

# Ontario charities: Accessing restricted funds during the COVID-19 pandemic

April 01, 2020

The Ontario Public Guardian and Trustee (PGT) developed temporary guidelines (the PGT Guidelines) to assist Ontario charities that are impacted by the economic consequences of the COVID-19 pandemic. The PGT Guidelines, which apply to charities in Ontario that are in danger of closing, allow eligible charities to access the income and capital of restricted purpose trust funds for operating expenses. The PGT Guidelines defer the requirement to obtain a court order under section 13 of the Charities Accounting Act (Ontario) until after the pandemic has ended.

For purposes of the PGT Guidelines, restricted purpose trust funds include the income and capital of perpetual endowment funds, as well as the income and capital of trust funds held for a restricted charitable purpose (the funds).

According to the PGT, Ontario charities may access and use the funds subject to each of the following conditions:

- The organization is in danger of closing, which includes becoming insolvent or filing for bankruptcy or receivership, unless it can access the funds;
- The organization may only access the funds as a last resort. Non-restricted funds, including reserve funds, should be used first;
- The organization must first notify the PGT by indicating the name and address of the organization; the name of the perpetual endowment fund or the restricted purpose trust fund; and the name, address and telephone number of a contact person for the organization. The PGT will accept notification via email;
- All board members must approve the decision to use or encroach upon the funds and the decision should be documented contemporaneously;
- Subject to the next bullet point, the funds must be used only for operating expenses and the contractual obligations of the charity and only to the extent necessary to maintain solvency. Operating expenses include: salaries, building expenses, utilities;
- **If a charity's purposes enable it to provide services in response to the COVID19 pandemic, the funds may be used for such services;**
- The organization must keep an accounting of the use of the funds;
- The organization shall apply for an order approving the encroachment under section 13 of the Charities Accounting Act (Ontario) within a reasonable time after the pandemic has subsided;

- The funds must not be transferred to another organization except in compliance with previously existing contractual obligations;
- The amounts withdrawn should be reasonable given the circumstances of the organization; and
- If it is necessary to sell stocks, bonds or other securities, the PGT will consider the sale reasonable even if there is a loss of capital, provided such investments are sold to an arms-length third party on the open market.

As noted above, charities who access the funds in accordance with the PGT Guidelines will still be required to apply for an order approving the encroachment under section 13 of the Charities Accounting Act (Ontario) within a reasonable time after the pandemic has subsided. Section 13 of the Charities Accounting Act (Ontario) provides a simplified procedure to obtain a court order without having to go to court or commencing formal court proceedings. It is unclear at this time what criteria will be used to determine that the pandemic has subsided.

**Please do not hesitate to contact any member of our [Charities & Not-Profit Group](#) with any questions. BLG has also created a [COVID-19 Resource Centre](#) to assist businesses on a variety of topics, including contractual risks, public disclosure requirements, schools and criminal law.**

By

[Ryma Nasrallah, Victoria Prince](#)

Expertise

[Charities & Not-For-Profit](#)

---

## **BLG | Canada's Law Firm**

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](http://blg.com)

### **BLG Offices**

#### **Calgary**

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3

T 403.232.9500  
F 403.266.1395

#### **Ottawa**

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

T 613.237.5160  
F 613.230.8842

#### **Vancouver**

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2

T 604.687.5744  
F 604.687.1415

**Montréal**

1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC, Canada  
H3B 5H4

T 514.954.2555  
F 514.879.9015

**Toronto**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing [unsubscribe@blg.com](mailto:unsubscribe@blg.com) or manage your subscription preferences at [blg.com/MyPreferences](http://blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](http://blg.com/en/privacy).

© 2025 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.