



Novel Coronavirus (COVID-19)

Not-for-Profit & Charities

April 2020

COVID-19: Announcement from Federal Government for Community-Based Organizations and Updates from Charities Regulators

By Linda J. Godel and Lauren Crosby

The federal government has made a key announcement that will be of interest to community-based charities and non-profits that provide assistance to vulnerable Canadians.

In addition, the federal regulator of charities has re-opened its operations to a limited extent and the Ontario regulator of charities has issued some helpful information to assist with the interpretation of the temporary guidelines that it issued due to COVID-19. More information about these key updates is below.

Federal Government

On April 21, 2020, the federal government announced that it will be investing \$350 million in the Emergency Community Support Fund to help vulnerable Canadians most affected by the “health, social, and economic impacts” of the pandemic. Recognizing that local charities and non-profits provide support to vulnerable people, the government will provide funds to national charities and non-profits that can expediently provide funding to community-based organizations that work on the front line with those most in need.

The announcement identified various types of activities that will be funded which include the following:

- *Increasing volunteer-based home deliveries of groceries and medications*
- *Providing transportation services, like accompanying or driving seniors or persons with disabilities to appointments*
- *Scaling up help lines that provide information and support*
- *Helping vulnerable Canadians access government benefits*

- *Providing training, supplies, and other required supports to volunteers so they can continue to make their invaluable contributions to the COVID-19 response*
- *Replacing in-person, one-on-one contact and social gatherings with virtual contact through phone calls, texts, teleconferences, or the Internet*

We expect more information will be released in the coming days about the mechanics of accessing these emergency funds and how they can be used.

More articles on other **Federal Government Relief Programs** and the **Canada Emergency Wage Subsidy** can be found on the **COVID-19 Resource Centre** on our website.

Charities Regulators

The Charities Directorate (Charities Directorate) of the Canada Revenue Agency

The Charities Directorate has released an update to the statement that it issued in late March about the impact of COVID-19 on its delivery of services (**April Statement**).

In March, the Charities Directorate announced that *all of its operations* would be suspended until further notice. It also provided an extension for charities required to file a Form T3010, Registered Charity Information Return between **March 18, 2020 and December 31, 2020**, until **December 31, 2020**. **See our article for more information.**

The key points to take away from the April Statement are as follows:

1. The call centre of the Charities Directorate has resumed operations to answer questions.
2. The Charities Directorate is working towards gradually resuming its other services, such as online applications for charitable registrations.
3. All *audit activities* continue to be suspended until further notice.
4. The Charities Directorate will provide further updates as the situation evolves.

The Ontario Public Guardian and Trustee (PGT)

As communicated in **our recent article**, the PGT released temporary guidelines for charities to access their restricted purpose trust funds during the COVID-19 Pandemic (**Guidelines**).

The PGT has advised that its office has received various questions regarding the application of the Guidelines and it has issued responses to some of these questions. These questions and answers are reprinted below with the permission of the PGT.

1. Question regarding how the charity can show it's in danger of closing and what steps it should take prior to accessing funds:

The charity should be able to foresee that it will not be able to pay its bills due to a significant drop in its income. It does not have to be on the verge of turning off the lights and locking its doors. If after examining its financial situation and accessing all reserve and non-restricted funds and applying for government funding, the charity can say 'we will have to file for bankruptcy or receivership in the next 30 to 60 days unless we get new funding', then it could be said to be in danger of closing.

We do not expect staff lay-offs or selling assets prior to accessing the funds, however, temporarily halting programs and any other cost cutting measures (short of laying off staff) that are not pandemic response related is expected. As an example, a contract with a cleaning company for daily cleaning that can be reduced owing to non-use of a facility should be renegotiated/cancelled.

2. Can the charity use the funds to assist non pandemic-responsive programs to continue?

No, we expect that programs that are not responsive to the pandemic will be temporarily halted.

3. Will the charity be expected to replenish the fund?

No. The guidelines do not require that the charity re-pay the funds to the restricted purpose fund, although it can be structured as a loan if the charity wishes and expects it will be able to re-pay the funds overtime once the pandemic is finished.

4. How will the PGT respond if the PGT disagrees with the charity's decision to access the fund?

This is difficult to answer outside of a specific fact scenario. We will look at the reasonableness of the decision and the good faith of the directors at the time and decide what measures to take at that point. Possible consequences could include requiring the charity to replace the funds, finding the directors in breach, requesting removal of directors (in cases of bad faith). PGT counsel is available for discussions with directors/counsel if they are unsure.

5. Is a charity allowed to use its restricted purpose funds for pandemic-response related programs if it's not in danger of closing?

All charities must fulfill the requirement to be in danger of closing prior to accessing any funds.

6. If a charity administers a restricted purpose fund for the benefit of another charity, can it use the PGT's temporary guidelines?

Yes. In this case the trustee charity would be required the contact the PGT and provide the requested information. The trustee charity would have to review the circumstances of the beneficiary charity and satisfy itself that the criteria have been met and the funds will be used in compliance with the guidance. Also, all of the directors of both charities would be required to consent.

We are pleased to see the efforts that the federal government and regulators of charities are undertaking to assist the sector and will continue to monitor for updates.

We would be happy to answer any charity or non-profit related questions that you may have about regulatory compliance or any other matters involving **COVID-19**.

Authors



Linda J. Godel
Partner

Tel: 416 643 8809
lgodel@torkinmanes.com



Lauren Crosby
Associate

Tel: 416 777 5429
lcrosby@torkinmanes.com

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