



COVID-19 & THE PRACTICE OF LAW

WEEKLY UPDATE

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COVID-19 - WEEKLY CHECK IN LOG #64

June 30, 2021

Summary

Invited Participants: Sector Calls

OBA, FOLA, LSO, LAO, the Advocates' Society, & OTLA

Superior Court of Justices in Ontario, Court of Appeal for Ontario, & Ontario Court of Justice

MAG - Political, Department staff, and the Recovery Secretariat

Issues discussed:

1. COURTS

- ❖ Chief Justice Morawetz's June 18, 2021 update to the [Notice to the Profession and Public Regarding Court Proceedings](#) was revised on June 29th to clarify the Court's direction regarding gowning. It now provides:
For in-person proceedings, counsel must gown in accordance with paragraphs 59-61 of the [Consolidated Provincial Practice Direction](#). Gowns are not required in virtual proceedings.
Where gowning is required, counsel must gown regardless of whether the presiding judicial official is a judge or a master.
- ❖ The Court of Appeal will be issuing some updates to a few Practice Directions, Rules, and Forms next week. FOLA will send those out once available.
- ❖ **SMALL CLAIMS LIVE WEBINAR:** The Small Claims Court Working Group hosted a webinar last week to provide an update on the recent changes in the Court. The Webinar was recorded and FOLA will send the link out as soon as it becomes available (which should be next week).
- ❖ **OPENING OF THE COURTS:** The Opening of the Courts is scheduled for September 14th at 3:30pm. It will be a virtual event and you can watch [here](#).

2. MAG

- ❖ **POA COURTS:** On June 18th, MAG issued an update on modernization initiatives and court recovery in Ontario's Provincial Offence Act (POA) courts. You can learn more [here](#).

3. RECOVERY SECRETARIAT

- ❖ The Recovery Secretariat is working with the Ontario Public Service to prepare for reductions in restrictions inside Courthouses once the province enters [Phase/Step 3](#).
- ❖ **REMINDER:** Questions about Courthouse operations during COVID-19 can be directed to Samantha Poisson at MAGrecoverysecretariat@ontario.ca.

4. FOLA

❖ SUBMISSIONS & CONSULTATIONS:

1. LSO COMPETENCE TASK FORCE: FOLA will be preparing a Submission in response to the LSO's Call for Comment on the [Competence Task Force's Report: Renewing the Law Society's Continuing Competence Framework](#). If you would like to provide FOLA with comments for consideration for inclusion in our Submission, please do so prior to October 20th by emailing Katie at katie.robinette@fol.ca.

If you would like to respond directly to the LSO, you may respond to some or all of the questions through their [Call for Comment](#) portal until Nov. 30, 2021.

2. REBBA PHASE 2 REGULATIONS: The Ministry of Government and Consumer Services has launched the second phase of regulation development (Phase 2). During this phase, the ministry is developing regulatory proposals to: a) Update the Code of Ethics regulation (the Code) under REBBA; b) Transfer procedural and technical requirements from the Code to other regulations; c) Enhance disclosure requirements and other registrant obligations to better protect consumers of real estate services and increase consumer choice; and d) Update RECO's regulatory powers and tools, including revising the procedures of RECO's discipline committee. Comments are due by July 2, 2021. More information can be found in our June 4th Real Estate Update [here](#).

3. MINISTRY OF GOVERNMENT AND CONSUMER SERVICES: [Potential Changes to the Funeral, Burial and Cremation Services Act, 2002 and/or its Regulations](#). On December 7th, the Auditor General released her 2020 Annual Report, which included a [value-for-money audit of the BAO](#) and the ministry's oversight of the BAO. The Auditor General recommended that the government consider potential legislative and/or regulatory changes to address some of the concerns raised in the report.

The consultation paper seeks feedback to inform potential proposals for changes to the Funeral, Burial and Cremation Services Act, 2002 (FBCSA) and/or its regulations to address recommendations made by the Auditor General as well as concerns raised by stakeholders. The consultation paper seeks feedback on the following topics:

- A. Consumer protection measures
 - i. Transparency of price information
 - ii. Disclosure requirements for promotional materials
 - iii. Displaying the BAO logo
 - iv. Upselling and/or aggressive sales practices
 - v. Not allowing the licensing of new disposition technology providers until safety of the technology can be confirmed
- B. Compliance and enforcement tools
- C. Priority of persons with legal authority to make decisions regarding decedents
- D. Cemetery care and maintenance fund/accounts (CMF/As)
 - i. Interest payment requirements on funds borrowed from the capital portion of cemetery CMF/As
 - ii. Potential to exempt municipal cemetery operators from CMF/A requirements
- E. Other cemetery-related proposals
 - i. Neglected or abandoned cemeteries
 - ii. Cemetery closure process

Further details about this consultation, including a copy of the consultation paper, can be found on the Ontario Regulatory Registry's [website](#).

The deadline to submit feedback is August 9, 2021 by 11:59 p.m. You may submit your comments by responding directly to the Regulatory Registry posting or by sending an email with your feedback to bereavement@ontario.ca. If you have any questions, please contact the ministry at bereavement@ontario.ca.

QUESTIONS/CONCERNS?

Law Association members are welcome to send any issues/concerns related to the practice of law caused by the COVID-19 epidemic to FOLA at katie.robinette@fola.ca and we will continue to address them in as timely a manner as possible. Please also note that FOLA cannot assist in issues related to a specific case and the Courts will NOT provide clarification on any Notice to the Profession.