

BILL

No. 23

An Act to amend *The Emergency Planning Act*

(Assented to _____)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Emergency Planning Amendment Act, 2020*.

SS 1989-90, c E-8.1 amended

2 *The Emergency Planning Act* is amended in the manner set forth in this Act.

Section 2 amended

3 **Section 2 is amended:**

(a) **by adding the following clause after clause (a):**

“(a.01) ‘**Crown**’ means the Crown in right of Saskatchewan”; **and**

(b) **by adding the following clause after clause (c):**

“(c.1) ‘**emergency period**’ means the period commencing on the day on which an emergency declaration is made or renewed and ending on the day on which the emergency declaration expires pursuant to subsection 17(4) or is terminated pursuant to section 19”.

Section 11 amended

4 **Subsection 11(3) is amended by striking out “in right of Saskatchewan”.**

Section 15 amended

5 **Subsection 15(1) is repealed and the following substituted:**

“(1) No action or proceeding lies or shall be commenced against any of the following persons if that person is acting pursuant to the authority of this Act, the regulations or an order made pursuant to this Act, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations:

- (a) the minister or any other member of the Executive Council;
- (b) the chief of emergency management;
- (c) the Saskatchewan Emergency Management Organization;
- (d) SPSA;

-
- (e) the provincial planning committee or members of the provincial planning committee;
 - (f) local authorities or members, employees, officers or agents of local authorities;
 - (g) persons appointed by the minister or local authorities to carry out measures relating to emergencies;
 - (h) persons acting under the minister's direction or authorization who are acting pursuant to this Act, the regulations or an order made pursuant to this Act;
 - (i) the Crown or its officers or agents as defined in *The Proceedings Against the Crown Act, 2019*".

New section 16

6 Section 16 is repealed and the following substituted:

"Offence and penalty

16(1) No person shall:

- (a) contravene any provision of this Act, the regulations or any order made pursuant to this Act; or
- (b) interfere with or obstruct any person in the exercise of any power conferred or the performance of any duty imposed by this Act, the regulations or any order made pursuant to this Act.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction:

- (a) in the case of an individual, to a fine of not more than \$7,500; or
- (b) in the case of a corporation, to a fine of not more than \$100,000".

Part III, new heading

7 The heading to Part III is struck out and the following substituted:

**"PART III
Emergency Period".**

Section 18 amended

8(1) Subsection 18(1) is amended:

- (a) by striking out the portion preceding clause (a) and substituting "On the making of an emergency declaration or a renewal of an emergency declaration and during the emergency period, the minister may:";**
- (b) in clause (h) by adding ", law enforcement" after "welfare";**
- (c) in clause (l) by striking out "for the duration of the state of emergency" and substituting "during the emergency period"; and**
- (d) by adding the following clause after clause (l):**
"1.1) cause information to be collected, used or disclosed that the minister is satisfied is necessary to prevent, combat or alleviate the effects of the emergency and for no other purpose".

(2) Subsection 18(2) is repealed and the following substituted:

“(2) Subject to the approval of the Lieutenant Governor in Council, the minister may pay compensation for the following:

- (a) the acquisition or utilization by the minister of real or personal property pursuant to subsection (1);
- (b) any damage or destruction of real or personal property due to an action of the minister in preventing, combatting or alleviating the effects of an emergency”.

New sections 18.1 and 18.2

9 The following sections are added after section 18:

“Rules re section 18 orders

18.1(1) Section 18 and every order made pursuant to section 18 prevail in the case of any conflict with any other Act, regulation, order, collective agreement, other agreement or other law.

(2) An order made pursuant to section 18 remains in force during the emergency period, but may be continued in force for a further period not exceeding 30 days after the day on which the emergency period ends:

- (a) by order of the Lieutenant Governor in Council; or
- (b) if authorized by the Lieutenant Governor in Council, by the minister.

“Enforcement

18.2 For the duration of an emergency period, the Royal Canadian Mounted Police and all police services are authorized to take any reasonable action, including detaining or arresting persons, to enforce:

- (a) an emergency declaration; or
- (b) an order made pursuant to section 18”.

Section 19 amended

10 Subsection 19(2) is repealed and the following substituted:

“(2) As soon as is reasonably practicable after an order is made pursuant to subsection (1) or after the emergency declaration expires pursuant to subsection 17(4), the minister shall cause the order or a notice of the expiration to be made public in any manner the minister considers appropriate, including publishing it on the Government of Saskatchewan’s website”.

Section 21 amended

11 Subsection 21(1) is amended:

(a) in the portion of clause (a) preceding subclause (i) by striking out “state of emergency” and substituting “local emergency declaration,”; and

(b) in the portion of clause (b) preceding subclause (i) by striking out “for the duration of the state of emergency” and substituting “during the emergency period”.

Section 22 amended

12 Subsection 22(5) is repealed and the following substituted:

“(5) If the Lieutenant Governor in Council makes an emergency declaration that applies to a municipality, any local emergency declaration made by a local authority relating to the same municipality is of no force or effect unless the Lieutenant Governor in Council specifies otherwise.

“(6) Subsection (5) applies regardless of whether the local emergency declaration is made before or after the emergency declaration by the Lieutenant Governor in Council.

“(7) If the Lieutenant Governor in Council permits a local emergency declaration relating to a municipality to continue in force notwithstanding the existence of an emergency declaration made by the Lieutenant Governor in Council relating to the same municipality, the Lieutenant Governor in Council may make any modifications to the local emergency declaration that the Lieutenant Governor in Council considers necessary to make the local emergency declaration consistent with the emergency declaration made by the Lieutenant Governor in Council”.

New Part III.2

13 The following Part is added after Part III.1:

“PART III.2

COVID-19 Response and Recovery Matters

“Interpretation of Part

24.2(1) In this Part:

‘COVID-19 public health emergency’ means the public health emergency that was the subject of the emergency declaration made on March 18, 2020 and renewed from time to time;

‘good faith effort’ includes an honest effort, whether or not that effort is reasonable;

‘public health order’ means an order given or made with respect to public health by any of the following:

- (a) the minister;
- (b) the chief medical health officer pursuant to *The Public Health Act, 1994*;
- (c) a public health official of the Government of Canada;
- (d) a minister or ministry of the Government of Saskatchewan or Canada, or an officer or employee in such a ministry;
- (e) an agency of the Government of Saskatchewan or Canada or an officer or employee in such an agency;
- (f) a municipality or an officer or employee of a municipality;
- (g) a regulatory body having jurisdiction over a person, or an officer or employee of such a regulatory body.

(2) A reference in this Part to a person includes a reference to any individual, corporation or other entity, and includes the Crown.

(3) Nothing in this Part shall be read as abrogating or limiting any defence or immunity that exists at law.

“Protection from liability

24.3(1) Subject to sections 24.4 and 24.5 and the regulations, no action or proceeding lies or shall be commenced or maintained against any person as a direct or indirect result of an individual being or potentially being infected with or exposed to COVID-19 on or after March 18, 2020 as a direct or indirect result of an act or omission of the person if:

(a) at the relevant time, the person acted or made a good faith effort to act in accordance with:

(i) a public health order relating to COVID-19 that applied to the person; and

(ii) any other federal, provincial or municipal enactment relating to COVID-19 that applied to the person; and

(b) the act or omission of the person does not constitute gross negligence.

(2) Subsection (1) applies notwithstanding any conflict or inconsistency in the public health orders or other enactments applicable to the person.

(3) A difference in the degree of specificity respecting a matter does not constitute a conflict or inconsistency for the purposes of subsection (2).

(4) Subsection (1) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before, on or after the day on which this section comes into force.

(5) Any action or proceeding referred to in subsection (1) that is commenced before the day on which this section comes into force is deemed to have been dismissed, without costs, on the day on which this section comes into force.

(6) No person is entitled to any compensation or any other remedy or relief for the extinguishment or termination of rights pursuant to this Part.

(7) This section applies, with any necessary modification, with respect to a person who is vicariously liable for the acts or omissions of another person if subsection (1) negates the liability of the other person in relation to the act or omission.

(8) No action or proceeding lies or shall be commenced or maintained against the Crown as a result of anything in good faith done or omitted to be done by the Crown, or by its officers or agents as defined in *The Proceedings Against the Crown Act, 2019*, in relation to the COVID-19 public health emergency.

(9) The Lieutenant Governor in Council may make regulations for the purposes of this section, including regulations restricting the protection provided pursuant to subsection (1) or imposing terms and conditions on the protection.

(10) A regulation made pursuant to subsection (9) may be made retroactive to a day not earlier than March 18, 2020.

“Non-application, required closure

24.4 Section 24.3 does not apply with respect to acts or omissions of a person that:

(a) occurred while a public health order or other law required the person’s operations to close, in whole or in part; and

(b) relate to an aspect of the person’s operations that was required to close under the public health order or other law.

“Non-application, employment and performance of work

24.5(1) In this section, ‘dependant’, ‘employer’, ‘occupational disease’ and ‘worker’ have the same meaning as in *The Workers’ Compensation Act, 2013*.

(2) Section 24.3 does not apply with respect to any of the following:

(a) a cause of action of a worker or of the worker’s dependant with respect to a personal injury by accident arising out of and in the course of the worker’s employment or an occupational disease;

(b) a cause of action of a worker or of the worker’s dependant to which the Workers’ Compensation Board is subrogated pursuant to section 39 of *The Workers’ Compensation Act, 2013*;

(c) a cause of action of an individual in respect of an actual or potential exposure to or infection with COVID-19 that occurred in the course, or as a result, of employment with a person or in the performance of work for or supply of services to a person;

(d) a proceeding arising from a cause of action referred to in clause (a), (b) or (c).

(3) In the event of a conflict between *The Workers’ Compensation Act, 2013* and this Part, *The Workers’ Compensation Act, 2013* prevails to the extent of the conflict.

“Crown bound

24.6 The Crown is bound by this Part”.

Coming into force

14 This Act comes into force on assent.

FIRST SESSION
Twenty-ninth Legislature
SASKATCHEWAN

B I L L

No. 23

An Act to amend *The Emergency Planning Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Gordon Wyant
