

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

# SELECT COMMITTEE ON EMERGENCY MANAGEMENT OVERSIGHT

## FIRST INTERIM REPORT

1<sup>st</sup> Session, 42<sup>nd</sup> Parliament  
69 Elizabeth II

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The Honourable Ted Arnott, MPP  
Speaker of the Legislative Assembly

Sir,

Your Select Committee on Emergency Management Oversight has the honour to present its Report and commends it to the House.

Daryl Kramp, MPP  
Chair of the Committee

Queen's Park  
October 2020



# SELECT COMMITTEE ON EMERGENCY MANAGEMENT OVERSIGHT MEMBERSHIP LIST

1<sup>st</sup> Session, 42<sup>nd</sup> Parliament

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## **INTRODUCTION**

The Select Committee on Emergency Management Oversight is pleased to present its first interim report summarizing the Committee hearing that took place on August 24, 2020. In accordance with the Committee's terms of reference, the Solicitor General appeared as the Premier's designate and provided an oral report to the Committee. This report sets out a summary of the testimony and discussion from that day.

Further interim reports will follow. The Committee's final report will be a compilation of all interim reports.

To review the Solicitor General's full remarks and all questions posed by Committee members, reference should be made to the official *Hansard* transcript.

## **COMMITTEE MANDATE**

On July 13, 2020, the government House leader introduced a motion to appoint a Select Committee on Emergency Management Oversight. Following debate, the motion carried on July 15, 2020. The Committee was appointed to receive oral reports from the Premier or his designate(s) on any extensions of emergency orders by the Lieutenant Governor in Council related to the COVID-19 pandemic and the rationale for those extensions.

Reporting provisions under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* include a requirement that the Premier (or a Minister to whom the Premier delegates the responsibility) appear before and report to a standing or select committee designated by the Assembly, at least once every 30 days, concerning

- (a) orders that were extended during the reporting period; and
- (b) the rationale for those extensions.

Hearings consist of an opening statement from the Premier or his designate(s), followed by Committee member questions. The Committee is authorized to release interim reports summarizing each hearing.

The Committee's mandate is reproduced in full in Appendix A to this report.

## STATEMENT AND DISCUSSION

### Solicitor General's Statement

The Solicitor General, the Honourable Sylvia Jones, appeared before the Committee on August 24, 2020.

At the outset, the Solicitor General reviewed key aspects of the *Reopening Ontario Act, 2020 (Act)*. The Solicitor General stated that when the Act came into force on July 24, orders that were in effect at that time under the *Emergency Management and Civil Protection Act* were continued under this new legislation for 30 days, until August 23, 2020. The Act allows the government to extend orders for up to 30 days at a time and to amend certain orders if the amendments are related to specified subject matter. It does not permit the government to create new orders.

The Solicitor General stressed that decisions to extend or amend orders “are subject to careful consideration, guided by public health advice,” and informed the Committee that orders will be revoked, or permitted to expire, if they are no longer necessary. The Solicitor General commented that while all of Ontario has moved into stage 3 of reopening, this does not mean that the fight against COVID-19 is over and emphasized that emergency measures should be relaxed or lifted only when it is safe to do so.

The Solicitor General informed the Committee that 34 orders have been extended for an additional 30 days (until September 22) and two orders have been extended for less than 30 days. As well, minor amendments have been made to orders relating to rules for areas in stages 2 and 3, and the *Stages of Reopening* order.

The Solicitor General grouped extended orders by Ministry, with rationales for extension provided as follows:

#### *Ministry of the Attorney General*

- O. Reg. 73/20 (*Limitation Periods*) – Extended until September 14, 2020. This order is required to ensure access to justice is preserved by suspending limitation and other procedural time periods while court operations resume.
- O. Reg. 76/20 (*Electronic Service*) – The majority of Ministry staff are working remotely and will continue to do so for the foreseeable future.
- O. Reg. 129/20 (*Signatures in Wills and Powers of Attorney*) – Stakeholders have indicated they are still relying on this order for the safe execution of wills and powers of attorney in the absence of alternative processes.

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### *Ministry of Children, Community and Social Services*

- O. Reg. 121/20 (*Service Agencies Providing Services and Supports to Adults with Developmental Disabilities and Service Providers Providing Intervenor Services*) – Service providers will continue to have authority and flexibility to redeploy staff to support critical services for vulnerable individuals.
- O. Reg. 145/20 (*Work Deployment Measures for Service Agencies Providing Violence Against Women Residential Services and Crisis Line Services*) – Violence against women service providers will continue to have authority and flexibility to redeploy staff to support critical services for survivors of violence against women, and victims of human trafficking.
- O. Reg. 154/20 (*Work Deployment Measures for District Social Services Administration Boards*) – DSSABs will continue to have authority and flexibility needed to redeploy their staff to support critical services.
- O. Reg. 177/20 (*Congregate Care Settings*) – Staff movement across multiple employers will continue to be limited as an important infection prevention measure to protect staff and vulnerable clients.

### *Ministry of Education*

- O. Reg. 205/20 (*Education Sector*) – Facilitates voluntary redeployment of available publicly-funded school board employees to work in congregate care settings. This order was needed up to and including August 31, 2020, to allow employees to finish their current assignments and transition back into schools.

### *Ministry of Energy, Northern Development and Mines*

- O. Reg. 80/20 (*Electricity Price for RPP Consumers*) – On May 30, the government announced that regulated price plan (RPP) electricity consumers will be billed a flat, time-of-use COVID-19 recovery rate until October 31. This order will no longer be required as of 12 a.m. on November 1, 2020.

### *Ministry of the Environment, Conservation and Parks*

- O. Reg. 75/20 (*Drinking Water Systems and Sewage Works*) – Due to the disruption of the 2020 training year, many wastewater operators will be unable to complete training hours required by regulation. This order reduces the training requirement for 2020 and is necessary for continued compliance.

### *Ministry of Government and Consumer Services*

- O. Reg. 98/20 (*Prohibition on Certain Persons Charging Unconscionable Prices for Sales of Necessary Goods*) – Reports of price gouging still exist.

*Ministry of Health*

- O. Reg. 74/20 (*Work Redeployment for Certain Health Services Providers*) – The hospital sector continues to experience increased demands and pressures. An extension is necessary to address surgical backlogs, human resource shortages and to ensure sufficient hospital beds for a potential second wave.
- O. Reg. 116/20 (*Work Deployment Measures for Boards of Health*) – Increased demands on public health units are likely to continue. This order allows boards of health to take any reasonable, necessary measures with respect to work deployment and staffing to respond to, prevent and alleviate the COVID-19 pandemic.
- O. Reg. 156/20 (*Deployment of Employees of Service Provider Organizations*) – This order is needed due to ongoing staffing issues at long-term care and retirement homes.
- O. Reg. 163/20 (*Work Deployment Measures for Mental Health and Addictions Agencies*) – This order gives health service providers the required authority to maintain human health resources flexibility, especially as mental health and addictions providers begin the gradual resumption of in-person services.
- O. Reg. 190/20 (*Access to Personal Health Information by Means of the Electronic Health Record*) – Coroners need to continue to access the electronic health record to support the ongoing requirements of the medical system.
- O. Reg. 193/20 (*Hospital Credentialing Processes*) – This order is still necessary as the hospital sector continues to experience increased demands and pressures. Maintaining flexible health human resources will be critical.
- O. Reg. 82/20 (*Rules for Areas in Stage 1*) – While there are no areas in stage 1 at this time, it is necessary to extend this order as a precautionary measure.
- O. Reg. 263/20 (*Rules for Areas in Stage 2*) – It is essential to extend this order as a precautionary measure. The order has been amended to require contact information for only one person in a party when dining in restaurants.
- O. Reg. 363/20 (*Stages of Reopening*) – This order remains necessary for the ability to return a public health unit region to stage 1 or stage 2, if required.
- O. Reg. 364/20 (*Rules for Areas in Stage 3*) – This order is necessary to ensure that current public health measures or restrictions can be in place. It was amended recently to require contact information for only one person in a party when dining in restaurants, bars, and other food and drink establishments, or when using tour and guiding services.

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### *Ministry of Long-Term Care*

- O. Reg. 77/20 (*Work Deployment Measures in Long-Term Care Homes*) – Flexibility for long-term care home operators to recruit and reassign staff remains crucial to help prevent and manage potential outbreaks.
- O. Reg. 95/20 (*Streamlining Requirements for Long-Term Care Homes*) – This order will continue to ensure that long-term care homes have flexibility as they transition to a more stable state. Streamlining requirements under the order would ensure adequate staffing and support residents' safety.
- O. Reg. 146/20 (*Limiting Work to a Single Long-Term Care Home*) – This order is necessary as an important component of infection prevention.
- O. Reg. 210/20 (*Management of Long-Term Care Homes in Outbreak*) – This order is necessary to allow existing mandatory management orders to continue and to expedite processing of new orders issued by the Ministry. Management orders enable the Director to swiftly take appropriate actions to reduce or alleviate harm to residents and staff in homes that are in outbreak.

### *Ministry of Municipal Affairs and Housing*

- O. Reg. 141/20 (*Temporary Health or Residential Facilities*) – The Ministry of Health continues to work with the Ontario Health regional leads and hospitals to ensure there is adequate capacity in the hospital sector to address possible future outbreaks of COVID-19 and the flu season.
- O. Reg. 157/20 (*Work Deployment Measures for Municipalities*) – Continuity of service delivery at the municipal level is critical. Going forward, municipalities will continue to need flexibility to deal with unanticipated local staffing needs, depending on how the virus spreads.
- O. Reg. 345/20 (*Patios*) – This order was extended to continue to allow municipalities to authorize the establishment or expansion of bar and restaurant patios. The hospitality sector needs this order to optimize the time-limited and critical summer and fall patio seasons and to support jobs.

### *Ministry of Seniors and Accessibility*

- O. Reg. 118/20 (*Work Deployment Measures in Retirement Homes*) – Allows flexibility for retirement home operators to recruit and reassign staff. This order remains crucial for helping to prevent and manage potential outbreaks.
- O. Reg. 158/20 (*Limiting Work to a Single Retirement Home*) – This order remains necessary as an important component of infection prevention.

- O. Reg. 240/20 (*Management of Retirement Homes in Outbreak*) – Retirement homes are still going into outbreak. Measures are needed to allow the Retirement Homes Regulatory Authority to act quickly in case of outbreak and when an operator is unable or unwilling to manage operations of a home.

#### *Ministry of the Solicitor General*

- O. Reg. 114/20 (*Enforcement of Orders*) – This order provides police officers and other provincial offences officers with necessary enforcement powers.
- O. Reg. 132/20 (*Use of Force and Firearms in Policing Services*) – Use of force and firearms training requirements were suspended during the provincial declaration of emergency. Additional time is needed for police services to reinstate regular training.
- O. Reg. 192/20 (*Certain Persons Enabled to Issue Medical Certificates of Death*) – This order allows registered nurses appointed as coroner investigators to complete medical certificates of death instead of a physician or a nurse practitioner, giving physicians and nurse practitioners more time to focus on patient care.

#### *Treasury Board Secretariat*

- O. Reg. 195/20 (*Treatment of Temporary COVID-19 Related Payments to Employees*) – Extending this order provides additional time for employers to wind down COVID-19 related compensation that they may be providing.
- O. Reg. 241/20 (*Special Rules Re Temporary Pandemic Pay*) – Extending this order will help facilitate the implementation of temporary pandemic payments for work performed during the temporary pandemic pay eligibility period.

The Solicitor General concluded her remarks by informing the Committee that the government will conduct ongoing reviews of all orders and continue to move forward in a way that is responsible and accountable to the people of Ontario.

## **Discussion**

### *Questions from the Committee*

Following her report to the Committee, the Solicitor General responded to questions on a range of issues from the Committee, including:

- *Prorogation* – When asked whether the Committee should have been made “prorogation-proof,” the Solicitor General advised that she was before the Committee in order to speak to the *Reopening Ontario Act, 2020* and the rationale for extending certain orders and could not presuppose or guess what will happen in the months ahead.

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- *Collective Agreements* – The Solicitor General was asked why orders did not account for regional differences, allowing for collective agreement provisions to be suspended only according to what is happening in local communities. The Solicitor General indicated that the work deployment order became critical at the beginning of the outbreak, mentioning examples of hospital workers “stepping up” and establishing assessment centres within days, because they knew it was critical to get the centres operating. The Solicitor General also emphasized that enabling health workers who traditionally worked in a hospital setting to go into understaffed areas to assist was “a game-changer” in terms of protecting individuals in congregate settings.
  - *Pandemic Pay* – Some Committee members questioned why all workers who were subject to restrictions on their rights under collective agreements were not given pandemic pay. The Solicitor General responded that this was a joint program between the federal and provincial governments involving a collective decision about who most needed the pandemic pay: “we’ve heard the Premier say many times that if he could have given it to everyone who continued in their essential services role, he would have.”
  - *Direct Contact with Clients* – A Committee member observed that, with Ministry of the Attorney General staff and various agencies continuing to work from home, direct interventions with clients (e.g., street outreach related to homelessness and mental health) have been lacking. The Solicitor General was asked whether there is a plan “to better serve those hardest to serve in our society.” The Solicitor General stressed that every Ministry is looking at this issue and mentioned a recent announcement in Kenora regarding expansion of the Bear Clan pilot project as an example.
  - *Criteria for Extending or Revoking Orders* – Committee members asked about the criteria for deciding which orders would be extended and which would be revoked or allowed to expire. The Solicitor General noted in response that her Ministry worked with each Ministry that had requested its emergency order, confirmed the need for extension and had in-depth conversations about whether another pathway (e.g., Ministerial Directive or regulatory change) could be used to achieve the goal. Ministries engaged with stakeholders, the health command table, and ultimately, with Cabinet.
  - *Comparison to Federal Legislation* – The Solicitor General was asked to comment on potential comparisons between the *Reopening Ontario Act, 2020* and legislation passed by the federal government. The Solicitor General responded that “there is very little to compare,” noting that the Act “has no ability to tax” and reminding Committee members that the Act is limited to a “one-year lifespan,” unless the Legislature decides that the Act needs to be extended for an additional year.

- *Criteria for Extending the Act* – A Committee member asked what metrics would be used in order to determine whether the Act would be extended for another year. The Solicitor General responded that this would likely depend on factors such as case numbers, the status of a vaccine and the advice of medical experts and the health command table.
- *Criteria for Returning a Managed Long-Term Care Home* – A Committee member wanted to know what criteria is used in determining when to return a long-term care home that has been under management by a local hospital or by the military to its original management. The Solicitor General emphasized that staffing is the most significant consideration.
- *Mobile Testing* – the Solicitor General was asked what measures are being considered to increase support for mobile testing. The Solicitor General responded, noting that mobile testing was brought to congregate care settings, jails and other institutions. The Solicitor General indicated that mobile testing sites started in congregate care settings and moved into communities that seemed to have a higher prevalence of outbreaks. When asked about predictability for mobile testing sites, the Solicitor General stressed that localized testing is “a really important piece” and that it is also important to watch the numbers and track regional differences.
- *Temporary Health or Residential Facilities* – One Committee member asked for an explanation of this particular order (O. Reg. 141/20). The Solicitor General explained that this was a preparatory order related to a potential situation of having a high number of patients who needed to be isolated or in an ICU. The goal is to provide the ability to set up treatment areas outside of traditional hospital settings, if needed.
- *The Pandemic of Isolation* – A Committee member observed that all members have constituents calling with concerns about loved ones whom they have not been able to visit. The member asked about the government’s plan to ensure that caregivers and family members will have access to their loved ones. The Solicitor General acknowledged that people want to be with their loved ones, but cautioned that this has to be balanced with the concern about getting COVID-19. The Solicitor General commented that many long-term care facilities have been creative about finding ways to enable visiting, in a limited way.
- *Residential Tenancy Evictions* – Regarding housing, the Solicitor General was asked about the decision not to further extend the emergency order preventing residential tenancy evictions. In response, the Solicitor General stated that it was reasonable and fair to stop evictions from happening while tribunals had been put in abeyance. The Solicitor General noted that, as tribunals have restarted, that is the process for tenants to appear and be heard, and protections are in place through that process.

- *Commercial Tenancy Evictions* – The Solicitor General was also asked about potential evictions for commercial tenants. In responding, the Solicitor General observed that the program in question was a federal program that had protections for commercial landlords and commercial tenants. The Solicitor General commented that the Premier and the federal ministers have been able to work together and collaborate, with “massive investment” from federal and provincial governments to municipal partners.
- *Vacation for Essential Workers* – The Solicitor General was asked what is being done to ensure that employees working in essential service roles and those who have been redeployed are getting vacations and breaks, when possible. The Solicitor General responded by noting that she shared the Committee member’s concern and commented that this was “top of mind” for many operational ministries. As an example, the Solicitor General noted that she had spoken with a number of fire chiefs and police chiefs who are compelling their members to take vacation because they want to make sure that if there is a second wave, workers have had a break and are ready.
- *Enforcement of Orders* – The Solicitor General was asked to comment on the framework for enforcement of orders. In her response, the Solicitor General emphasized “the critical need to educate first and enforce second.” The Solicitor General commented that in addition to police officers, municipal bylaw officers and conservation officers have been a “natural fit” to enforce some orders. Changes are communicated through all-chiefs memos and by updating [the Ministry of] Municipal Affairs [and Housing] and the Association of Municipalities of Ontario. The Premier has also provided daily updates. The Solicitor General acknowledged that confusion and regional differences have posed some challenges for enforcement officers, but stressed that they have done “an admirable job.”

#### *Comments on Procedure*

Some Committee members expressed their concern about the *Reopening Ontario Act, 2020* and questioned the Solicitor General regarding the decision to appoint a Select Committee, instead of debating the extension of orders in the House. In response, the Solicitor General observed that she has found Select Committees to be a valuable resource to find answers and solutions for unprecedented problems. The Solicitor General emphasized that the citizens of Ontario could not stay perpetually in a declaration of emergency. She noted that it was important to allow people to move forward, with “a signal from their Premier and their government that they were doing the right things and it was making a difference.”

**APPENDIX A:  
TERMS OF REFERENCE\***

That a Select Committee on Emergency Management Oversight be appointed to receive oral reports from the Premier or his designate(s) on any extensions of emergency orders by the Lieutenant Governor in Council related to the COVID-19 pandemic and the rationale for those extensions; and

That the Committee shall have a membership of up to eleven Members, comprised as follows:

- Up to seven members of the Government party
- Up to three members of the Official Opposition
- Up to one Independent Member; and

That the House Leaders of each of the Recognized Parties shall indicate in writing to the Clerk of the House, their Party's membership on the Committee; and

That the Government House Leader, in consultation with the Independent Members, shall indicate in writing to the Clerk of the House, the Independent Member on the Committee; and

That the deadline for indicating Committee Membership with the Clerk of the House shall be Thursday, August 20, 2020; and

That the Committee shall meet at the call of the Chair as follows:

- Up to 30 minutes for the Premier or his designate(s) to make an opening statement
- Up to 60 minutes for Members of the recognized Parties to pose questions to the Premier or his designate(s) in 3 rounds of 10 minutes for each Party
- Up to 10 minutes for the Independent Member to pose questions to the Premier or his designate(s) in 2 rounds of 5 minutes each
- Report writing in closed session; and

That the Clerk of the Committee shall convene the first meeting of the Committee no later than Thursday, August 27, 2020 to elect a Chair and Vice-Chair of the Committee, but no Sub-committee shall be appointed; and

That for business conducted under this order of reference, the provisions of Standing Orders 38 (b), (c), and (d) and 134 (c) and (d) shall be suspended.

That the Committee is authorized to present interim reports summarizing each hearing to the House, or deposit interim reports with the Clerk if the Legislature is not in session; and

That the Committee's final report shall be a compilation of all interim reports; and

That the Committee shall be dissolved 30 days following the Government House Leader indicating in writing to the Speaker that the Committee is no longer required; and

That the Committee's final report shall be tabled in the House, or deposited with the Clerk if the Legislature is not in session, before the Committee is dissolved; and

That if the Committee fails to meet this deadline the cumulative interim reports shall be deemed to be the Committee's final report and deemed to be tabled on the date that the Committee is dissolved; and

That an Order shall be placed on the *Orders and Notices Paper* for discussion of the Final Report of the Select Committee on Emergency Management Oversight following its presentation to the House.

*\* Votes and Proceedings, July 15, 2020, 42nd Parliament, 1st Session*