



JUSTICE INSTITUTE
of BRITISH COLUMBIA

A Guide
to the
Emergency
Program
Act



In July, 1993 the Emergency Program Act was passed by the B.C. Legislature. This act replaced a 40 year old act designed to meet the needs of the Cold War [Sec. 29]. Revisions were also made to the Act in May 2004. This guide outlines the powers and obligations the act gives to various organizations. Please consult the legislation for the exact legal wording. References to the act are in brackets.

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SOME DEFINITIONS

"emergency"

Means a present or imminent event that

- a) is caused by accident, fire, explosion or technical failure or by the forces of nature, and
- b) requires prompt coordination of action or special regulation of persons or property to protect health, safety or welfare of people or to limit damage to property.

"disaster"

Means a calamity that

- a) is caused by accident, fire, explosion or technical failure or by the forces of nature, and
- b) has resulted in serious harm to the health, safety or welfare of people, or in widespread damage to property.

"volunteer"

Means a volunteer registered by a local authority or the Provincial Emergency Program.

PLANNING -- Provincial Government

The minister responsible for the act is the Solicitor General. This person has specific powers and duties as stated in the act.

In order to prepare for, respond to and recover from emergencies and disasters the minister must prepare emergency plans [Sec. 4(1)]. To do this the minister may delegate this work to the director of the Provincial Emergency Program [Sec. 4(2)(i)]. Among other things the act allows them to:

- a) analyze hazards and risks in the province [Sec. 4(2)(b)],
- b) recommend preventative measures [Sec. 4(2)(a)],
- c) make grants to local governments [Sec. 4(2)(c)],
- d) require local authorities to prepare emergency plans, satisfactory to the minister [Sec. 5],
- e) review and recommend modification of local emergency plans [Sec. 4(2)(f)],
- f) require people to prepare emergency plans who operate businesses, use property, or own property that have hazards which could cause emergencies [Sec. 5(a)],
- g) provide support to volunteers [Sec. 4(2)(h)], and
- h) make agreements with other governments dealing with emergency plans or programs [Sec. 4(2)(e)].

PLANNING -- Local Authorities

A local authority means [Sec. 1]:

- a) for a municipality, the municipal council,
- b) for an electoral area in a regional district, the board of the regional district*, or
- c) if agreed to, the superintendent of a national park.

Municipalities, electoral areas and national parks are termed jurisdictional areas in the act [Sec. 1]. Each local authority has responsibilities under the act for its jurisdictional area [Sec. 1(2)].

A local authority is at all times responsible for the direction and control of the local authority's emergency response, except in a few situations [Sec. 6(1)]. These are:

- a) if local emergency plans conflict with provincial emergency plans [Sec. 8(2)],
- b) when the Solicitor General orders a local authority to stop using any or all of its powers in a state of local emergency [Sec. 13(2)], or
- c) when a state of emergency is declared for the same area covered by a state of local emergency [Sec. 14(3)].

A local authority must prepare emergency plans respecting preparation for, response to, and recovery from emergencies and disasters [Sec. 6(2)].

A local authority must establish and maintain an emergency management organization and may appoint a coordinator for the organization and may set up committees. A local authority may, in writing, delegate any of its powers and duties under the act to the committees, emergency management organization or coordinator except the power to declare a state of local emergency [Sec. 6(3&4)].

EMERGENCIES and DISASTERS

Provincial emergency plans may be implemented if an emergency exists or appears imminent or a disaster occurred or threatens whether or not a state of emergency has been declared [Sec. 7].

Whether or not a state of local emergency has been declared, a local emergency plan may be implemented if an emergency exists or appears imminent or a disaster has occurred or threatens. The plan would be implemented in the local authority's jurisdictional area. In addition, other local authorities may implement their plans to meet requests for assistance from the affected local authority [Sec. 8(1)].

*Changes to the Emergency Program Act in May 2004 indicated that regional districts are required to have plans in place by January 2006.

STATE OF EMERGENCY [Sec. 9]
STATE OF LOCAL EMERGENCY [Sec. 12]

The Solicitor General or Lieutenant Governor In Council may declare a state of emergency relating to all or part of B.C. [Sec.9]. A local authority or the head of the local authority may declare a state of local emergency in all or part of its jurisdictional area [Sec. 12]. In all cases the declarers must be satisfied that an emergency exists or is imminent in the area.

A declaration must identify the nature of the emergency and the part of the jurisdictional area in which it exists or is imminent. Local authorities make declarations by bylaw, or resolution; heads of local authorities, by order.

The head of the local authority, (mayor or acting mayor for a municipality, for a regional district the chair or in their absence, a vice chair), must use their best efforts to obtain the consent of the other members of the local authority before declaring a state of local emergency. As soon as practicable after making a declaration the head of the local authority must convene a meeting of the local authority to assist in directing the response to the emergency [Sec. 12(3)].

Immediately after a declaration is made its details must be communicated to the majority of the population of the affected area, and in the case of a local authority a copy is forwarded to the Solicitor General [Sec. 12(4)].

Provincial states of emergency can last up to 14 days. States of local emergency can last up to 7 days. Both may be renewed [Sec. 12 (5,6,7)].

During a declared state of emergency or state of local emergency the provincial government or local authority, as the case may be, may take steps they feel are necessary to prevent, respond to or alleviate the effects of an emergency or disaster [Sec. 10(1) & Sec. 13(1)(a,b,c)].

In order to accomplish this, they may:

- a) implement or require to be implemented emergency plans or emergency measures [Sec. 10(1)(a,b)],
- b) acquire or use any real or personal property; people must be compensated if a loss occurs to the property [Sec. 19 (1)].
- c) authorize or require people to render assistance [see also Sec. 25],
- d) control or prohibit travel,
- e) restore essential facilities,
- f) provide, maintain, and coordinate emergency medical, welfare and other essential services,
- g) distribute essential supplies
- h) evacuate people, personal property, livestock, and animals and arrange for their care and protection,
- i) authorize entry into any building or on any land, without warrant,
- j) demolish or remove trees, structures or crops,
- k) construct necessary works,
- l) obtain, fix prices for or ration food, clothing, fuel, equipment, medical services or other essential supplies, or
- m) use any property, services, resources or equipment for the duration of the state of emergency.

During the state of emergency the local authority or head of the local authority may authorize others to exercise these powers [Sec. 13(1)(c)].

At any time during the state of local emergency the Solicitor General may restrict the local authority from using any or all of these powers [Sec. 13 (2,3,4,5)].

Other than for (b) above, the government or local authority may compensate for losses of or to real or personal property caused by any of the above actions.

CANCELLING A STATE OF LOCAL EMERGENCY

A declaration of a state of local emergency is terminated when:

- a) it expires after 7 days or any 7 day extension [Sec. 12(5) or (6)],
- b) the Solicitor General cancels it [Sec. 14(1)],
- c) it is cancelled by bylaw, resolution or order [Sec. 14(2)],
- d) it is superseded by provincial state of emergency [Sec. 14(3) & 9(1)].

If cancelled by bylaw, resolution or order the Solicitor General must be promptly notified [Sec. 14(2)(b)].

CONFLICT

During the period of a declared state of emergency the Emergency Program Act and its regulations prevail over all other provincial legislation and regulations [Sec. 26].

RECOVERY OF COSTS

The Solicitor General may claim costs of government response and other efforts from a person who caused in whole or in part an emergency or disaster [Sec. 17].

DISASTER FINANCIAL ASSISTANCE

Disaster financial assistance is no longer administered under the Flood Relief Act. It is now covered by the Emergency Program Act and administered by the Provincial Emergency Program. Its terms have been expanded to include all disasters.

The assistance is for people who suffer loss as a result of a disaster. The Lieutenant Governor in Council decides who will receive financial assistance and the amount of that assistance. The act also contains sections outlining the appeal processes for eligibility for and the amount of disaster financial assistance [Sec. 20, 21, 22, 23 & 24].

REGULATIONS

The Lieutenant Governor in Council may make regulations to support the act [Sec. 28].

OFFENCE

Any person who contravenes the act or regulations or interferes with anyone carrying out their powers under the act may face one year imprisonment and/or a \$10,000 fine [Sec. 27].

EXEMPTION FROM CIVIL LIABILITY

People appointed, authorized or required to carry out measures relating to emergencies or disasters are not liable for losses, costs, expenses, damages or injuries to persons or property, as long as they were not grossly negligent nor acted in bad faith [Sec. 18].