

Emergency Management Act

Understanding the 2020 amendments

Overview

In the spring of 2020, the Legislative Assembly of Alberta passed Bills 9 and 13, amending the *Emergency Management Act* to ensure that Alberta's emergency management legislation properly supports Albertans during a pandemic.

Key changes:

- Greater clarity on ministerial powers and orders
- 90-day expiry for state of local emergency (SOLE) or state of emergency (SOE) declarations that relate to a pandemic
- SOLEs and SOEs coexisting for the same area
- Local authority retains responsibility for local response unless the Minister of Municipal Affairs (Minister) orders otherwise

Local authority responsibility in an emergency

Responsibility under a SOE

Previously under the *Emergency Management Act*, the local authority was responsible, at all times, for the direction and control of its emergency response, *except* when the Government of Alberta assumes control by declaring a SOE. Now that a SOLE and SOE can coexist, the local authority is always responsible unless:

- The Minister orders that the Managing Director of AEMA, or another person of the Minister's choosing, is responsible.

- The Government of Alberta issues a SOE declaration that specifically cancels the SOLE for the same area.

Although a SOLE is no longer automatically cancelled when a SOE is declared for the same area, a SOE declaration may specify that any or all SOLEs in the affected area are cancelled.

In case of conflict

In any situation where there is a SOE and a SOLE for the same area, if there is any conflict between the local authority and the Minister, or a person the Minister has made responsible, direction by the Minister or their designate prevails.

SOLE or SOE declaration

Before the recent amendments, a SOE could last for up to 28 days unless cancelled by the Minister or renewed by the Legislative Assembly of Alberta. SOLEs could last for up to seven days before requiring renewal by council resolution. The only exception was for a pandemic influenza, in which case either a SOLE or SOE could last up to 90 days.

In a pandemic

Under the amendments, "pandemic influenza" was changed to "pandemic", so that a SOE or SOLE can last up to 90 days without renewal for any type of pandemic. Given that COVID-19 is not an influenza, the more inclusive wording will ensure the province

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has the authority and tools needed to respond to any type of pandemic. The local authority is still required to follow other SOLE declaration procedures.

Expiry of non-pandemic SOLE

Non-pandemic disasters and emergencies are typically more dynamic and shorter in duration. For this reason, the duration of non-pandemic SOLEs is still limited to seven days before requiring renewal. This ensures councils, or emergency advisory committees, monitor the situation and meet regularly to confirm that access to extraordinary powers is still required to address the emergency.

New emergency during a pandemic SOLE

If a community is faced with another emergency or disaster while the pandemic SOLE is in place and a need for extraordinary legal authorities exists, a separate SOLE must be declared. Under section 21(2) of the *Emergency Management Act*, the SOLE must identify the nature of the emergency and the area of the community in which it exists.

Powers under a SOLE or SOE

Powers of the Minister

The Minister already has broad authorities, including those not explicitly listed under section 19(1). The Minister can now make an order that is enforceable as an offence for any powers, including those not explicitly listed. This new provision does not extend to local authorities.

The Minister may also, by order, restrict, prohibit or terminate any power exercised by the local authority, as well as rescind, cancel or modify any bylaw.

During a larger, province-wide response, this change allows the Minister to maintain consistency across multiple municipalities in the use of section 19(1) authorities - without having to cancel a SOLE. This authority allows the Minister to ensure that the broader public interest is preserved.

Clarity on orders

The *Emergency Management Act* now specifies that an order under a SOE can be made by the Minister, the Managing Director of AEMA, or any person the Minister authorizes to make an order.

For More Information

Questions? See our [Frequently Asked Questions](#) factsheet for Bill 13.

Visit the [URL in the banner below](#) or email: aema@gov.ab.ca

An order under a SOLE can be made either by the local authority, or by any person authorized by the local authority to make an order.

The making of orders

Under the amendments, section 19(1) now allows the Minister (or the local authority under section 24(1)(b)) to:

- Take any of the actions listed, such as initiating an emergency plan, acquiring or using any personal property, or issuing an evacuation order.
- Make an order for an action to be taken.

Enforcement of orders

Bill 13 strengthens local authorities' ability to enforce orders made under the *Emergency Management Act*. A peace officer or police officer may now issue an offence for a number of violations, and issue a summons to provincial court. A guilty judgement results in the legislated fine or jail time.

Broadened enforcement provisions

Previously under the *Emergency Management Act*, the offence provisions only applied if an individual did not comply with an evacuation order, interfered or obstructed someone carrying out a power or duty under the Act, or violated the Act or regulations. To ensure local authorities have the tools to address emergencies and disasters, the offence provisions have been expanded to include other orders, such as controlling or prohibiting travel in Alberta, restoration of facilities, distribution of essential supplies, price fixing, and conscription.

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