



COVID-19 – Some Interior Design Services May be Considered an Essential Service

April 9, 2020

The Government of Ontario's amended regulation containing a new list of essential services came into effect at 11:59 pm on Saturday April 4, 2020, creating further restrictions to the number of workplaces deemed "essential".¹ As it pertains to the construction industry, these further restrictions have resulted in confusion as to what, exactly, constitutes *essential* work and which projects may continue. At the outset, it should be noted that the current essential services regulation only imposes restrictions on the on-site operations of projects and the ability to work from an office or storefront. The regulation does not limit remote working capabilities at all. This means that to the extent work can be completed from a remote location, such as a home office, it may continue regardless of whether the work is performed in connection with an essential construction project.

The amended regulation states that work for construction projects relating to healthcare, transit, energy, the court system, and certain residential undertakings may continue—but is much less clear as to the scope of activities which may take place on these essential projects. For example, many service-providers for a construction project, such as architects, engineers, and interior designers, would have previously been included in the "Professional Services" category set out in the earlier version of the regulation. While in effect, this category allowed a large number of construction projects and related services to continue. Under the amended regulation, however, the professional services category has been restricted to include only "professional social services that support the legal and justice system".

Despite the new restrictions on professional services imposed by the amended regulation, the construction-specific items still likely allow many individuals working on construction projects to continue working on site and in their offices. Items 27 and 28 of the new list state that "Construction projects *and services...*" associated with the healthcare sector and critical provincial infrastructure respectively remain essential workplaces. The specific inclusion of "services" within the scope of these items is likely sufficient to allow those providing professional services—like architects, engineers, and interior designers—to continue working on site and in their offices provided their work relates to one of the categories of essential construction projects.² Again, the essential services regulation only imposes limits on the circumstances in which on-site and in office work can take place. If a project is deemed essential by the regulation and is not shut down, then interior designers may continue working both on-site and in their offices, as well as remotely. Conversely, if a project is deemed non-essential and work is required to be shutdown, remote work for that same project may still continue.

As an example, an interior designer providing services to ongoing construction at a hospital likely falls within the scope of the essential services described by item 27 of the updated list,

¹ The new list of essential workplaces can be found here: <https://www.ontario.ca/page/list-essential-workplaces#section-2>

² The full list of essential construction projects is set out at items 27-31 of this [list](#) and covers, healthcare, transit, transportation, energy and justice related projects in addition to those projects increasing capacity in critical provincial infrastructure.



insofar as they are providing a service to a construction project associated with the healthcare sector. This same interpretation may be applied to interior designers working on projects in long-term care facilities as well as those providing services to any one of the other listed essential areas of construction. In each of these circumstances the construction-related exemptions are likely sufficient to allow the underlying projects to continue, and interior designers to continue working on-site and in offices as long as social distancing is practiced and all applicable health and safety regulations are complied with.

Similarly, item 30 of the updated regulation likely allows interior designers to continue working on certain residential construction projects. New single family, semi-detached, and townhome projects are deemed essential and can continue where a footing permit has been granted for the project. Other types of new residential construction, such as condo developments and mixed-use buildings, are essential and can continue where an above grade structure permit has been granted. Renovations to existing residential properties are essential and can continue as long as the construction work related to the renovation was started before April 4, 2020.

With the above being said, it is important to note that the current scope of essential construction-related services is much more limited than the original professional services category in the previous regulation. As a result, service providers should exercise caution to ensure that the work they are performing actually relates to a listed category of essential construction projects. In the residential context, for example, this may require determining the date on which renovations started to ensure that compliance with the new regulation is maintained.

Critical Provincial Infrastructure

Although those providing services to a construction project may continue to do so in respect of healthcare, transit, energy, residential, and justice related projects, it is currently much less clear which construction projects will remain open by virtue of the phrase “critical provincial infrastructure”. Various sources throughout the construction industry have reported confusion over what exactly is meant by “critical provincial infrastructure”, and the provincial government has not as of yet provided any mechanism for obtaining clarity on this point.

One potential resource for clarifying whether a particular project may continue is the “Stop the Spread Hotline” provided by the Ontario government, which can be reached at 1-888-444-3659. This hotline was introduced with the intent of allowing business owners to determine whether their type of business can remain open during the shutdown, but anecdotal reports have indicated that the operators may be able to provide answers to more fact-specific questions.

In the meantime, until clarity on this issue is reached, service providers can take some measure of comfort in the knowledge that projects falling into the above-mentioned categories will continue on, and that remote work may continue regardless of the nature of the project. Those attempting to engage in on-site work or work from an office on the basis of a connection to a critical provincial infrastructure project should consult the Stop the Spread Hotline and either [Faren Bogach or Paul Conrod](#) to determine whether their activities are considered essential. It is important to take a cautious approach to keeping a work-site open due to the significant penalties imposed by the provincial government on those who violate the shutdown order.



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