

# FASKEN

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

333 Bay Street, Suite 2400  
P.O. Box 20  
Toronto, Ontario M5H 2T6  
Canada

T +1 416 366 8381  
+1 800 268 8424  
F +1 416 364 7813  
[fasken.com](http://fasken.com)

## MEMORANDUM

---

**Date:** May 27, 2020

**Re:** Return to Sport – Ontario, Quebec, British Columbia, Alberta

---

---

---

This memorandum sets out return to sport regulations for Canada's four most populous provinces.

- The first table below summarizes the regulations in Quebec, British Columbia, and Alberta.
- The second table summarizes the regulations in Ontario, which provide for particularly detailed rules based on facility type.

Please reach out with any questions.

# FASKEN

Category	Quebec	British Columbia	Alberta
<b>Key sources of law</b>	<p><a href="#">Order in Council No. 177-2020 of March 13, 2020</a> (as renewed) - Declaration of a public health emergency</p> <p><a href="#">Order No. 2020-004 of the Minister of Health and Social Services of March 15, 2020</a> - Closure of public places</p> <p><a href="#">Order in Council No. 530-2020 of May 19, 2020</a> - Resumption of outdoor recreational, sports and leisure activities during COVID-19</p> <p><a href="#">Order in Council No. 543-2020 of May 22, 2020</a> - Assemblies</p>	<p><a href="#">Public Health Act</a></p> <p><a href="#">Workers Compensation Act</a></p> <p>Orders made by the Provincial Health Officer:</p> <ul style="list-style-type: none"> <li>• <a href="#">Mass Gathering Events</a> (“<b>Mass Gatherings Order</b>”)</li> <li>• <a href="#">Workplace COVID-19 Safety Plans</a> (“<b>Safety Plans Order</b>”)</li> </ul>	<p><a href="#">Bill 9</a> Emergency Management Amendment Act, 2020</p> <p><a href="#">Bill 10</a> Public Health (Emergency Powers) Amendment Act, 2020</p> <p>Orders made by the Chief Medical Officer of Health (“<b>CMOH</b>”):</p> <ul style="list-style-type: none"> <li>• <a href="#">CMOH order 02-2020</a> (prohibits attendance at public recreational facilities)</li> <li>• <a href="#">CMOH order 07-2020</a> (prohibits gatherings of more than 15 people)</li> <li>• <a href="#">CMOH order 20-2020</a> (amends order 07-2020 and permits gatherings of up to 50 people in a group, in an outdoor location, provided persons adhere to public health measures and guidance)</li> </ul>
<b>General suspension / prohibitions relating to sporting activities</b>	<p>Order No. 2020-004 of the Minister of Health and Social Services of March 15, 2020, orders the suspension of all activities in all places to which the public has admittance for cultural, educational, sports, recreation or entertainment purposes, including spas, saunas, swimming pools, ski stations, ice rinks, fitness centres and sports centres. In addition, Order in Council 223-2020 of March 24, 2020, orders the suspension, as of March 25, 2020, of all activities carried on in work environments (subject to specific</p>	<p>BC’s Mass Gatherings Order prohibits gatherings of more than 50 people attending events, which includes “sporting events.”</p> <p>As of May 23, 2020 BC’s Mass Gatherings Order no longer applies to “the presence of workers” engaged in work activities. As a result, employees performing employment functions will no longer factor into the calculation of 50 people.</p>	<p>CMOH order 02-2020 prohibits all persons from attending public recreational facilities, including but not limited to gyms, swimming pools and arenas. However, <a href="#">golf courses</a> and both indoor and outdoor <a href="#">shooting ranges</a> have been permitted to re-open subject to industry-specific guidelines.</p> <p>CMOH order 07-2020 prohibits gatherings of more than 15 people at an <u>indoor</u> event.</p> <p>Essential services, or businesses that are not restricted or ordered to close, can have more than 15 people in a</p>

# FASKEN

Category	Quebec	British Columbia	Alberta
	<p>exemptions).</p> <p>As of May 20, 2020, the suspension has been lifted with regard to work environments that offer outdoor, recreational or individual sports activities to the public, contact-free, conducted outside and in an unstructured manner, provided that (1) those activities are not carried out in aquatic facilities, play structures or using training equipment available to the public; and (2) those activities take place during the course of the same day.</p> <p>Examples of non-organized outdoor recreational sports activities carried out individually or in pairs, without physical contact and with limited or no access to sanitation facilities currently authorized include the following:</p> <ul style="list-style-type: none"> <li>• Track and field (outdoor running and throwing events).</li> <li>• Rowing (singles only).</li> <li>• Speed canoeing and kayaking (singles only).</li> <li>• Outdoor cycling.</li> <li>• Golfing.</li> <li>• Sea kayaking.</li> <li>• Open water swimming (lakes).</li> <li>• Rollerblading on streets, bike paths</li> </ul>		<p>workplace provided they follow public health orders, sector specific <a href="#">guidelines</a>, and the <a href="#">Workplace Guidance for Business Owners</a>.</p> <p>CMOH order 20-2020 prohibits gatherings of more than 50 people at an <u>outdoor</u> event, which includes sporting events.</p> <p>Outdoor recreation activities are permitted in parks, trails and open spaces (such as soccer fields and ball diamonds) subject to <a href="#">guidelines</a>.</p> <p>Outdoor recreation facilities not captured by CMOH order 02-2020 are permitted to open provided they follow public health orders, sector specific <a href="#">guidelines</a>, and the <a href="#">Workplace Guidance for Business Owners</a>.</p> <p>Public recreation facilities were set to reopen with restrictions in Stage 3 of Alberta’s relaunch strategy. Currently Alberta is in Stage 1. On May 27, 2020, the CMOH said some sporting activities <a href="#">could instead be part of Stage 2</a>.</p>

# FASKEN

Category	Quebec	British Columbia	Alberta
	<p>or tracks.</p> <ul style="list-style-type: none"> <li>• Roller skiing.</li> <li>• Outdoor tennis (singles only).</li> <li>• Triathlon (open water swimming only).</li> <li>• Sailing (single rider only).</li> </ul>		
<p><b>Physical distancing</b></p>	<p>The persons who take part in an authorized non-organized outdoor recreational sports activities are required to comply with the rules applicable to authorized outdoor assemblies:</p> <ul style="list-style-type: none"> <li>• in a <u>public</u> place, unless the persons assembled are the occupants of a single private residence or of that which serves that purpose, a minimum distance of two metres must be maintained between the persons assembled;</li> <li>• in a <u>private</u> place, the maximum of persons assembled is 10 and assembled persons must, as much as possible, maintain a minimum distance of two metres between them.</li> </ul>	<p>Although some orders regarding physical distancing have been made that affect specific operations and businesses (such as retail food, grocery stores, and restaurants), there are currently no Orders that generally require physical distancing between persons.</p> <p>However, the Provincial Health Officer and other provincial medical officers have strongly recommended physical distancing of 1–2 metres between persons, and that physical distancing be facilitated wherever possible.</p> <p>With such “guidance” in mind, the Workers’ Compensation Board (“<b>WorkSafeBC</b>”) and various health officials possess powers under the <i>Workers Compensation Act</i> and <i>Public Health Act</i>, respectively.</p> <p>These bodies have directed that certain businesses and operations close, on a case by case basis, if it is determined that the operations have, or will, present undue health hazards to employees or</p>	<p>CMOH order 07-2020 requires that all persons gathering at an outdoor location or an indoor location maintain a minimum of two metres distance from one another. Physical distancing requirements do not apply to members of the same household.</p> <p>Operators of workplaces which are permitted to open should strive to follow physical distancing requirements. However, where such distancing is not possible, operators are required use physical barriers, personal protective equipment, or other mitigation tools.</p>

# FASKEN

Category	Quebec	British Columbia	Alberta
		<p>the public.</p> <p>As a result, failure to adhere to physical distancing guidance may and have been factors in determining whether a particular organization may operate.</p>	
<p><b>Team sports</b></p>	<p>At the moment, only outdoor sports and leisure activities carried out individually or in pairs, without physical contact and in compliance with the physical distancing rules, are permitted.</p>	<p>There is currently no provincial order which prohibits participation in team sports in BC, subject to the Mass Gatherings Order described above.</p>	<p>Team sports at an outdoor location are not prohibited provided that the outdoor gathering has no more than 50 people <u>and</u> all persons maintain a minimum of two metres from one another.</p> <p>Team sports at an indoor location that is public recreation facility are prohibited as such facilities are prohibited from operating.</p> <p>Team sports at a private indoor facility are not prohibited provided that the indoor gathering has no more than 15 people <u>and</u> all persons maintain a minimum of two metres from one another.</p> <p>Some municipalities in Alberta are currently are not issuing permits for organized team sports.</p> <p>Although not law, the following CMOH comment provides helpful context:</p> <p style="padding-left: 40px;">“We are looking at outdoor recreation as a part of the question of the relaunch and the staging of the relaunch, but whether or not those sports will go ahead will again be a part of the discussions that</p>

# FASKEN

Category	Quebec	British Columbia	Alberta
			we're having with respect to staging a relaunch and what types of activities will be permitted.”
<b>Spectators</b>	<p>Given that certain health measures implemented to protect Quebecers from COVID-19 will have to be observed in the longer term, the Québec government has requested the cancellation of indoor and outdoor festivals and cultural events planned in Québec until August 31, 2020. This measure does not cover the regular activities of Québec sports federations during which it is possible to abide by health rules, especially physical distancing.</p> <p>The organizers of sporting events, including professional sports, who believe that they are able to comply with the health rules in force are asked to submit the following information to <a href="mailto:evenement@education.gouv.qc.ca">evenement@education.gouv.qc.ca</a> to obtain an assessment of whether or not it is possible to hold the event.</p>	<p>Under the Mass Gatherings Order, no more than 50 people may attend a sporting event.</p> <p>Persons who are not “workers” performing “work functions” will form part of the 50 people allowed.</p>	<p>Spectators at an outdoor location are permitted subject to the prohibition on outdoor gatherings of more than 50 people <u>and</u> the requirement that persons maintain a minimum of two metres from one another.</p> <p>Spectators are prohibited at an indoor location that is public recreation facility, as such facilities are prohibited from operating.</p> <p>Spectators are permitted at a private facility subject to the prohibition on indoor gatherings of more than 15 people <u>and</u> the requirement that persons maintain a minimum of two metres from one another.</p> <p>Although not law, the following CMOH comment provides helpful context:</p> <p>“I would say to those [minor sports] associations, certainly the opportunity to have many spectators gathering together is unlikely to happen.” (<a href="#">April 26, 2020</a>)</p>
<b>Locker rooms</b>	<p>The following measures are part of the CNESST<sup>1</sup> <a href="#">Workplace Sanitary Standards Guide for the Leisure, Sports and Outdoor Recreation Sector –</a></p>	<p>There are currently no Orders or laws specifically directed at locker rooms.</p> <p>However, failure to take measures to</p>	<p>Whether a locker room is permitted to be used depends on the type of facility containing the locker room is permitted</p>

<sup>1</sup> Commission des normes, de l'équité, de la santé et de la sécurité du travail.

# FASKEN

Category	Quebec	British Columbia	Alberta
	<p><a href="#">COVID-19</a>:</p> <ul style="list-style-type: none"> <li>Limited or no access to sanitation facilities is recommended.</li> <li>Clean sanitary facilities (washrooms, changing rooms and showers) every shift or more frequently and disinfect them daily.</li> </ul>	<p>facilitate physical distancing in such environments could reasonably result in determinations by WorkSafeBC and/or public health officials that the specific operation poses an undue health hazard under the <i>Workers Compensation Act</i>, or <i>Public Health Act</i>, as above. This could result in remedial orders, including an order to cease operations.</p>	<p>to operate, as described above.</p> <p>Use of a locker room in a facility which is permitted to be open is still subject to the indoor gathering limits of 15 people, and the requirement to maintain physical distancing of two metres.</p> <p>Cleaning and sanitation should follow provincial <a href="#">guidelines</a>.</p>
Other	-	<p>Pursuant to the Safety Plans Order, all employers are required to devise and publish COVID-19 Safety Plans.</p> <p>Such plans must be published on the organization’s website, if available, as well as at the workplace for review by employees, or others who attend at the worksite.</p> <p>Although there is no official format that a COVID-19 Safety Plan must take, WorkSafeBC has published <a href="#">template</a> documents and guidance for the development of such plans.</p> <p>Although pre-approval is not required, WorkSafeBC has indicated that it will review the content of any COVID-19 Safety Plans when determining whether an Employer has complied with its general obligations to ensure the health and safety of employees, and eliminate workplace hazards.</p> <p>Under the <i>Public Health Act</i>, persons or organizations may seek individual</p>	<p>The CMOH has said that additional guidance around sports <a href="#">should be announced soon</a>.</p>

# FASKEN

Category	Quebec	British Columbia	Alberta
		<p>agreements or exemptions from orders of the Provincial Health Officer, which will include the Mass Gatherings Order. Generally, the grounds for reconsideration or agreement are:</p> <ul style="list-style-type: none"><li>• Additional, relevant information was not available at the time the Order was made;</li><li>• The organization has a proposal that, if implemented, would otherwise meet the objectives of the Order.</li></ul>	



# FASKEN

## Ontario

In Ontario, each of the facilities described in the table below is a place of essential business and is permitted to open. However, every person responsible for such a facility that is open shall ensure that it is operated:

- in accordance with all applicable laws, including the *Occupational Health and Safety Act* and its regulations;
- in compliance with the advice, recommendations and instructions of public health officials (whether federal, provincial, or municipal), including any advice, recommendations or instructions on physical distancing, cleaning or disinfecting; and
- in compliance with the special rules that apply as set out in the table below.

Category	Ontario: Facilities for athletic training or competitions	Ontario: Indoor or outdoor sports facilities	Ontario: Golf courses and outdoor golf driving ranges
<b>Type of facility</b>	<p>Facilities being used to train amateur or professional athletes or to run amateur or professional athletic competitions by one of the following (each an “<b>Applicable Organization</b>”):</p> <ul style="list-style-type: none"> <li>• A national sport organization <a href="#">funded by Sport Canada</a> or a member club of such an organization.</li> <li>• A provincial sport or multi-sport organization <a href="#">recognized by the Ministry of Heritage, Sport, Tourism and Culture Industries</a> or a member club of such an organization.</li> <li>• A professional sport league or a member club of such a league.<sup>2</sup></li> </ul> <p>Note: Pool facilities are not yet permitted to re-open.</p>	<p>The following outdoor facilities:</p> <ul style="list-style-type: none"> <li>• Baseball diamonds.</li> <li>• Soccer fields.</li> <li>• Tennis, platform tennis, table tennis and pickleball courts.</li> <li>• Basketball courts.</li> <li>• BMX parks.</li> <li>• Skate parks.</li> <li>• Motorsport tracks.</li> <li>• Frisbee golf locations.</li> <li>• Cycling tracks and bike trails.</li> <li>• Horse riding facilities.</li> <li>• Shooting ranges, including those</li> </ul>	<p>Golf courses and outdoor golf driving ranges</p>

<sup>2</sup> Facilities operated by sports teams in one of the five major professional sports leagues (CFL, MLB, MLS, NBA, and NHL) have their own set of rules which we have not included here, but can research on request.

# FASKEN

Category	Ontario: Facilities for athletic training or competitions	Ontario: Indoor or outdoor sports facilities	Ontario: Golf courses and outdoor golf driving ranges
		<p>operated by rod and gun clubs.</p> <p>The following indoor facilities:</p> <ul style="list-style-type: none"> <li>• Indoor golf driving ranges.</li> <li>• Indoor horse riding facilities.</li> <li>• Indoor shooting ranges, including those operated by rod and gun clubs.</li> </ul>	
<b>Physical distancing</b>	<p>Only athletes who are members of the Applicable Organization may use the facility.</p> <p>Any person who enters or uses the facility must maintain a physical distance of at least two metres from any other person using the facility.</p>	<p>Any person who enters or uses the facility must maintain a physical distance of at least two metres from any other person using the facility.</p>	<p>No special restrictions. But, as stated above, every person responsible for the facility must comply with advice, recommendations and instructions of public health officials relating to physical distancing.</p>
<b>Team sports</b>	<p>The following are not to be played in the facility:</p> <ul style="list-style-type: none"> <li>• Team sports.</li> <li>• Other sports or games that are likely to result in individuals coming within two metres of each other.</li> </ul>	<p>&lt;&lt; Same as at left.</p>	<p>No special restrictions.</p>
<b>Spectators</b>	<p>Spectators are not allowed with the exception of one accompanying parent, guardian or adult for each athlete under the age of 18.</p>	<p>No special restrictions, but those responsible for the facility must comply with advice, recommendations and instructions of public health officials.</p>	<p>&lt;&lt; Same as at left.</p>
<b>Locker rooms</b>	<p>Locker rooms, change rooms, showers and clubhouses must remain closed, except to the extent that they provide access to a washroom or to a portion of the facility used to provide first aid.</p>	<p>&lt;&lt; Same as at left.</p>	<p>No special restrictions.</p>

# FASKEN

Category	Ontario: Facilities for athletic training or competitions	Ontario: Indoor or outdoor sports facilities	Ontario: Golf courses and outdoor golf driving ranges
<b>Other</b>	All sports activities must be conducted in accordance with the rules and policies of the Applicable Organization, including the rules and policies put in place to ensure a safe return to the sport.	-	Any clubhouse, restaurant, pool, meeting room, fitness centre or other recreational facility on the premises must remain closed to the public, except the portion of that building that is used to provide first aid services, contains washrooms or provide access to either.  Despite the above, restaurants on the premises may provide take-out or delivery service.

Key sources of Ontario law:

- [O Reg 82/20](#) Order under Subsection 7.0.2 (4) - Closure of Places of Non-Essential Businesses
- [O Reg 51/20](#) Order under Subsection 7.0.2 (4) of the Act - Closure of Establishments
- [O Reg 52/20](#) Order under Subsection 7.0.2 (4) of the Act - Organized Public Events, Certain Gatherings