

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE MINISTER OF PUBLIC SAFETY AND
SOLICITOR GENERAL

Emergency Program Act

Ministerial Order No. M120

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, Mike Farnworth, Minister of Public Safety and Solicitor General, order that

- (a) the Protection Against Liability (COVID-19) Order made by MO 94/2020 is repealed, and
- (b) the attached Protection Against Liability (COVID-19) Order No. 2 is made.

April 22, 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; MO 94/2020; OIC 173/2020

PROTECTION AGAINST LIABILITY (COVID-19) ORDER NO. 2

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

- 2 (1) This order applies during the period that starts on the date this order is made and ends on the date on which the last extension of the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the *Emergency Program Act* expires or is cancelled.
- (2) This order replaces the Protection Against Liability (COVID-19) Order made by MO 94/2020.

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

1. Health and Health Services

- a) All healthcare providers, health service providers, support staff and ancillary services within a healthcare, mental health, or addictions treatment setting, and individuals, agencies and organizations that support the delivery of healthcare, mental health, or addictions services;
- b) Blood and plasma donation services including collection, production, distribution, diagnostics and laboratory testing and related goods and services.

2. Law enforcement, public safety, first responders, emergency response personnel:

- a) First responders, including police, fire, paramedics, and those services providing for public safety including first aid, corrections and detainment facilities, park rangers, security and protective services, court services, bylaw enforcement, as well as communications/dispatching support for first responders and volunteers such as search-and-rescue and those engaged in other public safety duties;
- b) Public sector workers for peace, order, and good government, and 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;
- c) Businesses that provide support to police, correctional services, and first responders;
- d) The Department of National Defence (DND) and its employees, the Canadian Armed Forces (CAF) and its personnel, and persons or entities contracted by DND or CAF in support of the defence mandate, as well as operations and services that support the Canadian Coast Guard and Coast Guard Auxiliary;
- e) Emergency management personnel at local, regional, provincial, and federal levels, including contracted emergency management personnel.

3. Vulnerable Population Service Providers

- a) Businesses, government and non-profits that provide care, food, shelter, social, and support services, and other necessities of life for economically disadvantaged or otherwise vulnerable individuals including for seniors, children, or individuals with disabilities, such as service delivery staff who provide access to income and disability assistance and supports; foodbanks,

community kitchens, voluntary and community service providers; substance use and addictions services including overdose prevention sites, and licensed and registered treatment and recovery facilities; transitional, social and supportive housing; residential and care facilities; and single-room occupancy housing;

- b) Community services and outreach for immigrant, refugees, vulnerable populations and non-market housing;
- c) Schools and other entities that provide free food services to students or members of the public;
- d) Child care services for essential workers, and home child care services of less than six children;
- e) Caregivers for children in care and out of care;
- f) 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;
- g) Public washrooms and hygiene facilities (toilets, handwash, showers) for unsheltered persons;
- h) Parks and greenspace for public health and sheltering for unsheltered persons.

4. Critical Infrastructure

- a) Drilling and production, refineries, laboratories, processing, treatment and completion facilities, utilities, transportation, distribution, digital systems infrastructure, transmission, stations, and storage facilities, and all of the required support, operations and staff critical in supporting electricity, drinking water, waste water, drainage, steam, alternative energy production, chemical and industrial gas, waste and hazardous waste/material management, industrial recycling, oil and natural and propane gas, fuel, petroleum, crude oil and other fuel sources such as heating oil and wood pellets, including staff supporting such operations;
- b) 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;
- c) 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.).

5. Food and Agriculture Service Providers

- a) Food cultivation, including farming, livestock, hunting, aquaculture and fishing, and community gardens and subsistence agriculture;
- b) Businesses that support the food supply chain including seed, fertilizer, pesticides, farm machinery sales and maintenance;
- c) Food processing, manufacturing, storage, transportation and distribution of foods, feed products and beverages;

- d) Workers essential to maintain or repair equipment in food processing and distribution centres;
- e) Workers, including Temporary Foreign Workers, to support agricultural operations to enhance food security;
- f) Restaurants and other facilities that prepare and serve food;
- g) Retail: Grocery stores, convenience stores, farmers' markets and other establishments engaged in the retail sale or provision of food, pet or livestock supply, liquor, cannabis (including producers), and any other household consumer products, such as cleaning and personal care products;
 - o Includes stores that sell groceries 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;
 - o Includes stores that sell supplies that ensure the safety of essential workers, such as appropriate footwear, high-visibility clothing, or hardhats;
- h) Inspection services and associated regulatory and government workforce and supporting businesses required for slaughter, rendering, and processing of animals, dairy production, and food safety;
- i) 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.

6. Transportation

- a) Supply chain services needed to supply goods for societal functioning, including cooling, storing, packaging, transportation, warehousing, and distribution;
- b) Workers who support the maintenance and operation of cargo through air, marine, rail, and trucking transportation services, including crews, maintenance, operations, and other facilities workers;
- c) Services to support and enable transportation, including highway, road, bridge maintenance and repair, and services to respond to emergencies impacting transportation routes;
- d) Employees who build, repair, maintain, and overhaul vehicles, aircraft and parts, rail equipment, marine vessels, bicycles, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers, as well as vehicle rentals and leasing, including land, air, and marine vessels engaged in national defense;
- e) Services and facilities that facilitate the interprovincial and intra-provincial transportation of essential supplies, personnel, and services, including port/waterfront operations, road, air and rail operations, including commercial vehicle safety enforcement, truck scales, commercial vehicle inspection

stations, brokerages, vehicle towing, commercial cardlock fuel providers, truck and rest stops;

- f) Private and public transportation services, such as buses, trains, taxis, car-share programs, ride-hailing, aircraft, and marine vessels.

7. Industry and Manufacturing

- a) Businesses that extract, manufacture, process and distribute goods, products, equipment and materials necessary for the continued and immediate operation of other essential infrastructure and businesses, 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); and those that manufacture and distribute packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations;
- b) Businesses that ensure global continuity of supply of primary and value-added forestry/silviculture products (e.g. lumber, pulp, paper, wood fuel, etc.), including reforestation operations and tree- and forest-maintenance services;
- c) 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; and mining supply and services that support supply chains in the mining industry including maintenance of operations, health and safety.

8. Sanitation

- a) Cleaning services necessary to provide and maintain disinfection;
- b) Manufacturing of sanitary products, household paper products, chemicals, microelectronics/semi-conductor, including 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;
- c) Businesses that support environmental management/monitoring and spill clean-up and response, including environmental consulting firms, professional engineers and geoscientists, septic haulers, well drillers, pesticides applicators, pest exterminators, management of industrial sewage/effluent (e.g. for mining operations), and environmental laboratories;
- d) Vegetation management crews and traffic workers who support environmental remediation/monitoring, and who respond to environmental emergencies;
- e) Waste (garbage and organics) and recycling collection, processing, and disposal;
- f) Laundromats, dry cleaners, and laundry service providers.

9. Communications / Information Technology

- a) Facilities and workers maintaining IT and communications infrastructure for privately owned and maintained communication systems and/or networks,

- medical facilities, governments facilities, emergency response and command agencies, energy and utilities, banks and financial institutions, employees working from home and other remote operations of business, and other critical infrastructure categories and personnel, including managing information and cyber-security incidents;
- b) Newspapers, television, radio, call centres, online news outlets, and other media services;
 - c) Information technology, radio, cable providers, and telecommunications services, including phone, internet, wireless communications, data centres; satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment;
 - d) Workers responding to cyber incidents involving essential services;
 - e) Businesses engaged in e-commerce.

10. Financial Institutions

- a) Banks, and their branches, credit unions, and related financial institutions, as well as workers who support security and technical operations supporting financial institutions;
- b) Capital markets, including the British Columbia Securities Commission, self regulatory organizations, exchanges, clearing agencies, pension funds, and financial dealers and advisers, and investment fund managers;
- c) Services related to bankruptcy/credit restructuring and non-bank sources of capital, cheque-cashing outlets, money sending and money remittance services, currency exchange services, pawn brokers;
- d) Accounting, payroll, and insurance providers; insurance assessment and adjudication providers.

11. Other Non-Health Essential Service Providers

- a) Coroners and workers performing mortuary services, including funeral homes, crematoriums, and cemeteries, as well as workers supporting the appropriate handling, identification, storage, transportation, and certification of human remains;
- b) Translation services, legal services, human resources, communications, security, procurement, and real estate operations that support the customer and internal company networks;
- c) Plumbers, electricians, elevator maintenance providers, property management services, building systems maintenance and repair technicians, engineers, fire safety and sprinkler systems, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and daily essential operation of residences, commercial buildings, and ski area infrastructure and facilities;
- d) Construction work, construction firms, skilled trades, and related professionals; construction and light industrial machinery and equipment rental;

- e) Educational institutions—including public and private K-12 schools, and public post secondary institutions—for 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;
- f) Postal services including both public and private mailing, shipping, logistics, courier, delivery services, and post office boxes;
- g) All government (local, regional, provincial, federal) functions or services, including where these functions or services are provided by agencies, crown corporations, contractors or service providers, and government owned or leased buildings;
- h) Meteorologist services;
- i) Professional services including lawyers and paralegals, engineers, accountants, translators, and self-regulating and regulatory bodies;
- j) Land registration services, and real estate agent services;
- k) Businesses providing staffing services, including temporary labour services;
- l) Hotels and places of accommodation, including RV parks and campgrounds;
- m) Activities of the Consulate General and support staff and 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;
- n) Provision of public services that support the safe operation of regulated businesses and support those businesses to meet other regulatory requirements;
- o) Workers who provide or support inspections to ensure worksites are safe for workers; and who investigate, process and manage claims for workplace accidents, including services related to the care, treatment and provision of workers' compensation benefits to those impacted;
- p) Storage for essential businesses.