

BILL 195: AN ACT OF BETRAYAL FOR FRONTLINE WORKERS

CUPE

When the COVID-19 pandemic began, the Ontario government declared a state of emergency under the *Emergency Management and Civil Protection Act* (EMCPA). This allowed them to pass many emergency orders, most of which allowed employers to ignore sections of our collective bargaining rights.

With Bill 195, the Ontario government is effectively granting itself the power to continue to override legal collective agreements after ending the state of emergency. CUPE's Ontario Council of Hospital Unions (OCHU) has launched a campaign to fight the bill that will include a legal challenge to the bill, which extends attacks on collective agreement provisions despite there no longer being a state of emergency.

WHAT DOES BILL 195 DO?

Bill 195, named the Reopening Ontario (*A Flexible Response to COVID-19*) Act, 2020, ends the provincial state of emergency. At the same time, it allows the emergency orders passed under the EMCPA to continue for 30 days.

The bill allows the emergency orders to be renewed by cabinet for additional 30-day periods for up to one year. At the end of the year, the Premier can ask the legislature to extend cabinet's renewal powers for another year.

MAKING AND AMENDING ORDERS

Unlike the EMCPA, cabinet does not have the power to create new orders under Bill 195. It can amend the existing orders.

They cannot amend orders granting relief from compliance with certain legislation, and cannot amend 14 listed emergency orders. The list of orders they cannot amend does *not* include most of the emergency orders allowing employers to override our collective bargaining rights.

Further, the amendment must relate to one or more of the following:

- It requires a person or persons to act in compliance with any advice, recommendations, or instructions of a public health official;
- It relates to the closing or regulation of any public or private place, including businesses, offices, schools, hospitals, or other establishments or institutions;
- It imposes rules or practices that relate to workplaces or the management of workplaces;
- It authorizes the power responsible for a workplace to identify staffing priorities or to develop, modify, or implement redeployment plans or rules or practices that relate to the workplace or the management of the workplace; or
- It prohibits or regulates gatherings or organized public events.

If these conditions are met, then Bill 195 gives cabinet the power to make amendments including:

- Imposing more onerous or different requirements than existed originally, including making different requirements apply to different parts of Ontario; and

- Extending the application of the order, including the geographical scope and/or the persons that the order applies to.

ENFORCEMENT

Bill 195 gives the government powers to get a court order to stop violations of their orders that they had under the EMCPA, with fines up to \$100,000 for an individual, \$500,000 for a corporate director or officer, and \$10 million for a corporation.

HOW DOES BILL 195 AFFECT ME?

Most CUPE members in Ontario were affected by provincial emergency orders that affected how their workplaces are managed, or that allowed them to be redeployed.

All the orders overrode sections of our collective agreements, taking away several of your rights, including giving management the ability to cancel your scheduled vacation or your rights to seniority-based layoff. They override your rights when it comes to redeployment, to changing your work assignments, shift schedules, and much more.

The emergency orders also suspend the grievance process in certain circumstances.

Note that the emergency orders affected different jurisdictions or workplaces differently, and not all CUPE members were subject to the same redeployment orders.

WHEN DOES IT END?

Bill 195 does require the full legislature to approve extending powers beyond one year, so in theory the legislature could say "no." But the Conservatives have a majority in the legislature.

What can I do about Bill 195?

- At cupe.on.ca/covid-19 you can find factsheets that explain the original emergency orders and how they affect your rights
- Continue tracking any instances where your employer violates your collective agreement rights
- If your employer violates your collective agreement rights in a way that is not precisely in line with the emergency order, file a grievance and notify your CUPE National Staff Representative
- Let your MPP know how the emergency orders and Bill 195 negatively affect you
- Watch CUPE websites and your email for upcoming actions to protect your rights