This is not legal advice. If you have questions about the information below, you should consult a lawyer or other professional legal services provider.

Liability & Mutual Aid During COVID-19

Information for Service Providers

Updated June 12, 2020


WHO AND WHAT DOES THE ORDER PROTECT?

The Order provides some protection from liability to people who operate or provide “essential services” during the state of emergency and who may face a lawsuit for money damages resulting from transmitting COVID-19 as a result of that service:

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.

NOTE: You must still follow all emergency and public health guidance while providing services. This includes guidance from the government, health officers, BC Centre for Disease Control, Public Health Agency of Canada, regulators and health authorities.¹

¹ Full text of the Ministerial Order can be found here: http://www.bclaws.ca/civix/document/id/mo/mo/2020_m120

² The list of what constitutes emergency and public health guidance is found in section 1 of the Order.
You may still be liable if you are “grossly negligent” in the delivery of services.3

WHAT IS AN ESSENTIAL SERVICE?

The Order protects people who are operating or providing “essential services.” Essential services include “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,” such as:

- food banks;
- community kitchens;
- entities that provide free food services to students or members of the public;
- voluntary and community service providers;
- substance use and addictions services including overdose prevention sites;
- community services and outreach for vulnerable populations;
- transitional, social and supportive housing;
- SROs (single room occupancy housing);
- Public washrooms and hygiene facilities (toilets, handwash, showers) for unsheltered persons;
- Parks and greenspace for public health and sheltering for unsheltered persons.4

HOW LONG WILL THE ORDER LAST?

The Order is effective for the duration of the Provincial State of Emergency declared on March 18, 2020 in BC (and subsequently extended every two weeks). The Order will end on the date that the emergency expires or is cancelled (or, if there are additional extensions of the emergency, the date on which the last extension expires or is cancelled).

As of the last updated date of this resource, the state of emergency has been extended and is effective until the end of day on June 23, 2020. Please visit the EmergencyInfoBC website for status updates on the state of emergency.

---

3 There is no single definition of “gross negligence” in Canadian law, but a leading Supreme Court of Canada case describes it as “a very marked departure from the standards by which responsible and competent people... govern themselves.” McCulloch v. Murray, 1942 CanLit 44 (SCC), [1942] S.C.R. 141 at para. 145; Lapshinoff v. Wray, 2020 BCCA 31 (CanLit) at para. 38, retrieved on 2020-04-08.

4 The full list of services deemed essential at this time can be found in the Schedule to the Order.