

Province Of Manitoba Introduces Sweeping New Emergency Powers

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On April 15, 2020, the government of Manitoba announced the introduction of Bill 54, *The Emergency Measures Amendment Act*. The Bill, when enacted, will grant the province sweeping new powers in the event of a declared emergency.

Under current legislation, *The Emergency Measures Act*, the mayor or reeve of a local authority or the minister responsible for the Act may make emergency orders that are intended to prevent or limit loss of life, or damage to property or the environment. The proposed new sections 12.3 to 12.15 introduce three new categories of orders that may be issued by Cabinet (referred to in the legislation as the Lieutenant Governor in Council). Those categories are:

Emergency Orders

In the case of a declared state of emergency or state of local emergency, Cabinet will be empowered to make any order considered necessary and essential to prevent, reduce or mitigate serious harm or substantial damage to persons or property or the effects of fiscal or economic disruption. These powers are limited to circumstances in which, in the opinion of Cabinet, it is reasonable to believe that making the order is a reasonable alternative to other actions that might be taken to address the emergency or disaster, and the actions provided for in the order alleviate the attendant harm or damage or enable an effective response to the emergency or disaster

Emergency orders are subject to further limitations. Any actions taken under the authority of the emergency order must be exercised in a manner which limits their intrusiveness. There are also geographic and temporal limits. An emergency order may only apply to the areas of the province where it is necessary, and only for so long as necessary.

Emergency orders may be issued for a wide variety of subject matters, including providing for emergency shelters in hospitals, fixing prices for necessary goods and services and prohibiting price gouging, requiring the collection, use or disclosure of information for purposes of the emergency order, or, broadly, providing for such other actions or other measures considered necessary to alleviate or respond to the effects of the emergency or disaster. Emergency orders may be retroactive to the date the state of emergency was declared.

Emergency orders may be revoked by the legislature. Any municipal emergency by-law that is inconsistent with an emergency order is of no force or effect.

Temporary Suspension Orders

The Bill, when enacted, will enable Cabinet to suspend the application of other legislation or regulatory orders in the case of an emergency when, in the opinion of Cabinet, persons affected by an emergency or disaster need greater services, programs, benefits or compensation than the laws of Manitoba provide, or may be prejudiced by the operation of current provincial law. Suspension orders may apply to any legislative provision that governs services, programs, benefits or compensation, including those that fix amounts or eligibility, require the payment of fees to access services or programs or restrict the duration of services or programs. It could allow for orders suspending business regulations and reporting deadlines. It could also allow for the suspension or extension of limitation periods, and extend the time for payment of fees in connection with anything done in the administration of justice. On a procedural level, it could allow Cabinet to suspend any requirements for in-person hearings (as in the case of administrative tribunals) or any provisions that require an action or activity to be undertaken in the presence of a person (such as witnessing). Suspension orders may also be used to grant additional time for payment of late fees, interest or monetary penalties.

Temporary suspension orders are only in effect for the duration of the state of emergency or such time as may be specified in the order. As in the case of emergency orders, temporary suspension orders can be invoked retroactively, back to the date on which the state of emergency was declared. Temporary suspension orders may be revoked by the Legislature at its next sitting.

Reporting Deadline Variation Orders

The Bill, when enacted, will also allow Cabinet to make orders extending deadlines or time periods within which government or government agencies are required to provide reports or information.

Enforcement and Penalties

When enacted, the Bill will also authorize Cabinet to make regulations designating enforcement officers. Penalties are greatly increased. The maximum penalty for an individual will be a fine of \$100,000, plus potential imprisonment for a term of up to one year. Corporations guilty of an offence face fines of up to \$1 million. In addition to the fines, a court may require the convicted individual or corporation to pay an amount equal to any financial benefit that was realized as a result of the commission of the offence. That could include a disgorgement of profits or accounting for savings realized by the offender. A limitation period of two years applies to any prosecution.

Please contact the writer for more information as to how the proposed legislation and any subsequent orders may affect you or your business.

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