

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF PUBLIC SAFETY AND
SOLICITOR GENERAL

Emergency Program Act

Ministerial Order No. M094

WHEREAS a declaration of a state of emergency throughout the whole of the Province of British Columbia was declared on March 18, 2020 because of the COVID-19 pandemic;

AND WHEREAS section 10 (1) of the *Emergency Program Act* provides that I may do all acts and implement all procedures that I consider necessary to prevent, respond to or alleviate the effects of any emergency or disaster;

AND WHEREAS the threat of the COVID-19 pandemic to the health, safety or welfare of people has resulted in guidelines, recommendations or requirements to limit in-person contacts;

AND WHEREAS it is necessary to support the provision of daily services essential to preserving life, health, public safety and basic social functioning;

AND WHEREAS it is in the public interest to protect persons who operate or provide essential services from liability for damages relating, directly or indirectly, to COVID-19, if those persons operate or provide those services, or reasonably believe that they are operating or providing those services, in accordance with all applicable emergency and public health guidance;

I HEREBY order that the attached Protection Against Liability (COVID-19) Order is made.

April 2, 2020

Date



Minister of Public Safety and Solicitor General

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Emergency Program Act*, R.S.B.C. 1996, c. 111, s. 10

Other: MO 73/2020

PROTECTION AGAINST LIABILITY (COVID-19) ORDER

Definitions

1 In this order:

“**Act**” means the *Emergency Program Act*;

“**emergency and public health guidance**”, in relation to an essential service, means any of the following with respect to the COVID-19 pandemic:

- (a) an order made under the Act;
- (b) an instruction or order of a health officer, as defined in the *Public Health Act*;
- (c) guidelines of the British Columbia Centre for Disease Control;
- (d) guidelines of the Public Health Agency of Canada;
- (e) guidelines published on a website maintained by or on behalf of the government;
- (f) guidelines of a health authority;
- (g) guidelines of a regulatory authority or body having jurisdiction with respect to a person operating or providing the essential service;

“**essential service**” means

- (a) a service within a class or type of service set out in the Schedule, or
- (b) a service provided by a class of persons set out in the Schedule;

“**exposed**”, in relation to SARS-CoV-2, means to have been in contact with, or near, a person or thing that is or may be infected with SARS-CoV-2, in such a manner as to be at risk of being infected with SARS-CoV-2;

“**health authority**” means

- (a) a regional health board designated under the *Health Authorities Act*,
- (b) the First Nations Health Authority, or
- (c) the Provincial Health Services Authority.

Application of order

2 This order applies during the period that starts on the date this order is made and ends on the date on which the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the Act expires or is cancelled or, if there is an extension under section 9 (4) of the Act, the date on which the last extension of that declaration expires or is cancelled.

Reliance on emergency and public health guidance

3 (1) A person is not liable for damages resulting, directly or indirectly, from an individual being or likely being infected with or exposed to SARS-CoV-2 as a result of the person’s operating or providing an essential service if, at the relevant time, the person

- (a) was operating or providing the essential service in accordance with all applicable emergency and public health guidance, or

- (b) reasonably believed that the person was operating or providing the essential service in accordance with all applicable emergency and public health guidance.
- (2) Subsection (1) does not apply to a person referred to in that subsection if, in operating or providing the essential service, the person was grossly negligent.

SCHEDULE

Essential Services

Health and Health Services

Direct-to-public health services

- all health care services, including acute care (hospitals), secondary or long-term care, coroners' services, health-care providers working within and outside an acute care setting and other health services, including public health, detox facilities, safe-injection sites, COVID-19 testing, clinical research supporting the COVID-19 response, blood/plasma donation services and emergency pre-hospitalization services;
- other health services and caregivers, including physicians, dentists, psychiatrists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, mental health and substance use workers, including peer support workers, speech pathologists, diagnostic and therapeutic technicians and technologists, counsellors, chiropractors, naturopaths, dentists, crisis centres, outreach workers, overdose and harm reduction services, meal programs;
- health first responders (paramedics).

Health services providers

- pharmaceutical production, medical laboratories/research, medical testing, pharmacies, medical supply and equipment manufacturers, wholesale, distribution and stores;
- analytical testing labs related to testing of finished product for pathogens and contaminants;
- safety supply (e.g., work clothes, personal protective equipment, medical/pharmaceutical/ laboratory supplies, etc.) stores, manufacturers, technicians, logistics and warehouse operators;
- medical wholesale and distribution;
- health plans, billing and health information.

Law Enforcement, Public Safety, First Responders and Emergency Response Personnel

- first responders, including police and fire;

- services providing for public safety, including commercial vehicle safety enforcement (CVSE), corrections and detainment facilities, park rangers, security and protective services, court services, bylaw enforcement, as well as communications and dispatching support for first responders;
- volunteers, such as search and rescue (SAR) and public safety lifeline volunteers (PSLV);
- public sector workers for peace, order and good government;
- employees of contracted service providers in these fields, including maintenance of technical infrastructure to support this work and compliance with health and public safety orders;
- businesses that provide support to police and correctional services;
- operations and services in support of the Canadian Armed Forces and Canadian Border Services Agency;
- emergency management personnel at local, regional and provincial levels;
- businesses that ensure global continuity of supply of aggregates to support critical infrastructure repairs and emergency response requirements (e.g., sandbags, armour stone barriers, etc.);
- equipment and uniform suppliers for first responders.

Vulnerable Population Service Providers

- businesses and non-profits that provide food, shelter, social and support services, and other necessities of life for economically disadvantaged or otherwise vulnerable individuals, such as:
 - food banks;
 - community kitchens;
 - voluntary and community service providers;
 - residential health facilities;
 - mental health, substance use and addictions services;
 - transitional, social and supportive housing;
 - SROs (single room occupancy);
- community services and outreach for immigrants, refugees, vulnerable populations and non-market housing, including businesses that sell, rent or repair assistive/mobility/medical devices, aids and/or supplies;
- care for seniors, adults, children or individuals with disabilities;
- childcare services for those persons providing essential services;
- caregivers for children in care and out of care;
- elder and disability care, including disabled service support, for physical and cognitive disable persons;
- residential care for individuals with mental health and substance use challenges, including licensed and registered treatment and recovery facilities;

- government and non-profit service delivery staff who provide access to income supports for people in need of food and shelter;
- residential and care facilities and shelters for seniors, adults, children and people with disabilities;
- overdose prevention sites, clinical overdose prevention services or medical cannabis provision;
- businesses that sell, rent or repair assistive/mobility/medical devices, aids and/or supplies, or other products/services that support the health sector, including mental health and addictions/counselling supports.

Critical Infrastructure Service Providers

- critical infrastructure service providers, including drilling and production, refineries, processing, completion facilities, utilities, transportation, transmission stations, storage facilities critical in supporting daily essential electricity needs, drinking water, waste water, electricity (including associated infrastructure), steam, alternative energy production, waste and hazardous management, industrial recycling, oil and natural and propane gas, fuel, other fuel sources, such as heating oil and wood pellets, and operating staff;
- manufacturing of goods necessary for the continued and immediate operation of other essential infrastructure and businesses;
- gas stations, diesel, propane and heating fuel providers including providers of motor vehicle, aircraft and water/marine fuels, and providers of charging stations for electric vehicles;
- operations and employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:
 - operational staff at water authorities;
 - operational staff at community water systems;
 - operational staff at wastewater treatment facilities;
 - workers repairing water and wastewater conveyances and performing required sampling or monitoring;
 - operational staff for water distribution and testing;
 - operational staff at wastewater collection facilities;
 - operational staff and technical support for SCADA control systems;
 - chemical disinfectant suppliers for wastewater and personnel protection;
 - workers that maintain digital systems infrastructure supporting water and wastewater operations.

Food and Agriculture Service Providers

- food cultivation, including farming, livestock, aquaculture and fishing, businesses that support the food supply chain, community gardens and subsistence agriculture;
- food processing, manufacturing, storage and distribution of foods, feed products and beverages;

- workers essential to maintain or repair equipment in food processing and distribution centres;
- workers, including temporary foreign workers, to support agricultural operations to enhance food security;
- farming supply, including seed, fertilizer, pesticides, farm machinery sales and maintenance;
- inspection services and associated regulatory and government workforce and supporting businesses required for slaughter of animals, dairy production and food safety;
- businesses that provide for the health and welfare of animals, including veterinarians, farms, boarding kennels, stables, animal shelters, zoos, aquariums, research facilities and other service providers.

Retail

- grocery stores;
- convenience stores;
- farmers markets;
- other establishments engaged in the retail sale or provision of food;
- pet or livestock supply;
- liquor;
- cannabis;
- other household consumer products, such as cleaning and personal care products;
- stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation and essential daily operation of residences, such as home supply, hardware, building material stores, pawn brokers, and garden centres and nurseries.

Transportation, Infrastructure and Manufacturing

- supply chain services needed to supply goods for societal functioning, including cooling, storing, packaging, transportation, warehousing and distribution;
- workers who support the maintenance and operation of cargo transportation services, including crews, maintenance, operations and other facilities workers;
- manufacturers and distributors (to include service centres and related operations) of packaging materials, pallets, crates, containers and other supplies needed to support manufacturing, packaging, staging and distribution operations;
- truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and municipal and provincial services;
- local, regional, and provincial delivery services, including, but not limited to:
 - businesses that ship or deliver groceries, food, goods or services directly to businesses and residences;
 - mailing and shipping services;

- services to support and enable transportation, including highway, road, bridge maintenance and repair;
- employees who repair, maintain and overhaul vehicles, aircraft and parts, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers, as well as vehicle rentals and leasing;
- services that facilitate the transportation of essential supplies, personnel and services, including port/waterfront operations, road, air and rail operations;
- facilities supporting interprovincial and intra-provincial delivery of goods, including truck scales, commercial vehicle inspection stations, brokerages, truck towing and repair services, commercial cardlock fuel providers, and truck and rest stops;
- government owned or leased buildings;
- businesses that supply other essential businesses and people working from home with the support or supplies necessary to operate;
- private transportation services, including taxis, ride-hailing, helicopter, aircraft and marine vessels;
- public transportation services under rules for physical distancing or other recommendations from the Provincial Health Officer (PHO);
- workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods and support the natural resource sector, as well as workers supporting safety at such facilities;
- provision of public services that support the safe operation of regulated businesses and the provision of public services that support those businesses to meet other regulatory requirements;
- workers who support the operation, inspection, and maintenance of essential public works facilities and operations;
- workers who support the inspection and maintenance for ongoing safety at industrial facilities;
- inspectors who ensure worksites are safe for workers, and who investigate serious workplace accidents;
- workers who process and manage claims made by injured workers, including services related to their care and treatment, as well as the provision of workers' compensation benefits;
- hotels and places of accommodation;
- activities of the consuls general and staff who support the work of the consuls general;
- landlords of buildings where the consulates are located and those who guarantee access to consular offices as well as the operation of the consular offices;
- storage for essential businesses;
- businesses that provide materials and services for the operation, maintenance and safety of transportation systems (road, transit, rail, air and marine) including delivery of maintenance services, such as clearing snow, response to collisions and completing needed repairs to transportation systems;

- businesses that extract, manufacture, process and distribute goods, products, equipment and materials, including businesses that manufacture inputs to other manufacturers (e.g., primary metal/steel, blow molding, component manufacturers, chemicals, etc. that feed the end-product manufacturer);
- vegetation management crews and traffic workers who support environmental remediation/monitoring and who respond to environmental emergencies;
- businesses providing staffing services, including temporary labour services;
- businesses that support the safe operations of residences, essential businesses and facilities/buildings.

Sanitation

- cleaning services necessary to provide and maintain disinfection;
- manufacturing of sanitary products, including household paper products, chemicals, microelectronics/semi-conductor;
- companies that are able to retrofit their production facilities to produce goods/services that can be used to address critical shortages of sanitary and protective goods;
- businesses that support environmental management/monitoring and spill cleanup and response, including environmental consulting firms, professional engineers and geoscientists, septic haulers, well drillers, pesticides applicators and exterminators, management of industrial sewage/effluent (e.g., for mining operations) and environmental laboratories;
- waste (garbage and organics) and recycling collection, processing and disposal.

Communications, Information Sharing and Information Technology (IT)

- workers maintaining IT and communications infrastructure for medical facilities, governments facilities, emergency response and command agencies, energy and utilities, banks and financial institutions, employees working from home and other critical infrastructure categories and personnel, including managing information and cyber-security incidents;
- newspapers, television, radio, online news outlets and other media services;
- IT, radio, cable providers and telecommunications services, including
 - phone, internet, wireless communications and data centres;
 - satellite operations;
 - undersea cable landing stations;
 - internet exchange points;
 - manufacturers and distributors of communications equipment.

Non-Health Essential Service Providers

- feed, water, bedding, veterinary care, veterinary supply, transport and processing services for livestock, animal shelters and pets;

- coroners and workers performing mortuary services, including funeral homes, crematoriums, cemeteries, and workers supporting the appropriate handling, identification, storage, transportation and certification of human remains;
- banks and their branches;
- credit unions and related financial institutions;
- workers who support security and technical operations supporting financial institutions;
- capital markets, including the British Columbia Securities Commission, self-regulatory organizations, exchanges, clearing agencies, investment fund dealers and advisers and managers;
- services related to bankruptcy/credit restructuring;
- non-bank sources of capital, cheque-cashing outlets, money sending and money remittance services, currency exchange services and pawn brokers;
- accounting;
- payroll;
- translation services;
- legal services and insurance providers;
- insurance assessment;
- adjudication providers;
- plumbers, electricians, elevator maintenance providers, exterminators, property management services, custodial/janitorial workers, cleaning services, fire safety and sprinkler systems, building systems maintenance and repair technicians, engineers and mechanics;
- other service providers who provide services that are necessary to maintaining the safety, sanitation and daily essential operation of residences and commercial buildings;
- educational institutions, including public and private K-12 schools and public post-secondary institutions, for the purposes of facilitating remote learning or performing essential functions, including services that are needed to ensure the safety, security, welfare, integrity and health of the community, property and research and certain operational and contractual activities, if operating under rules for physical distancing or other recommendations from the PHO;
 - in relation to research universities, services including COVID-19-related research, residential housing and food services for students on campus, building operations and risk management, animal care services, health services for students, IT including data security and infrastructure, finance, payroll, administration, HR, communications and child care for essential university staff;
- laundromats, dry cleaners and laundry service providers;
- restaurants and other facilities that prepare and serve food, if operating under rules for physical distancing or other recommendations from the PHO;
- towing services and other vehicle repair/maintenance operations;

- schools and other entities that provide free food services to students or members of the public, if operating under rules for physical distancing or other recommendations from the PHO;
- construction work, in accordance with PHO direction, including construction firms, skilled trades and professionals, construction and light industrial machinery and equipment rental;
- businesses that ensure global continuity of supply of primary and value-added forestry/silviculture products (e.g., lumber, pulp, paper, wood fuel, etc.) and soft-pulp products, such as protective masks, gowns, drapes, screens and other hospital supplies and household paper products;
- postal services, including both public and private mailing, shipping, logistics, courier, delivery services and post office boxes;
- research services supporting essential sectors, including medical/clinical research and industrial research;
- all government (local, regional, provincial) functions or services;
- permitting processing and licencing for forestry and environmental projects and services;
- businesses and non-profits that provide support services to citizens and businesses on behalf of government, including, but not limited to, income assistance and disability assistance, pensions, residential tenancy, BC Services Card, drivers' licensing, Affordable Child Care Benefit, Medical Services Plan, forest-worker support programs, notary, commissioner, affidavits, pesticide exams, invigilation for essential trades, 1 888 COVID19, verify by video, and helpdesk for BCeID;
- weather forecasters;
- businesses that ensure global continuity of supply of mining materials and products (e.g., metals such as copper, nickel and gold) and that support supply chains, including
 - mining operations, production and processing;
 - mineral exploration and development, including sand, gravel and aggregates;
 - mining supply and services that support supply chains in the mining industry including maintenance of operations, health and safety;
- workers at operations centres necessary to maintain other essential functions;
- professional services, including lawyers and paralegals, engineers, accountants, translators;
- land registration services and real estate agent services;
- building code enforcement, inspection of buildings, building sites and building systems by building officials and registered professionals (architects and engineers);
- public washrooms and hygiene facilities (toilets, handwash stations, showers) for unsheltered persons;
- parks and green space for public health and sheltering (homeless).