

The *Emergency Management Statute Law Amendment Act, 2006* received Royal Assent on June 20th, 2006 and was proclaimed by the Lieutenant Governor on June 30, 2006. This Act amended the *Emergency Management Act*, *Employment Standards Act*, and *Workplace Safety and Insurance Act* in order to expand the scope of power provided to the Lieutenant Governor in Council and the Premier to deal with emergencies in Ontario.

When did the legislation come into effect?

The *Emergency Management Statute Law Amendment Act, 2006* come into effect on June 30th, 2006.

What are some of the changes that have been made?

- > This Act amends or repeals more than one Act including the *Emergency Management Act*, *Employment Standards Act*, and the *Workplace Safety and Insurance Act*.
- > The title of the *Emergency Management Act* has been repealed and is substituted with the *Emergency Management and Civil Protection Act*.
- > The definition of emergency has been revised.
- > The scope of the government's power during declared emergencies has been expanded.

How is an "emergency" defined?

According to the legislation, an emergency is defined as "a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise." (s.1)

Who will be impacted by this legislation?

All Ontario employers, employees, business owners, and organizations may potentially be impacted by the legislation if an emergency is declared.

How will the new legislation impact my organization?

Currently, employees are entitled to 10 days unpaid emergency leave for events including a personal injury/illness, medical emergency, or an urgent family

matter related to this under the *Employment Standards Act*. New requirements also entitle an employee to a leave of absence without pay under the circumstances outlined in the *Emergency Management and Civil Protection Act* if an emergency is declared. During an emergency, this could reduce the workforce and resources an organization has to continue its core operations.

In addition, if an emergency is declared, an organization could be hindered due to an emergency order being issued that affects the closure of their business, prohibition of travel, or the use of necessary resources, goods, or services. Organizations can also be indirectly impacted by a key supplier not being able to provide raw materials or a key buyer that is unable to transport and sell a finished product.

Organizations should revisit their existing emergency and business continuity plans to ensure provisions have been made in the event of a declared emergency.

Who can declare an emergency?

The Lieutenant Governor in Council or the Premier makes an order declaring an emergency if an urgent situation exists that requires immediate action to prevent or reduce a danger of major proportions. If the Premier declares an emergency, it must be confirmed by an order of the Lieutenant Governor in Council otherwise, it is cancelled after 72 hours.

To declare an emergency, one of the following conditions must be present:

- > the resources normally available to the Government cannot be relied upon without risk of serious delay or may be inadequate to address the emergency; or
- > it is not possible, without the risk of serious delay, to determine whether the resources normally available can be relied upon (s.7.0.1).

How long can a declared emergency last?

A declared emergency ends after 14 days unless it is terminated earlier by the Lieutenant Governor in Council. The Lieutenant Governor in Council may extend an emergency, before it is terminated, for another period of 14 days. In addition, the Assembly, on the recommendation of the Premier, may extend the emergency period for an additional period of 28 days. If the Assembly has not yet voted on whether or not to extend the emergency, the declared emergency will continue until it is voted on (s.7.0.7).

What are emergency orders and who can initiate them?

- > Emergency orders are made under the *Emergency Management and Civil Protection Act* to “promote the public good by protecting the health, safety and welfare of the people of Ontario in times of declared emergencies in a manner that is subject to the *Canadian Charter of Rights and Freedoms*.”
- > The Lieutenant Governor in Council can make emergency orders where it is necessary to prevent or mitigate serious harm to individuals or substantial property damage
- > A Minister or the Commissioner of Emergency Management may be delegated the power to make emergency orders. If the Commissioner of Emergency Management makes an emergency order, it must be confirmed by the Lieutenant Governor in Council, the Premier, or the Minister who delegated the power otherwise, it is cancelled within two days.
- > Limitations are placed on emergency orders including that an order will apply to the areas of the Province where it is necessary and will only be effective for as long as is necessary (s.7.0.2).

What types of emergency orders can be issued?

There are several types of emergency orders that can be made including:

- > implementing emergency plans, prohibiting or regulating travel within a specified area, evacuating individuals/animals, and removing personal property from any specified area;
- > making arrangements for the adequate care and protection of individuals and property;
- > establishing facilities for the safety, shelter, and care of individuals (hospitals, emergency shelters) or closing businesses, schools, or other establishments or institutions;
- > using, procuring and fixing prices for necessary resources, goods and services.

For a complete list of emergency orders that can be issued, please refer to s.7.0.2(4) of the legislation.

When can an emergency order be withdrawn?

Generally, an order is withdrawn 14 days after it has been made unless it is cancelled sooner. The effective period of an emergency order may be renewed by the Lieutenant Governor in Council or a delegated Minister for another 14 days, if it is necessary to deal with the effects of the emergency (s.7.0.8).

What are the penalties for not complying with an emergency order?

Failure to comply with an emergency order or interference/obstruction of a person who is performing a duty under an order is an offence and subject to fines or imprisonment as outlined below:

- > for an individual, a fine of not more than \$100,000 and for a term of imprisonment of not more than one year;
- > for an individual, who is a director or officer of a corporation, a fine of not more than \$500,000 and for a term of imprisonment of not more than one year; and
- > for a corporation, a fine of not more than \$10,000,000.

The fines may be increased for convicted individuals that financially profited from the offence (s.7.0.11).

What if there is a conflict between requirements under the *Emergency Management and Civil Protection Act* and another piece of legislation?

An emergency order prevails over another statute, regulation, or other legislated order except where the other piece of legislation specifies that it is to apply despite the *Emergency Management and Civil Protection Act*. One exception is that the *Occupational Health and Safety Act* and its Regulations prevail in the event of a conflict with this Act.

Can individuals be called upon to provide services during a declared emergency?

An emergency order can authorize a group of people or any one person to supply services that they are qualified to provide. If a person or group of people is providing services under an emergency order, their employment cannot be terminated. The terms and conditions of services, including compensation, may be outlined in the order.

What changes have been made to the *Employment Standards Act*?

- > An employer must retain documents (certificates, correspondence, notices) related to an employee taking emergency leave during a declared emergency for three years after the day on which the leave expired (s.7).
- > A section on emergency leave and declared emergencies has been added to the *Act* outlining that an employee is entitled to a leave of absence without pay if the employee will not be performing the duties of his or her position because of an emergency declared under the *Emergency Management and Civil Protection Act*; and
 - an order has been issued that applies to the employee under this *Act* or the *Health Protection and Promotion Act*;
 - the employee is needed to provide care or assistance to a spouse, parent, child, or another relative who is dependent on the employee for assistance or care;
 - other reasons as may be prescribed.
- > The employer must be advised of the leave and may require the employee to provide evidence reasonable in the circumstances that the employee is entitled to the leave.
- > An employee is entitled to take a leave under this section for as long as he or she is not performing the duties of his or her position because of an emergency declared under the *Emergency Management and Civil Protection Act* and one of the reasons outlined above exists. The entitlement ends on the day the emergency is terminated.

What changes have been made to the *Workplace Safety and Insurance Act*?

The definition of worker in the *Act* has been changed to reference the *Emergency Management and Civil Protection Act* and reflect the requirements made under this *Act*. In addition, the Crown is deemed to be the employer of a person who assists with an emergency declared under the *Emergency Management and Civil Protection Act*.

Where do I go for more information?

Emergency Management Statute Law Amendment Act, 2006

Emergency Management and Civil Protection Act, 2006

Link: <http://www.e-laws.gov.on.ca>

IAPA IPS that relates to this topic:

- > [Web Downloads](#): Avian Influenza and the Pandemic Threat, SARS
- > [Training](#): Pandemic Planning: Is Your Business Ready?

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May 2008

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