

²⁶ *Legislation Act, 2006*, s. 73. Under s. 87 of the Act, the “Lieutenant Governor in Council” is defined as “the Lieutenant Governor, acting by and with the advice of the Executive Council of Ontario”.. The *Ontario Gazette Act* requires that, in general, where a proclamation is made, it must be published in *The Ontario Gazette*. See *Ontario Gazette Act*, R.S.O. 1990, c. O.3, s. 2(1)(a). Issues of [The Ontario Gazette](#) dating back to January 2000 can be found.

Proclamations can also be found through the [Orders in Council page](#). The e-Laws website has a [table of proclamations](#) listing public statutes and provisions of public statutes that came into force on proclamation, have been proclaimed to come into force on a future date, or have not yet been proclaimed.

²⁷ *Legislation Act, 2006*, s. 75(1).

²⁸ OIC 121/2013, (2013) Ont. Gaz. 146-05, 203.

²⁹ OIC 305/2013, (2013) Ont. Gaz. 146-10, 575.

³⁰ OIC 848/2013, (2013) Ont. Gaz. 146-25, 1743.

³¹ OIC 780/2018, (2018) Ont. Gaz. 151-19, 2611.

³² OIC 995/2018, (2018) Ont. Gaz. 151-30, 3313.

³³ OIC 1113/2018, (2018) Ont. Gaz. 151-44, 4007.

³⁴ *Legislation Act, 2006*, s. 75(2).

³⁵ For further discussion of this issue, see Craig E. Jones, “The Partial Commencement of Acts: A Constitutional Criticism of the Lieutenant Governor in Council’s ‘Line-Item Veto’ Power,” 5:2 (2000) *Review of Constitutional Studies*: 178 and 193 and Alex Stedman, “Unproclaimed legislation – the delegation of legislative power to the executive,” 28:1 (2013) *Australasian Parliamentary Review*: p. 85.

³⁶ *Legislation Act, 2006*, s. 8(3).

³⁷ See, for example, the *Strengthening Quality and Accountability for Patients Act, 2017*, S.O. 2017, c. 25, s. 2(3) and *Providing More Care, Protecting Seniors, and Building More Beds Act, 2021*, S.O. 2021, c. 39, s. 2(3).

³⁸ *Ministry of Energy Act, 2011*, S.O. 2011, c. 9, Sched. 25.

³⁹ [1970] S.C.R. 777, 1970 CanLII 129.

⁴⁰ Pierre-André Côté, *The Interpretation of Legislation in Canada*, 4th ed. (Toronto: Carswell, 2011), p. 103.

⁴¹ Sullivan, p. 701.

⁴² Bennion, Bailey and Norbury, p. 172. The authors point to a House of Lords decision which found that the Home Secretary “had a duty to keep under consideration from time to time the question whether or not the situation had arrived when it was appropriate to bring the statutory provisions into force, so could not lawfully decide that they would *never* be implemented

[emphasis in original].” See *R v Secretary of State for the Home Department ex p Fire Brigades Union* [1995] 2 AC 513.

⁴³ Sullivan, p. 699.

⁴⁴ The *Good Government Act, 2009*, S.O. 2009, c. 33, Sched. 2, s. 43(7) added s. 10.1 to the *Legislation Act, 2006*. This provision is very similar to federal legislation that had been passed the previous year. See the *Statutes Repeal Act*, S.C. 2008, c. 20.

⁴⁵ *Legislation Act, 2006*, s. 10.1(2). See, for example, *Report under section 10.1 of the Legislation Act, 2006*, Sessional Paper 171, tabled February 27, 2017 and *Report under section 10.1 of the Legislation Act, 2006*, Sessional Paper 439, tabled February 21, 2018.

⁴⁶ *Legislation Act, 2006*, s. 10.1(2).

⁴⁷ *Ibid.*, s. 10.1(3). These lists can be found among the [Legislative tables](#) on e-Laws.

⁴⁸ S.O. 2002, c. 31, c. 29, and c. 5, respectively.

⁴⁹ S.O. 2010, c. 15, ss. 105, 111 (3), (4), 116 (3), 118 (4), (5), 214-217, 219, 220, 222, 248 (1).

⁵⁰ For instance, a particularly complex commencement provision can be found in s. 76 of the *All Families Are Equal Act (Parentage and Related Registrations Statute Law Amendment)*, 2016, S.O. 2016, c. 23, which states:

(1) Subject to subsections (2) to (12), this Act comes into force on the day it receives Royal Assent.

(2) The following provisions come into force on a day to be named by proclamation of the Lieutenant Governor:
[specified sections and sub-sections are listed]

(3) Subsections 1(2) and 18(11) come into force on the later of the day subsection 1 (1) comes into force and the day subsection 1 (3) of Schedule 33 to the *Jobs for Today and Tomorrow Act (Budget Measures)*, 2016 comes into force.

[. . .]

(5) Subsection 21(2) comes into force one year after the day this Act receives Royal Assent.

[. . .]

(11) Section 60 comes into force on the later of the day subsection 1(1) comes into force and the day subsection 1(1) of the *Not-for-Profit Corporations Act, 2010* comes into force.

[. . .]

(12) Section 65 comes into force on the later of the day subsection 1(1) comes into force and the day section 2 of the *Pooled Registered Pension Plans Act, 2015* comes into force.

See also the remaining provisions of s. 76.

⁵¹ *Legislation Act, 2006*, s. 17.

⁵² See, for example, the *Teaching Professions Act*, R.S.O. 1990, c. T.2, s. 12(4), the *Financial Services Regulatory Authority of Ontario Act, 2016*, S.O. 2016, c. 37, Sched. 8, s. 9(10), and the *Digital Platform Workers' Rights Act, 2022*, SO 2022, c 7, Sch 1, ss. 43(13), 48(11).

⁵³ *Legislation Act, 2006*, s. 22(1).

⁵⁴ Ibid, s. 18(1). Qualifications to the filing requirement are contained in ss. 19-21. (The *Regulations Act*, R.S.O. 1990, which was repealed by the *Legislation Act, 2006*, also contained a filing requirement but did not set a time frame for filing.)

⁵⁵ Ibid., s. 34(2).

⁵⁶ O. Reg. 79/20 (Electronic Filing of Regulations) made under the *Legislation Act, 2006*, s. 1.

⁵⁷ *Legislation Act, 2006*, s. 19(1)-(2).

⁵⁸ Ibid., s. 22(1).

⁵⁹ This is typically done within two business days. See the discussion of "[Source law](#)" on the E-Laws website.

⁶⁰ *Legislation Act, 2006*, s. 25(1). To date, no regulation prescribing other timelines has been filed.

⁶¹ Ibid., s. 23(2). The publication requirement does not apply in certain situations. See, for example, the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, s. 7.2(2).

⁶² See the *Insurance Act*, R.S.O. 1990, c. I.8, s. 121(2).

⁶³ *Endangered Species Act, 2007*, S.O. 2007, c. 6, s. 7(5).

⁶⁴ *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, s. 7.2(1)(a). Presumably because orders made under ss. 7.0.2(4) or 7.1(2) of this Act are effective immediately, the source versions of such orders specify the time that they were made.

⁶⁵ The commencement provision is generally the last section of a regulation. On [e-Laws](#), commencement provisions can be found in the source law version of a regulation. However, if a commencement provision is subsequently amended before a regulation comes into force, the amended commencement date will not be reflected in the original source law version of the regulation. For example, O. Reg. 331/11 made under the *Personal Health Information Protection Act, 2004* amended O. Reg. 329/04. The commencement provision of O. Reg. 331/11 was amended several times. On e-Laws, these amendments can be tracked by expanding the Legislative History above the Table of Contents of O. Reg. 329/04.

⁶⁶ In the case of regulations, the source law is the regulation as filed with the Registrar of Regulations. For further information, see e-Laws, [Definitions](#).

⁶⁷ O. Reg. 637/21 made under the *Employment Standards Act, 2000*, S.O. 2000, c. 41, s. 6.

⁶⁸ O. Reg. 236/14 made under the *Insurance Act*, R.S.O. 1990, c. I.8, s. 2.

⁶⁹ O. Reg. 494/22 made under the *Health Insurance Act*, R.S.O. 1990, c. H.6, s. 5.

⁷⁰ O. Reg. 173/17 made under the *Child and Family Services Act*, R.S.O. 1990, c. C.11, s. 2.

⁷¹ See s. 2 of O. Reg. 21/15 made under the *Ontario College of Trades and Apprenticeship Act, 2009*, S.O. 2009, c. 22.

⁷² For example, O. Reg. 46/04, made under the *Health Insurance Act*, R.S.O. 1990, c. H.6, and filed on March 1, 2004, provides in s. 2 that "This Regulation shall be deemed to have come into force on January 1, 2002." Somewhat similarly, O. Reg. 2/15, made under the *Ontario Disability Support Program Act, 1997*, S.O. 1997, c. 25, Sched. B, and filed on January 7, 2015, provides in

s. 2 that it comes into force “on January 1, 2015, or, if this Regulation is filed after that date, it is deemed to have come into force on that date.” O. Reg. 182/17 made under the *Land Transfer Tax Act*, R.S.O. 1990, c. L.6, and filed on June 8, 2017, provides in s. 9 that it “is deemed to have come into force on the day Schedule 1 to the *Budget Measures Act (Housing Price Stability and Ontario Seniors’ Public Transit Tax Credit), 2017* comes into force.” Schedule 1 to the *Budget Measures Act (Housing Price Stability and Ontario Seniors’ Public Transit Tax Credit), 2017*, S.O. 2017, c. 17, came into force on the date of Royal Assent, June 1, 2017.

⁷³ Sullivan, p. 801.

⁷⁴ Pursuant to Standing Order 110(g)(iv) of the Legislative Assembly, the Standing Committee on Procedure and House Affairs, in examining regulation, shall have regard to the following guideline: “Regulations should not have retrospective effect unless clearly authorized by statute.”

⁷⁵ *Land Transfer Tax Act*, R.S.O. 1990, c. L.6, s. 22(3). Accordingly, O. Reg. 343/18 was filed on April 26, 2018, but the commencement provision at s. 2 indicated that “this Regulation is deemed to have come into force on January 1, 2018.”

⁷⁶ *Animal Health Act, 2009*, S.O. 2009, c. 31, s. 65(7).

⁷⁷ *Employment Standards Act, 2000*, s. 141(2.2.1). Accordingly, O. Reg. 228/20 was filed on May 29, 2020, but the commencement provision at s. 12(2) indicated that “subsection 2 (1) is deemed to have come into force on January 25, 2020.”

⁷⁸ *Education Act*, R.S.O. 1990, c. E.2, s. 58.1(3).

⁷⁹ *Planning Act*, R.S.O. 1990, c. P.13, s. 70.5(3).

⁸⁰ Section 9, O. Reg. 166/14 made under the *Ontario Disability Support Program Act, 1997*, S.O. 1997, c. 25, Sched. B.

⁸¹ *Legislation Act, 2006*, s. 10(1). The scope of s. 10 extends beyond regulation-making powers conferred by an Act not yet in force—permitting, for example, appointments to be made.

⁸² *Ibid.*, s. 10(2).

⁸³ For example, the *Provincial Animal Welfare Services Act, 2019*, S.O. 2019, c. 13, received Royal Assent on December 5, 2019 and was proclaimed in force on January 1, 2020. Prior to the coming into force of the Act, five regulations were made under the Act – O. Regs. 443/19, 444/19, 445/19, 447/19, and 448/19. The commencement provisions of the regulations provided that they would come into force on the later of the day specified sections of the Act came into force and the day the regulation was filed. Therefore, the regulations came into force when the specified provisions of the Act came into effect, on January 1, 2020.