

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 42ND LEGISLATURE, ONTARIO
69 ELIZABETH II, 2020

Bill 218

**An Act to enact the Supporting Ontario's Recovery Act, 2020
respecting certain proceedings relating to the coronavirus (COVID-19), to amend
the Municipal Elections Act, 1996 and to revoke a regulation**

The Hon. D. Downey
Attorney General

Government Bill

1st Reading October 20, 2020

2nd Reading October 27, 2020

3rd Reading

Royal Assent

*(Reprinted as amended by the Standing Committee on Justice Policy
and as reported to the Legislative Assembly November 16, 2020)*

(The provisions in this Bill will be renumbered after 3rd Reading)



This reprint of the Bill is marked to indicate the changes that were made in Committee.
The changes are indicated by underlines for new text and a ~~striketrough~~ for deleted text.

EXPLANATORY NOTE

SCHEDULE 1
SUPPORTING ONTARIO'S RECOVERY ACT, 2020

The *Supporting Ontario's Recovery Act, 2020* is enacted. Section 2 of the Act provides that no cause of action arises against any person as a direct or indirect result of an individual being or potentially being infected with or exposed to coronavirus (COVID-19) on or after March 17, 2020 as a direct or indirect result of an act or omission of the person if,

- (a) at the relevant time, the person acted or made a good faith effort to act in accordance with,
 - (i) public health guidance relating to coronavirus (COVID-19) that applied to the person, and
 - (ii) any federal, provincial or municipal law relating to coronavirus (COVID-19) that applied to the person; and
- (b) the act or omission of the person does not constitute gross negligence.

Proceedings directly or indirectly based on or related to any such matter may not be brought, and any that exist when the Act comes into force are deemed to have been dismissed without costs. The section also applies with respect to a person who is vicariously liable for the acts or omissions of another person, if the other person's liability is negated in relation to any such act or omission under subsection 2 (1). The terms "good faith effort", "law", "public health guidance", and "person" are defined and clarified in section 1 of the Act.

The Act also sets out an exception to section 2 relating to the closure of a person's operations under a law, as well as exceptions relating to employment and the performance of work.

SCHEDULE 2
MUNICIPAL ELECTIONS ACT, 1996

Currently, the *Municipal Elections Act, 1996* provides a framework for conducting ranked ballot elections for offices on a municipal council. Amendments are made to remove that framework. Ontario Regulation 310/16 (Ranked Ballot Elections) made under the Act is revoked.

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the Municipal Elections Act, 1996 and to revoke a regulation**

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Supporting Ontario’s Recovery and Municipal Elections Act, 2020*.

SCHEDULE 1
SUPPORTING ONTARIO'S RECOVERY ACT, 2020

Interpretation

1 (1) In this Act,

“good faith effort” includes an honest effort, whether or not that effort is reasonable; (“effort de bonne foi”)

“law” means a statute or any regulation, order, by-law or other instrument made under a statute; (“règle de droit”)

“public health guidance” means advice, recommendations, directives, guidance or instructions given or made in respect of public health, regardless of the form or manner of their communication, by any of the following:

- i. The Chief Medical Officer of Health appointed under the *Health Protection and Promotion Act*, an Associate Chief Medical Officer of Health under that Act or the Office of the Chief Medical Officer of Health.
- ii. A person appointed as a medical officer of health or associate medical officer of health of a board of health under the *Health Protection and Promotion Act*, or an employee of a board of health.
- iii. A public health official of the Government of Canada.
- iv. A minister or ministry of the Government of Ontario or Canada, or an officer or employee in such a ministry.
- v. An agency of the Government of Ontario or Canada or an officer or employee in such an agency.
- vi. A municipality or an officer or employee of a municipality.
- vii. A regulatory body having jurisdiction over a person, or an officer or employee of such a regulatory body. (“orientations en matière de santé publique”)

Same

(2) A reference in this Act to a person includes a reference to any individual, corporation or other entity, and includes the Crown in right of Ontario.

No effect on defence, immunity

(3) Nothing in this Act shall be read as abrogating or limiting any defence or immunity that exists in law or at common law.

Protection from liability

2 (1) No cause of action arises against any person as a direct or indirect result of an individual being or potentially being infected with or exposed to coronavirus (COVID-19) on or after March 17, 2020 as a direct or indirect result of an act or omission of the person if,

- (a) at the relevant time, the person acted or made a good faith effort to act in accordance with,
 - (i) public health guidance relating to coronavirus (COVID-19) that applied to the person, and
 - (ii) any federal, provincial or municipal law relating to coronavirus (COVID-19) that applied to the person; and
- (b) the act or omission of the person does not constitute gross negligence.

Same

(2) Subsection (1) applies regardless of any conflict or inconsistency in the public health guidance or laws applicable to the person.

Same

(3) A difference in the degree of specificity respecting a matter does not constitute a conflict or inconsistency for the purposes of subsection (2).

Proceedings barred

(4) No proceeding that is directly or indirectly based on or related to anything referred to in subsection (1) may be brought or maintained against a person.

Retrospective effect

(5) Subsection (4) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before, on or after the day this Act comes into force.

Proceedings dismissed

(6) Any proceeding referred to in subsection (4) that is commenced before the day this Act comes into force is deemed to have been dismissed, without costs, on the day this Act comes into force.

No compensation payable

(7) No person is entitled to any compensation or any other remedy or relief for the extinguishment or termination of rights under this Act.

Vicarious liability

(8) This section applies with necessary modifications with respect to a person who is vicariously liable for the acts or omissions of another person, where subsection (1) would negate the liability of the other person in relation to any such act or omission.

Non-application, required closure

3 Section 2 does not apply with respect to acts or omissions of a person that,

- (a) occurred while a law required the person's operations to close, in whole or in part; and
- (b) relate to an aspect of the person's operations that was required to close under the law.

Non-application, employment and performance of work

4 (1) In this section,

“occupational disease”, “Schedule 1 employer”, “Schedule 2 employer”, “survivor” and “worker” have the same meaning as in the *Workplace Safety and Insurance Act, 1997*.

Causes of action, proceedings unaffected

(2) Section 2 does not apply with respect to any of the following:

1. A cause of action of a worker who is or was employed by a Schedule 1 employer or Schedule 2 employer, or of the worker's survivor, in respect of a personal injury by accident arising out of and in the course of the worker's employment or an occupational disease.
2. A cause of action of a worker who is or was employed by a Schedule 1 employer or Schedule 2 employer, or of the worker's survivor, to which the Workplace Safety and Insurance Board or Schedule 2 employer, as the case may be, is subrogated under section 30 of the *Workplace Safety and Insurance Act, 1997*.
3. A cause of action of an individual in respect of an actual or potential exposure to or infection with coronavirus (COVID-19) that occurred in the course, or as a result, of employment with a person or in the performance of work for or supply of services to a person.
4. A proceeding arising from a cause of action referred to in paragraph 1, 2 or 3.

No effect on jurisdiction

(3) Nothing in this Act affects the exclusive jurisdiction of the Workplace Safety and Insurance Appeals Tribunal to determine a matter described in subsection 31 (1) of the *Workplace Safety and Insurance Act, 1997*.

Conflict

(4) In the event of a conflict between this Act and the *Workplace Safety and Insurance Act, 1997*, the *Workplace Safety and Insurance Act, 1997* prevails to the extent of the conflict.

Crown bound

5 This Act binds the Crown.

Commencement

6 The Act set out in this Schedule comes into force on the day the *Supporting Ontario's Recovery and Municipal Elections Act, 2020* receives Royal Assent.

Short title

7 The short title of the Act set out in this Schedule is the *Supporting Ontario's Recovery Act, 2020*.

SCHEDULE 2
MUNICIPAL ELECTIONS ACT, 1996

1 (1) The definition of “prescribed” in subsection 1 (1) of the *Municipal Elections Act, 1996* is amended by striking out “or, for references in section 41.1, prescribed by the Lieutenant Governor in Council”.

(2) The definition of “ranked ballot election” in subsection 1 (1) of the Act is repealed.

2 Subparagraph 1 iii of section 3 of the Act is amended by striking out “that has not passed a by-law authorizing the use of a ranked ballot election” at the end.

3 Paragraph 3 of subsection 7 (3) of the Act is repealed.

4 Section 31 of the Act is amended by striking out “fourth Friday in July” and substituting “[second Friday in September](#)” and substituting “[third Friday in August](#)”.

5 Sections 41.1 and 41.2 of the Act are repealed.

6 (1) Clause (a) of subsection 42 (2) of the Act is amended by striking out “in the year before the year of the election” and substituting “in the year of the election”.

(2) Subparagraph 1 i of subsection 42 (4) of the Act is amended by striking out “before December 31 in the year before the year of the election” and substituting “before June 1 in the year of the election”.

7 Subsection 51 (3) of the Act is repealed.

8 Subsection 60 (4) of the Act is repealed.

9 Paragraph 5 of subsection 83 (7) of the Act is repealed.

10 Clause (a) of subsection 95 (1) of the Act is amended by striking out “regulations, except in sections 41.1 and 41.2” and substituting “regulations”.

Revocation

11 Ontario Regulation 310/16 (Ranked Ballot Elections) made under the Act is revoked.

Commencement

12 This Schedule comes into force on the day the *Supporting Ontario’s Recovery and Municipal Elections Act, 2020* receives Royal Assent.