

2010 Bill 6

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Third Session, 27th Legislature, 59 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 6**

## **EMERGENCY MANAGEMENT AMENDMENT ACT, 2010**

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MR. BHULLAR

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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Bill 6  
Mr. Bhullar

## BILL 6

2010

### EMERGENCY MANAGEMENT AMENDMENT ACT, 2010

(Assented to \_\_\_\_\_, 2010)

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

#### Amends RSA 2000 cE-6.8

**1** The *Emergency Management Act* is amended by this Act.

**2** Section 3 is repealed and the following is substituted:

#### Proof of authorization

**3** If the Minister authorizes a person to carry out a power or duty of the Minister under this Act as the Minister responsible for this Act or as a local authority and the authorization

- (a) is made in writing,
- (b) purports to be signed by the Minister responsible for the *Municipal Government Act* or the Minister responsible for the *Special Areas Act*, and
- (c) states that the person named in it is authorized under this section to carry out the power or duty set out in the written authorization,

that written authorization or a copy of it shall be admitted in evidence as proof, in the absence of evidence to the contrary, of that person's authorization to carry out the power or duty

## Explanatory Notes

**1** Amends chapter E-6.8 of the Revised Statutes of Alberta 2000.

**2** Section 3 presently reads:

*3(1) The Minister responsible for the Municipal Government Act or the Minister responsible for the Special Areas Act may authorize another person to carry out the duties or exercise any of the powers that may be carried out or exercised under this Act by the Minister responsible for the Municipal Government Act or the Minister responsible for the Special Areas Act, as the case may be.*

*(2) An authorization made under subsection (1) may be*

*(a) general or applicable to a particular case, and*

*(b) conditional or unconditional.*

*(3) If an authorization made under subsection (1) is made in writing and*

*(a) purports to be signed by the Minister responsible for the Municipal Government Act or the Minister responsible for the Special Areas Act, and*

without proof of the signature or official character of the Minister.

**3 Section 6(b) is repealed and the following is substituted:**

- (b) delegating any power or duty of the Minister or the Lieutenant Governor in Council under this Act except
  - (i) a power or duty of the Minister that has been delegated by the Minister,
  - (ii) the power to make regulations, and
  - (iii) the power to make an order declaring a state of emergency;

**4 Section 11 is repealed and the following is substituted:**

**Municipal emergency organization**

**11** A local authority

- (a) shall, at all times, be responsible for the direction and control of the local authority's emergency response

*(b) states that the person named in it is authorized under this section to carry out the duties or exercise the power set out in the written authorization,*

*that written authorization or a copy of it shall be admitted in evidence as proof, in the absence of evidence to the contrary, of that person's authorization to carry out the duties or exercise the power without proof of the signature or official character of the Minister responsible for the Municipal Government Act or the Minister responsible for the Special Areas Act, as the case may be.*

*(4) Notwithstanding that the Minister responsible for the Municipal Government Act or the Minister responsible for the Special Areas Act has given an authorization under this section, the Minister responsible for the Municipal Government Act or the Minister responsible for the Special Areas Act, as the case may be, may carry out the duties or exercise that power in respect of which the authorization was given.*

*(5) The Minister may in writing delegate to the Managing Director any power or duty conferred or imposed on the Minister by or under this Act, except the power or duty to make regulations within the meaning of the Regulations Act.*

**3** Section 6 presently reads in part:

*6 The Lieutenant Governor in Council may make regulations*

*(b) subject to section 3(5), delegating to any person, board or committee appointed under this Act any of the powers vested by this Act in the Minister or the Lieutenant Governor in Council except the power to make an order for a declaration of a state of emergency or to make regulations;*

**4** Section 11 presently reads:

*11 The local authority of each municipality*

*(a) shall, at all times, be responsible for the direction and control of the local authority's emergency response unless*

unless the Government assumes direction and control under section 18;

- (b) shall prepare and approve emergency plans and programs;
- (c) may enter into agreements with and make payments or grants, or both, to persons or organizations for the provision of services in the development or implementation of emergency plans or programs.

**Emergency advisory committee**

**11.1(1)** Each local authority shall appoint an emergency advisory committee consisting of a member or members of the local authority or, in the case of an improvement district, a special area or a national park, a person or persons the local authority designates, to advise on the development of emergency plans and programs.

**(2)** The local authority shall provide for the payment of expenses of the members of the committee.

**Emergency management agency**

**11.2(1)** A local authority shall maintain an emergency management agency to act as the agent of the local authority in exercising the local authority's powers and duties under this Act.

**(2)** There shall be a director of the emergency management agency, who shall

- (a) prepare and co-ordinate emergency plans and programs for the municipality,
- (b) act as director of emergency operations on behalf of the emergency management agency,
- (c) co-ordinate all emergency services and other resources used in an emergency, and
- (d) perform other duties as prescribed by the local authority.

**(3)** A local authority, except an improvement district, special area, national park or Indian reserve, may by bylaw that is not advertised borrow, levy, appropriate and expend all sums

*the Government assumes direction and control under section 18;*

- (b) shall appoint a committee consisting of a member or members of the local authority or
  - (i) in the case of an improvement district, of a person or persons that the Minister responsible for the Municipal Government Act designates,*
  - (ii) in the case of a special area, of a person or persons that the Minister responsible for the Special Areas Act designates, or*
  - (iii) in the case of a national park, of a person or persons that the park superintendent designates,**to advise on the development of emergency plans and programs;**
- (c) shall provide for the payment of expenses of the members of a committee appointed under clause (b);*
- (d) shall establish and maintain a municipal emergency management agency to act as the agent of the local authority to carry out the local authority's statutory powers and obligations under this Act;*
- (e) in the case of a municipality other than an improvement district, special area, national park or Indian reserve, may by bylaw that is not advertised borrow, levy, appropriate and expend all sums required for the operation of the municipal emergency management agency;*
- (f) shall appoint a director of the municipal emergency management agency, who shall
  - (i) prepare and co-ordinate emergency plans and programs for the municipality,*
  - (ii) act as director of emergency operations on behalf of the municipal emergency management agency,*
  - (iii) co-ordinate all emergency services and other resources used in an emergency, and*
  - (iv) perform other duties as prescribed by the local authority;**

required for the operation of the emergency management agency.

(4) For greater certainty, a emergency management agency may be maintained by and may act as the agent of more than one local authority.

**Delegation by local authority**

**11.3(1)** Without limiting section 9 of the *Government Organization Act*, a local authority may delegate the local authority's powers or duties under this Act to

- (a) a regional services commission established under the *Municipal Government Act* representing 2 or more local authorities if the regional services commission is authorized in its establishing regulation to exercise that power or duty;
- (b) if authorized by ministerial order, a joint committee representing 2 or more local authorities that is composed of one or more members appointed by each of the local authorities;
- (c) in the case of a summer village and if authorized by ministerial order, another local authority.

(2) Despite sections 21(1) and 23(1), a delegate of a local authority under subsection (1) that declares or terminates a local state of emergency shall do so by resolution.

**5 Sections 15 and 16 are repealed.**



- (g) shall prepare and approve emergency plans and programs;*
- (h) may enter into agreements with and make payments or grants, or both, to persons or organizations for the provision of services in the development or implementation of emergency plans or programs.*

**5** Sections 15 and 16 presently read:

*15(1) Neither the Minister nor any official or other person acting under the Minister's direction or authorization is liable for damage caused through any action under this Act or the regulations, nor is any of them subject to any proceedings by way of prohibition, certiorari, mandamus or injunction.*

*(2) Notwithstanding subsection (1), the Minister or any official or other person acting under the Minister's direction or authorization is liable for gross negligence in carrying out duties under this Act or the regulations.*

**6 Section 17(b) is amended by striking out** “exercise of any power or the performance of any duty conferred or imposed by this Act or the regulations” **and substituting** “carrying out of a power or duty under this Act or the regulations”.

**7 Section 18(5) is repealed.**

*16(1) If a state of emergency is declared to exist by the Government of Canada or by the Lieutenant Governor in Council or if a state of local emergency is declared to exist by a local authority,*

*(a) neither the local authority nor any member of the local authority, and*

*(b) no person appointed by a local authority to carry out measures relating to emergencies or disasters,*

*is liable in respect of damage caused through any action taken under this Act or the regulations, nor are they subject to any proceedings by way of prohibition, certiorari, mandamus or injunction.*

*(2) Notwithstanding subsection (1),*

*(a) any member of a local authority, and*

*(b) any person acting under the direction or authorization of the local authority,*

*is liable for gross negligence in carrying out duties under this Act or the regulations.*

**6** Section 17 presently reads:

*17 Any person who*

*(a) contravenes this Act or the regulations, or*

*(b) interferes with or obstructs any person in the exercise of any power or the performance of any duty conferred or imposed by this Act or the regulations,*

*is guilty of an offence and liable to imprisonment for a term of not more than one year or to a fine of not more than \$10 000 or to both imprisonment and fine.*

**7** Section 18(5) presently reads:

*(5) Unless otherwise provided for in the order for a declaration of a state of emergency, where*

**8 Section 19(3) is amended by striking out “combatting” and substituting “combating”.**

**9 Section 21 is amended**

**(a) in subsection (1)**

**(i) by striking out “The local authority of a municipality” and substituting “A local authority”;**

**(ii) by adding “in its municipality” after “may exist”;**

**(b) by repealing subsection (4).**

- (a) *an order for a declaration of a state of emergency is made, and*
- (b) *there is a conflict between this Act or a regulation made under this Act and any other Act or regulation, other than the Alberta Bill of Rights or the Alberta Human Rights Act or a regulation made under either of those Acts,*

*this Act and the regulations made under this Act, during the time that the order is in effect, shall prevail in Alberta or that part of Alberta in respect of which the order was made.*

**8** Section 19(3) presently reads:

*(3) If the Minister acquires or utilizes real or personal property under subsection (1) or if any real or personal property is damaged or destroyed due to an action of the Minister in preventing, combatting or alleviating the effects of an emergency or disaster, the Minister shall cause compensation to be paid for it.*

**9** Section 21 presently reads:

*21(1) The local authority of a municipality may, at any time when it is satisfied that an emergency exists or may exist, by resolution or, in the case of the Minister responsible for the Municipal Government Act, the Minister responsible for the Special Areas Act or a park superintendent of a national park, by order, make a declaration of a state of local emergency relating to all or any part of the municipality.*

*(2) A declaration of a state of local emergency under subsection (1) must identify the nature of the emergency and the area of the municipality in which it exists.*

*(3) Immediately after the making of a resolution for a declaration of a state of local emergency, the local authority shall cause the details of the declaration to be published by any means of communication that it considers is most likely to make known to the population of the area of the municipality affected the contents of the declaration.*

*(4) A local authority may delegate any of its powers and duties under this Act to a committee composed of a member or members of the local authority.*

**10 Section 24 is amended**

**(a) by adding the following after subsection (1):**

**(1.1)** If the local authority acquires or utilizes real or personal property under subsection (1) or if any real or personal property is damaged or destroyed due to an action of the local authority in preventing, combating or alleviating the effects of an emergency or disaster, the local authority shall cause compensation to be paid for it.

**(b) in subsection (2)**

**(i) by striking out** “The local authority of a municipality other than” **and substituting** “A local authority, except the local authority of”;

**(ii) by striking out** “reserve” **and substituting** “reserve,”.

**10** Section 24 presently reads:

*24(1) On the making of a declaration of a state of local emergency and for the duration of the state of local emergency, the local authority may do all acts and take all necessary proceedings including the following:*

- (a) cause any emergency plan or program to be put into operation;*
- (b) exercise any power given to the Minister under section 19(1) in relation to the part of the municipality affected by the declaration;*
- (c) authorize any persons at any time to exercise, in the operation of an emergency plan or program, any power given to the Minister under section 19(1) in relation to any part of the municipality affected by a declaration of a state of local emergency.*

*(2) The local authority of a municipality other than an improvement district, special area, national park or Indian reserve may, during or within 60 days after the state of local emergency, by bylaw that is not advertised but is approved by the Minister responsible for the Municipal Government Act, borrow any money necessary to pay expenses caused by the emergency including payment for services provided by the Government of Alberta or by the Government of Canada when the services were provided at the request of the local authority.*

*(3) In the case of an improvement district, the Minister responsible for the Municipal Government Act and in the case of a special area, the Minister responsible for the Special Areas Act may, during or within 60 days after the state of local emergency, borrow any money necessary to pay expenses caused by the emergency including payment for services provided by the Government of Alberta or by the Government of Canada when the services were provided at the request of the Minister responsible for the Municipal Government Act or the Minister responsible for the Special Areas Act, as the case may be.*

**11 The following is added after section 26:**

**Part 3  
Liability Protection for  
Emergency Service  
Providers**

**Minister**

**27** No action lies against the Minister or a person acting under the Minister's direction or authorization for anything done or omitted to be done in good faith while carrying out a power or duty under this Act or the regulations.

**Local authority**

**28** No action lies against a local authority or a person acting under the local authority's direction or authorization for anything done or omitted to be done in good faith while carrying out a power or duty under this Act or the regulations during a state of local emergency.

**Search and rescue organization**

**29** No action in negligence lies against a search and rescue organization, the directors of that organization or a person acting under the direction or authorization of that organization for anything done or omitted to be done in good faith while acting under an agreement between that organization and the Minister.



**11** Liability protection for emergency service providers.





