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Fourth Session, Forty-second Parliament  
2 Charles III, 2023  
Legislative Assembly of British Columbia

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**BILL 31**

**EMERGENCY AND DISASTER  
MANAGEMENT ACT**

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Honourable Bowinn Ma  
Minister of Emergency Management and Climate Readiness

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## **Explanatory Note**

This Bill repeals and replaces the *Emergency Program Act*. The purposes of this Bill are as follows:

- to account for all 4 phases of emergency management, which are mitigation, preparation, response and recovery;
- to streamline and clarify the powers and duties of the minister, provincial emergency management organization, ministries, public sector agencies and local authorities;
- to facilitate agreements, consultation and cooperation with Indigenous peoples with respect to emergency management;
- to clarify the roles of critical infrastructure owners;
- to incorporate into legislation lessons learned in recent years in responding to floods, wildfires and the COVID-19 pandemic;
- to modernize and improve consistency of language in the legislation.

**BILL 31 – 2023**

**EMERGENCY AND DISASTER  
MANAGEMENT ACT**

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

## PART 1 – INTERPRETATION AND PRINCIPLES

### Definitions and application

**1** (1) In this Act:

“**animals**” means the following types of animals:

- (a) domestic pets;
- (b) animals trained to assist in law enforcement activities, whether the animals are used by a peace officer or by a person acting under the direction of a peace officer;
- (c) guide dogs and service dogs within the meaning of the *Guide Dog and Service Dog Act*;
- (d) livestock within the meaning of the *Livestock Act*;
- (e) animals that are lawfully kept in zoos, sanctuaries, rehabilitation centres or facilities for education or research;
- (f) without limiting paragraph (e), live animals that are lawfully possessed under the *Wildlife Act*;

“**business continuity plan**” means a business continuity plan prepared in accordance with section 53 [*business continuity plans*];

“**comprehensive emergency management plan**” means the emergency management plan for the government, as referred to in section 39 (1) (a) [*emergency management planning and information*];

“**critical incident**” means a single incident to which all of the following apply:

- (a) the incident requires the prompt coordination of actions at a particular location
  - (i) to protect the health, safety or well-being of one or more persons, or
  - (ii) for a prescribed purpose;
- (b) the actions required under paragraph (a) are beyond the capability or capacity of the responsible emergency service provider;
- (c) the incident does not include an emergency in relation to which a declaration of a state of provincial emergency or a declaration of a state of local emergency has been made;

“**critical infrastructure**” means a system, network, facility, asset or land described in section 48 [*critical infrastructure identified*];

**“critical infrastructure owner”** means the following:

- (a) a person who possesses, occupies, controls the use of or has the right to control the use of critical infrastructure;
- (b) subject to the regulations, a person who has an estate or interest, whether legal or equitable, in critical infrastructure;

**“critical infrastructure sector”** means a prescribed critical infrastructure sector, which sector is necessary to protect, maintain or restore one or more of the matters referred to in section 48 (2) (b);

**“Crown land”** means land, whether or not it is covered by water, that is vested in the government;

**“emergency”** means a state that

- (a) is the result of any of the following:
  - (i) an event that
    - (A) has occurred, is ongoing or appears imminent, and
    - (B) is caused by one or more incidents, whether or not those incidents occur in the same location or at the same time, of accident, fire, explosion, technical failure, rioting, security threat, terrorist activity within the meaning of section 83.01 of the *Criminal Code*, force of nature or a prescribed type of incident;
  - (ii) the presence, suspected presence or imminent spread of a transmissible disease or an environmental toxin;
  - (iii) a prescribed type of event or the presence or suspected presence of prescribed circumstances, and
- (b) requires the prompt coordination of action, or the special regulation of persons or property, to protect
  - (i) the health, safety or well-being of persons, or
  - (ii) the safety of property or of objects or sites of heritage value;

**“emergency instrument”** means the following:

- (a) if made by an individual, an order;
- (b) if made by a person or entity other than an individual, a bylaw, resolution, law or other type of legal instrument by which the person or entity may lawfully exercise statutory powers or perform statutory duties;

**“emergency management”** means the development and implementation of policies and plans with respect to the measures to be taken in each phase;

**“emergency management organization”** means an entity referred to in section 20 [*emergency management organizations*];

- “emergency management plan”** means an emergency management plan prepared in accordance with section 52 [*emergency management plans*];
- “emergency measure”** means an action that is necessary or advisable to be taken during one or more phases, whether or not the action
- (a) is described in an emergency management plan, or
  - (b) is taken as a result of the exercise of a response power or a recovery power;
- “emergency measures agreement”** means an agreement made under Division 4 [*Emergency Measures Agreements*] of Part 2;
- “emergency resources”** includes any personnel, supplies, services, personal property, equipment and facilities that are necessary or advisable for the purpose of taking emergency measures and does not include land;
- “emergency system”** means a prescribed system, or a system having prescribed characteristics, designed
- (a) to give warnings or notices to the public if an emergency is present, or
  - (b) to facilitate, coordinate or carry out activities in relation to emergency management;
- “employer”** means a person who has responsibility, directly or indirectly, for
- (a) the employment of an employee, or
  - (b) the management of another person who, under contract, provides services to the person;
- “government minister”** means, as the context requires,
- (a) a member of the Executive Council charged by order of the Lieutenant Governor in Council with the administration of an enactment, or
  - (b) the ministry of the member referred to in paragraph (a);
- “hazard”** means a circumstance, condition, process, phenomenon, activity or prescribed type of thing, whether natural or human-caused, that may give rise to an emergency;
- “head”**, in relation to a local authority, means the following:
- (a) for a municipality, the mayor or an individual assigned by bylaw of the municipal council to act in the capacity of mayor in the mayor’s absence;
  - (b) for an unincorporated area in a regional district, the chair of the board of the regional district or, in the chair’s absence, a vice chair;
  - (c) for the Nisga’a Nation, the individual elected or appointed as the head of the Nisga’a Lisims Government under the Nisga’a Final Agreement and Nisga’a Constitution;
  - (d) for a treaty first nation, the individual elected or appointed as the head of the treaty first nation under the final agreement and constitution of the treaty first nation;

(e) if a person referred to in paragraph (a) to (d) of this definition is unable or unavailable to act, the person's deputy or another person who is authorized to act in the person's capacity in the person's absence;

**"Indigenous governing body"** has the same meaning as in section 1 (1) of the *Declaration on the Rights of Indigenous Peoples Act*;

**"Indigenous peoples"** has the same meaning as in section 1 (1) of the *Declaration on the Rights of Indigenous Peoples Act*;

**"intersectional disadvantage"** means the intersection of social categorizations of persons or classes of persons, including Indigenous identity, race, economic status, sex, sexual orientation, gender identity and expression, age and ability, in ways that may result in overlapping systems of discrimination or disadvantage or disproportionate adverse effects;

**"lead minister"** means a government minister who is designated as a lead minister under the regulations;

**"local authority"** means the following:

- (a) a municipality;
- (b) a regional district;
- (c) the Nisga'a Nation;
- (d) a treaty first nation;

**"local knowledge"** means the understandings and skills that people have developed over time with respect to their local environment;

**"multijurisdictional emergency management organization"** means an entity established under section 21 [*multijurisdictional emergency management organizations*];

**"municipality"** means, as the context requires,

- (a) the corporation into which the residents of an area are incorporated as a municipality under Part 2 of the *Local Government Act* or under any other Act, or
- (b) the council of a corporation referred to in paragraph (a) of this definition;

**"necessities"** includes food, clothing and shelter;

**"Nisga'a Nation"** means, as the context requires,

- (a) the Nisga'a Nation as defined in the Definitions Chapter of the Nisga'a Final Agreement, or
- (b) the Nisga'a Lisims Government;

**"participating authority"** means a person that, under an emergency measures agreement, may exercise one or more powers, and agrees to perform one or more duties, of a local authority under this Act;

**“peace officer”** means a person who is

- (a) a designated constable, municipal constable or provincial constable, as defined in the *Police Act*, or
- (b) a person in a prescribed class of persons who is employed for the preservation and maintenance of the public peace or the enforcement of an enactment;

**“person”**,

- (a) for the purposes of a provision of this Act prescribed for the purpose of this paragraph, includes an Indigenous governing body, and
- (b) for the purposes of a provision of this Act prescribed for the purpose of this paragraph, does not include an Indigenous governing body;

**“personal information”** means personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*;

**“phase”** means a phase described in section 3 [*emergency management phases*];

**“property”** means land and personal property;

**“provincial administrator”** means the following:

- (a) the provincial administrator designated under section 11 (3) [*provincial emergency management organization*];
- (b) if applicable in the context, a person authorized under section 13 [*authority to act as provincial administrator*] to exercise a power or perform a duty of the provincial administrator;

**“provincial emergency management organization”** means the office referred to in section 11 (1);

**“public safety provider”** means a person authorized to act as a public safety provider under section 30 [*authorization of public safety providers*];

**“public sector agency”** means a government organization, within the meaning of the *Budget Transparency and Accountability Act*, that is prescribed for the purposes of this Act;

**“publish”**, in relation to anything that must be published under this Act, means to publish

- (a) in accordance with the regulations, or
- (b) if the regulations do not apply to the type of thing that must be published, by any means that the person who must publish the thing considers most likely to make that thing known to the majority of the population affected by the thing;

**“recover”**, in relation to an emergency, means to take an action for a purpose referred to in section 3 (1) (d);

**“recovery power”** means a power conferred under Division 3 or 6 [*Provincial Recovery Powers*] of Part 5 or Division 3 or 6 [*Local Authority Recovery Powers*] of Part 6, as the context requires;

**“regional district”** means, as the context requires,

- (a) a regional district as defined in the Schedule to the *Local Government Act*, or
- (b) the board of a regional district as referred to in paragraph (a) of this definition;

**“regulated entity”** means

- (a) a government minister,
- (b) a public sector agency,
- (c) a local authority, and
- (d) a critical infrastructure owner;

**“respond”**, in relation to an emergency, means to take an action for a purpose referred to in section 3 (1) (c);

**“response power”** means a power conferred under Division 3, 4 or 5 of Part 5 [*Provincial Response Powers*] or Division 3, 4 or 5 of Part 6 [*Local Authority Response Powers*], as the context requires;

**“risk assessment”** means a risk assessment prepared in accordance with section 51 [*risk assessments*];

**“security threats”** means actions that severely impair the functioning of a government or society, including actions relating to overthrowing a government;

**“specialized measure”** means a prescribed type of action that

- (a) is necessary or advisable to be taken in relation to a critical incident or an emergency, and
- (b) requires particular training or qualifications on the part of the person who undertakes the action;

**“specified land”** means the following:

- (a) Nisga’a Lands;
- (b) treaty lands of a treaty first nation;
- (c) shishálh lands within the meaning of the *shishálh Nation Self-Government Act* (Canada);
- (d) a reserve within the meaning of the *Indian Act* (Canada);
- (e) land held under aboriginal title;
- (f) prescribed land;

“**traditional territory**”, in relation to an Indigenous people other than the Nisga’a Nation or a treaty first nation, means the traditional territory of the Indigenous people;

“**treaty area**”, in relation to the Nisga’a Nation or a treaty first nation, means a prescribed area;

“**volunteer**” means an individual who

- (a) volunteers to take
  - (i) actions in relation to a critical incident, or
  - (ii) emergency measures in relation to an emergency, and
- (b) subject to the regulations, receives no monetary compensation in relation to the actions or measures, or the time spent taking the actions or measures.

(2) An order or emergency instrument made under this Act does not apply to an Indigenous governing body unless the Indigenous governing body consents.

#### **Principles of emergency management**

- 2 (1) Effective emergency management in British Columbia requires that the government, regulated entities, Indigenous governing bodies and other parties engaged in emergency management, in their relationships,
- (a) acknowledge and respect the authority of each party,
  - (b) work towards harmonization and coordination of emergency measures, plans, policies and programs, and
  - (c) foster collaborative approaches to matters of mutual interest.
- (2) Effective emergency management in British Columbia is based on the following principles:
- (a) practising emergency and disaster risk reduction, including by working proactively to prevent the creation of new risks, to reduce existing and future risks and to increase resilience;
  - (b) investing in the measures necessary to reduce the risk of an emergency occurring and to enhance the economic, social, health and cultural resilience of society and the resilience of the environment to emergencies and any related adverse effects;
  - (c) recognizing the relationship between a changing climate and emergency management, including recognizing that a changing climate contributes to the increased occurrence and adverse effects of some hazards and emergencies;
  - (d) promoting cultural safety in emergency management, including by incorporating relevant actions in emergency management plans, policies and programs;

- (e) recognizing that the inherent right of self-government of Indigenous peoples includes authority to make laws in relation to emergency management;
- (f) recognizing the importance of Indigenous advice, input and stewardship activities in emergency management.

### **Emergency management phases**

- 3** (1) Emergency management consists of the following phases:
- (a) the mitigation phase, in which measures are taken for the purposes of identifying and removing or reducing hazards so as to
    - (i) prevent emergencies from occurring, or
    - (ii) reduce, to the extent reasonably practicable, the scale, scope and adverse effects of an emergency that may occur;
  - (b) the preparation phase, in which measures are taken for the purpose of establishing the knowledge, capability and capacity to anticipate, respond to and recover from the adverse effects of an emergency;
  - (c) the response phase, in which measures are taken for the purpose of responding to an emergency, including preventing and reducing the adverse effects of the emergency;
  - (d) the recovery phase, in which measures are taken for the purpose of recovering from an emergency, including measures to
    - (i) restore the health, safety and well-being of affected persons,
    - (ii) restore the safety of property or of objects or sites of heritage value, and
    - (iii) improve, to the extent reasonably practicable, assets, services and processes so as to reduce the risk of and increase resilience to emergencies.
- (2) For certainty, measures relevant to one phase may be taken at the same time as measures taken in relation to any other phase.

## **PART 2 – GENERAL ROLES**

### **Division 1 – Minister**

#### **Standards, protocols and procedures**

- 4** The minister may do one or both of the following:
- (a) establish standards, protocols and procedures for the exercise of a power or the performance of a duty under this Act;



- (b) require, by order, a person or a class of persons to comply with one or more of the standards, protocols and procedures referred to in paragraph (a).

**Ensuring Act's objectives are met**

- 5 (1) The minister may make an order under this section if the minister is satisfied of either of the following:
- (a) that a person has not exercised the person's powers or performed the person's duties under this Act, or has not done so adequately;
  - (b) that the order is necessary to achieve the objectives of this Act.
- (2) The minister may, by order, require a person to do any of the following with respect to the person's powers or duties under this Act:
- (a) exercise a power or perform a duty;
  - (b) comply with the directions of the minister or the provincial administrator with respect to exercising a power or performing a duty;
  - (c) consult and coordinate with another person or entity in exercising a power or performing a duty, including requiring consultation and coordination in accordance with
    - (i) the regulations, or
    - (ii) the directions of the minister or the provincial administrator.
- (3) The minister may include in an order made under this section a requirement that a person do one or both of the following:
- (a) comply with the order by a specified date or in accordance with a schedule;
  - (b) give evidence satisfactory to the minister or the provincial administrator of the person's compliance.
- (4) For certainty, the minister may make an order under this section in relation to a participating authority's exercise of a power or performance of a duty under an emergency measures agreement.
- (5) The minister may not make an order under this section in relation to the Lieutenant Governor in Council's powers or duties under this Act.
- (6) The minister may not make an order under this section in relation to the Nisga'a Nation's or a treaty first nation's powers or duties under this Act.
- (7) The minister may request the Nisga'a Nation or a treaty first nation to take an action referred to in subsection (2) in relation to the Nisga'a Nation's or the treaty first nation's powers or duties under this Act.

- (8) If the Nisga'a Nation or a treaty first nation does not intend to comply with a request made under subsection (7), the Nisga'a Nation or treaty first nation must inform the minister in writing of the reasons for not complying with the request.

#### **Committees**

- 6** (1) The minister may establish committees to advise or assist the Lieutenant Governor in Council, the minister or the provincial administrator with respect to matters under this Act.
- (2) The minister may appoint members to a committee.
- (3) Subject to subsection (4), a committee member may
- (a) be reimbursed for reasonable travelling and out-of-pocket expenses necessarily incurred in discharging the member's responsibilities as a committee member, and
  - (b) be paid remuneration for discharging the member's responsibilities as a committee member, unless the person is a public service employee, in which case, no remuneration may be paid.
- (4) Reimbursement and remuneration of committee members are subject to the direction of the minister and must be in accordance with the directives of Treasury Board.
- (5) The minister may, in writing, delegate to the provincial administrator any of the minister's powers under this section.

#### **Procurement powers**

- 7** The minister may acquire, hold, distribute and dispose of emergency resources.

#### **Minister may enter into agreements**

- 8** The minister may enter into agreements, including with the government of Canada or of another jurisdiction of Canada or with persons located outside British Columbia, for any of the following purposes:
- (a) to cooperate in taking emergency measures;
  - (b) to provide or receive assistance, including in the form of financial aid, emergency resources and the use of land, in taking emergency measures;
  - (c) to recover costs in relation to the provision of assistance.

#### **Payments and transfers**

- 9** The minister may make payments and transfers, subject to any terms or conditions that the minister may impose, for the purposes of one or more of the following:
- (a) to prepare for, respond to and recover from critical incidents;

- (b) to take emergency measures;
- (c) to acquire emergency resources.

**Money from consolidated revenue fund**

- 10**
- (1) In this section, “**fiscal year**” means the period beginning on April 1 in one year and ending on March 31 in the next year.
  - (2) The minister may pay money out of the consolidated revenue fund for the purposes of one or more of the following:
    - (a) to respond to critical incidents;
    - (b) to take emergency measures in relation to the response and recovery phases;
    - (c) to acquire emergency resources in relation to the response and recovery phases.
  - (3) Nothing in subsection (2) authorizes the minister to make a payment out of the consolidated revenue fund for financial assistance under Division 3 [*Financial Assistance*] of Part 7.
  - (4) The minister must prepare a report for each fiscal year, with respect to payments made under subsection (2) in the fiscal year, that summarizes all of the following:
    - (a) the nature of the critical incident or emergency;
    - (b) the total amount of the payments made under subsection (2) in the fiscal year in respect of each critical incident or emergency;
    - (c) any other matter as required by the regulations.
  - (5) The minister must, as soon as practicable, submit a copy of the report to the Speaker of the Legislative Assembly.
  - (6) Section 94 [*report to Legislative Assembly*] applies in relation to a report made under this section.

**Division 2 – Provincial Emergency Management Organization**

**Provincial emergency management organization**

- 11**
- (1) The minister must ensure that there is, within the ministry of the minister, an office of the government responsible for emergency management throughout British Columbia.
  - (2) A deputy minister responsible for the provincial emergency management organization must be appointed under the *Public Service Act*.
  - (3) The minister must designate, as the provincial administrator, a person appointed under the *Public Service Act*.

- (4) The deputy minister referred to in subsection (2) must, in accordance with the *Public Service Act*, appoint officers and employees that the deputy minister considers necessary to assist the minister and the provincial administrator to exercise powers and perform duties under this Act.

**General purposes**

- 12 The purposes of the provincial emergency management organization are as follows:
- (a) to provide, throughout British Columbia, oversight, leadership and coordination of activities with respect to each phase of emergency management;
  - (b) to make recommendations to the minister respecting emergency management;
  - (c) to participate on behalf of the government, if required by the minister, in initiatives that foster mutual aid between the government and any other person, organization or entity;
  - (d) to fulfill other prescribed purposes.

**Authority to act as provincial administrator**

- 13 (1) The provincial administrator may authorize one or more persons appointed under the *Public Service Act* to exercise a power or perform a duty of the provincial administrator under this Act.
- (2) An authorization made under subsection (1)
- (a) must be in writing, with authorized members identified by name, title or position, and
  - (b) must not include a power delegated to the provincial administrator under section 6 (5) [*committees*].

**General powers of provincial administrator**

- 14 The provincial administrator may do one or more of the following:
- (a) give advice and assistance to regulated entities, on their request, respecting any matter under this Act;
  - (b) conduct public information programs relating to emergency management;
  - (c) coordinate emergency management activities, including by collaborating with persons in other jurisdictions;
  - (d) exercise additional prescribed powers.

**Publishing minister's orders**

- 15 Subject to the regulations and section 159 [*duty to protect confidentiality*], and without limiting any other provision of this Act that requires a matter to be published, the minister must publish an order made by the minister under this Act.

**Disclosing and publishing information**

- 16 Subject to the regulations and Division 2 [*Personal and Sensitive Information and Indigenous Knowledge*] of Part 9, the provincial administrator may disclose to a person, or publish, any of the following:
- (a) information obtained, directly or indirectly, under this Act;
  - (b) information respecting advice, assistance and directions given by the minister or the provincial administrator under this Act;
  - (c) surveys, studies, reports and other records made or received by the provincial administrator under this Act.

**Annual meeting to review agreements with Indigenous peoples**

- 17 (1) Subject to subsection (2), the provincial administrator must ensure that Indigenous governing bodies that are parties to agreements made under this Act are invited to meet at least once each calendar year with one or more members of the provincial emergency management organization to discuss the effectiveness of the agreements.
- (2) In consultation and cooperation with Indigenous governing bodies referred to in subsection (1), the minister may direct that the meeting referred to in that subsection be deferred to a later time, including to a time in a subsequent calendar year, as specified by the minister.

**Division 3 – Local Authorities**

**Local authority jurisdiction**

- 18 (1) Subject to this Act,
- (a) a municipality or regional district may exercise powers and must perform duties under this Act as follows:
    - (i) in the case of a municipality, within the boundaries of the municipality;
    - (ii) in the case of a regional district, within the boundaries of any electoral areas within the regional district, and
  - (b) the Nisga'a Nation or a treaty first nation may exercise powers under this Act as follows:
    - (i) in the case of the Nisga'a Nation, within the boundaries of Nisga'a Lands;

- (ii) in the case of a treaty first nation, within the boundaries of the treaty first nation's treaty lands.
- (2) For certainty,
  - (a) a municipality or regional district may exercise powers and must perform duties under this Act in relation to any Crown land within the boundaries of the areas referred to in subsection (1) (a) (i) or (ii), as applicable, and
  - (b) the Nisga'a Nation or a treaty first nation may exercise powers under this Act in relation to any Crown land within the boundaries of the areas referred to in subsection (1) (b) (i) or (ii), as applicable.
- (3) Except as otherwise provided for under this Act, a local authority's responsibilities under this Act continue to apply regardless of whether any other person is responsible for performing duties under this Act with respect to an area within the jurisdiction of the local authority.

**Authority to act as or on behalf of local authority**

- 19**
- (1) Subject to subsection (5) and any limits or conditions otherwise provided for under this Act, the head of a local authority may exercise a power or perform a duty of a local authority under this Act.
  - (2) Subject to subsection (5), a local authority may designate one or more of the following to act on behalf of the local authority:
    - (a) a member of the local authority's emergency management organization;
    - (b) in a case where powers or duties have been set out in an agreement or other instrument made for the purposes of joining a multijurisdictional emergency management organization, an employee of a member of the multijurisdictional emergency management organization;
    - (c) if the local authority is the Nisga'a Nation or a treaty first nation, any other person or entity.
  - (3) A designation must be in writing, with designated persons or entities identified by name, title or position.
  - (4) A local authority must ensure that the process for determining who among the local authority's designates may exercise powers or perform duties is set out
    - (a) in the local authority's emergency management plan, or
    - (b) in an agreement or other instrument made for the purposes of joining a multijurisdictional emergency management organization.
  - (5) The head of a local authority or a person designated under subsection (2) must not exercise a power under any of the following sections:
    - (a) section 110 [*response borrowing*];

- (b) section 118 [*recovery powers*];
- (c) section 119 [*recovery borrowing*].

**Emergency management organizations**

- 20** (1) The purposes of a local authority’s emergency management organization include the following:
- (a) to provide, in all or part of the area within the jurisdiction of the local authority, oversight, leadership and coordination of activities with respect to each phase of emergency management;
  - (b) to make recommendations to the local authority respecting emergency management.
- (2) A local authority must do at least one of the following:
- (a) in accordance with the regulations, if any, establish, appoint members to and maintain an emergency management organization;
  - (b) join a multijurisdictional emergency management organization established under section 21.
- (3) If a local authority has more than one emergency management organization, or has one or more emergency management organizations and joins a multijurisdictional emergency management organization, the local authority must ensure that, in the aggregate, the purposes referred to in subsection (1) are fulfilled in relation to all of the areas within the jurisdiction of the local authority.

**Multijurisdictional emergency management organizations**

- 21** (1) A multijurisdictional emergency management organization may be established, in accordance with the regulations, if any, by 2 or more of the following:
- (a) a local authority;
  - (b) the government;
  - (c) an Indigenous governing body.
- (2) The purposes of a multijurisdictional emergency management organization include the following:
- (a) to provide, in relation to the areas or matters for which the organization has responsibility, oversight, leadership and coordination of activities with respect to each phase of emergency management;
  - (b) to make recommendations to organization members respecting emergency management.

- (3) A local authority that joins a multijurisdictional emergency management organization must
  - (a) give to the provincial administrator all of the following:
    - (i) a copy of all prescribed records relevant to the local authority's participation in the organization;
    - (ii) any information required by the provincial administrator, and
  - (b) comply with any directions given by the provincial administrator with respect to ensuring that the local authority's powers and duties under this Act are carried out in accordance with the Act.

**Minister may require local authority to establish or join multijurisdictional emergency management organization**

- 22** The minister may, by order, require
- (a) 2 or more local authorities, other than the Nisga'a Nation or a treaty first nation, to establish a multijurisdictional emergency management organization under section 21, or
  - (b) a local authority, other than the Nisga'a Nation or a treaty first nation, to join a multijurisdictional emergency management organization.

**Local authority may enter into agreements**

- 23** (1) Subject to this section, a local authority may enter into agreements, including with the government of Canada or of another jurisdiction of Canada or with persons located outside British Columbia, for any of the following purposes:
- (a) to cooperate in taking emergency measures;
  - (b) to provide and receive assistance, including in the form of financial aid, emergency resources and the use of land, in taking emergency measures;
  - (c) to recover costs in relation to the provision of assistance.
- (2) A local authority must not enter into an agreement under this section in relation to the use of land within the specified land of an Indigenous people, unless an Indigenous governing body that acts on behalf of the Indigenous people consents to the agreement.
- (3) If a local authority enters into an agreement with a government or an agency of a government outside British Columbia, the following apply:
- (a) in the case of an agreement with the council of a municipality other than the City of Vancouver, section 23 [*agreements with other public authorities*] of the *Community Charter*;
  - (b) in the case of an agreement with the board of a regional district, sections 263 [*corporate powers*] and 264 [*minister approval required for certain out-of-Province or out-of-country agreements*] of the *Local Government Act*.



- (4) A term or condition of an agreement made under this section has no effect to the extent that compliance with the term or condition, by any party to the agreement, prevents or interferes with compliance with any part of
  - (a) an agreement made with the minister for the purposes of responding to or recovering from an emergency,
  - (b) an order of the minister or provincial administrator made under Part 5 [*Provincial Response and Recovery Phases*], or
  - (c) an order made under Part 6 [*Local Authority Response and Recovery Phases*].
- (5) Nothing in this section is intended to limit the authority of a local authority to make an agreement under any other enactment.

**General report to minister**

- 24** Without limiting any reporting requirement imposed under the regulations, a local authority, other than the Nisga'a Nation or a treaty first nation, must
- (a) prepare a report on any matter required by the minister, and
  - (b) provide the report to the provincial administrator
    - (i) within the period required by the minister, and
    - (ii) in the form and manner required by the provincial administrator.

**Division 4 – Emergency Measures Agreements**

**Making emergency measures agreements**

- 25**
- (1) In this section, “**party**” means a party to an emergency measures agreement.
  - (2) The minister and another party may enter into an emergency measures agreement under which the other party, or a person for which the other party has responsibility, may exercise one or more powers, and agrees to perform one or more duties, that may be exercised or performed by a local authority under this Act.
  - (3) An emergency measures agreement must be made in accordance with this Division.
  - (4) An emergency measures agreement must include as a party to the agreement each local authority having jurisdiction over an area, other than Crown land or prescribed land, that is subject to the agreement.
  - (5) The provincial administrator must publish a copy of each emergency measures agreement and any amendments to those agreements.

**Powers and duties under emergency measures agreements**

- 26** (1) An emergency measures agreement must provide that a participating authority may exercise powers and must perform duties under the following provisions:
- (a) Divisions 1 and 2 [*local authority response and recovery phases*] of Part 6;
  - (b) sections 107 [*response powers*] and 118 (2) [*recovery powers*];
  - (c) a regulation made in relation to any provision referred to in paragraph (a) or (b).
- (2) The following provisions apply to a participating authority that exercises response powers or recovery powers, as applicable, under an emergency measures agreement:
- (a) sections 105, 106, 116 and 117 [*when and how response and recovery powers may be exercised*];
  - (b) section 108 [*consultation and coordination before evacuation and re-entry*];
  - (c) section 120 [*consultation, engagement and cooperation with Indigenous peoples*].
- (3) An emergency measures agreement must list any other provisions of this Act and the regulations
- (a) under which a participating authority may exercise powers and must perform duties, or
  - (b) that apply for the purposes of exercising powers and performing duties under the agreement.
- (4) A participating authority that has entered into an emergency measures agreement in relation to powers and duties under this Act must exercise the powers and perform the duties in accordance with the agreement.

**Additional content of emergency measures agreements**

- 27** (1) An emergency measures agreement must include at least the following:
- (a) a description of the area within which a participating authority may exercise powers and must perform duties under the agreement;
  - (b) a provision identifying the head of the participating authority by the individual's name, title or position;
  - (c) a provision identifying any limits and conditions on the designation, by the participating authority or the head of the participating authority, of persons to act on behalf of the participating authority;
  - (d) a provision identifying the type of emergency instrument to be used to exercise powers and perform duties under the agreement;

- (e) an agreement to publish each emergency instrument made by or on behalf of the participating authority.
- (2) An emergency measures agreement may include other provisions as agreed to by the parties, including terms and conditions of the participating authority's exercise of powers and performance of duties.

**Limits on minister's powers**

- 28**
- (1) This section applies despite anything to the contrary in Divisions 1 and 2 [*local authority response and recovery phases*] of Part 6.
  - (2) If a participating authority acting under an emergency measures agreement is the government of Canada, or a person or entity for which that government has responsibility,
    - (a) the participating authority is not required to seek the approval of the minister to exercise a power under Division 1 or 2 of Part 6, and
    - (b) the minister may not cancel a declaration of a state of local emergency or a declaration of a local recovery period made by the participating authority.

**References for interpretive purposes**

- 29**
- For the purposes of a provision of this Act or the regulations that applies under an emergency measures agreement with a participating authority,
- (a) a reference to a local authority must be read as a reference to the participating authority, and
  - (b) a reference to the head of a local authority must be read as a reference to the head of the participating authority identified under section 27 (1) (b).

**Division 5 – Volunteers**

**Authorization of public safety providers**

- 30**
- (1) If the provincial administrator is of the opinion that there is a need for volunteers with respect to a specialized measure, the provincial administrator may invite persons to apply to be authorized as public safety providers.
  - (2) An application must be made in the form and manner required by the provincial administrator.
  - (3) The provincial administrator may grant an authorization to a person if the provincial administrator is satisfied that the person
    - (a) has volunteers who are trained and qualified to take the specialized measure referred to in subsection (1),
    - (b) will comply with all applicable orders made, and directions given, under this Act by the provincial administrator, and
    - (c) meets any prescribed criteria.

- (4) The provincial administrator may revoke all or part of an authorization granted under subsection (3) in the following circumstances:
- (a) the person no longer has volunteers who are trained and qualified to take the specialized measure that was the basis for granting the authorization;
  - (b) the person fails to comply with any applicable orders made, or directions given, under this Act by the provincial administrator;
  - (c) the person, or one or more volunteers for whom the person has responsibility, fails to comply with any applicable standards, protocols or procedures referred to in section 31 (1) (a) (i), whether or not an order has been made under section 31 (1) (b);
  - (d) prescribed circumstances.

**Standards, protocols and procedures**

- 31** (1) The provincial administrator may do one or both of the following:
- (a) establish standards, protocols and procedures with respect to
    - (i) the recruitment, management, training, registration and deployment of volunteers, and
    - (ii) the taking of specialized measures by volunteers;
  - (b) require, by order, a person or a class of persons to comply with one or more of the standards, protocols and procedures referred to in paragraph (a).
- (2) Subject to the regulations, the provincial administrator must publish an order made under subsection (1) (b).

**Requests for deployment**

- 32** (1) A person or entity referred to in subsection (2) may request the provincial administrator to assist in coordinating the deployment of volunteers in response to a critical incident or an emergency.
- (2) The following may make a request:
- (a) a local authority;
  - (b) an Indigenous governing body;
  - (c) a department of the government of Canada;
  - (d) a person who is a party to an agreement under section 8 [*minister may enter into agreements*];
  - (e) a police or emergency health service;
  - (f) a prescribed person or a person in a prescribed class of persons.
- (3) A request made under subsection (1) must be made in the form and manner required by the provincial administrator.

- (4) The provincial administrator, if satisfied that it is necessary to respond to a critical incident or an emergency, may do one or both of the following:
- (a) deploy volunteers who are registered with the provincial administrator;
  - (b) authorize the deployment, by a local authority, a public safety provider or a person or entity that under the regulations is authorized for the purposes of this subsection, of volunteers who are registered with the local authority, public safety provider or authorized person or entity.

### **PART 3 – AGREEMENTS WITH INDIGENOUS GOVERNING BODIES**

#### **Division 1 – Definitions for This Part**

##### **Definitions for this Part**

33 In this Part:

“**coordination agreement**” means an agreement entered into under section 6 of the *Declaration on the Rights of Indigenous Peoples Act*

- (a) relating to the exercise of a power or the performance of a duty under Part 5 [*Provincial Response and Recovery Phases*] or 6 [*Local Authority Response and Recovery Phases*] of this Act, or
- (b) for a purpose referred to in section 34 (1) (b) of this Act,

but does not include a decision-making agreement or statutory power agreement in relation to the exercise of a power under Part 5 or 6;

“**decision-making agreement**” means an agreement negotiated and entered into under section 7 of the *Declaration on the Rights of Indigenous Peoples Act* relating to statutory powers of decision under this Act;

“**specified coordination agreement**” means a coordination agreement described in paragraph (a) of the definition of “coordination agreement”;

“**statutory power**” has the same meaning as in section 1 of the *Judicial Review Procedure Act* but does not include a power or right conferred by this Act to exercise a statutory power of decision;

“**statutory power agreement**” means an agreement entered into under section 6 of the *Declaration on the Rights of Indigenous Peoples Act* that relates to one or both of the following:

- (a) the exercise of a statutory power under this Act jointly by
  - (i) an Indigenous governing body, and
  - (ii) a person or entity that is authorized to exercise the statutory power under this Act;
- (b) the consent of an Indigenous governing body before the exercise of a statutory power under this Act;

“**statutory power of decision**” has the same meaning as in section 1 of the *Judicial Review Procedure Act*.

## **Division 2 – Coordination Agreements**

### **Coordination agreements**

- 34** (1) Subject to this Division, the minister may enter into a coordination agreement with an Indigenous governing body for one or more of the following purposes:
- (a) to coordinate
    - (i) the exercise of a power or the performance of a duty under Part 5 [*Provincial Response and Recovery Phases*] or 6 [*Local Authority Response and Recovery Phases*], and
    - (ii) the exercise of the inherent right of self-government by the Indigenous governing body in responding to or recovering from an emergency;
  - (b) to harmonize and coordinate plans, policies and programs in relation to the response and recovery phases.
- (2) Subject to subsections (3) and (4), a coordination agreement made with an Indigenous governing body may relate to all or part of the traditional territory or treaty area of the Indigenous people on whose behalf the Indigenous governing body acts.
- (3) The minister must not enter into a coordination agreement that relates to an area that is within Nisga’a Lands or treaty lands of a treaty first nation unless the Nisga’a Nation or the treaty first nation, as applicable, consents.
- (4) Without limiting subsection (3), the minister must, before entering into a coordination agreement that relates to an area within a treaty area of the Nisga’a Nation or a treaty first nation, do all of the following, as applicable:
- (a) consult and cooperate, in accordance with the regulations, if any, with the Nisga’a Nation and the treaty first nation;
  - (b) consider
    - (i) any comments received from the Nisga’a Nation or the treaty first nation, and
    - (ii) the rights of the Indigenous peoples on whose behalf the Nisga’a Nation or the treaty first nation acts.
- (5) A coordination agreement may include one or more of the following as parties to the agreement:
- (a) a local authority;
  - (b) another Indigenous governing body;
  - (c) a participating authority;

- (d) the government of Canada;
  - (e) the government of another jurisdiction of Canada.
- (6) A coordination agreement must include a process for resolving any disputes in relation to the agreement.
- (7) The provincial administrator must publish a copy of each coordination agreement and any amendments to each agreement.

**Specified coordination agreements**

- 35** (1) For the purposes of this Act, the minister may enter into a specified coordination agreement only in accordance with this Division.
- (2) A specified coordination agreement may do any of the following in relation to the exercise of a power or the performance of a duty under Part 5 [*Provincial Response and Recovery Phases*] or 6 [*Local Authority Response and Recovery Phases*]:
- (a) subject to subsection (3) of this section, require the Lieutenant Governor in Council, the minister, a local authority or a participating authority to exercise the power or perform the duty;
  - (b) require the Lieutenant Governor in Council, the minister, a local authority or a participating authority to refrain from exercising the power or performing the duty;
  - (c) set limits or conditions on the exercise of the power or the performance of the duty by the Lieutenant Governor in Council, the minister, a local authority or a participating authority;
  - (d) impose requirements in relation to the exercise of the power or the performance of the duty by the Lieutenant Governor in Council, the minister, a local authority or a participating authority;
  - (e) require the Lieutenant Governor in Council, the minister, a local authority or a participating authority to consult and cooperate, in accordance with the agreement, with an Indigenous governing body that is a party to the agreement in exercising the power or performing the duty.
- (3) A specified coordination agreement may not require the Lieutenant Governor in Council to exercise a power under Division 5 or 6 of Part 5 or Division 5 of Part 6.
- (4) The minister must not enter into a specified coordination agreement that relates to the exercise of a power or the performance of a duty by the Lieutenant Governor in Council unless the Lieutenant Governor in Council authorizes the minister to negotiate and enter into the agreement.
- (5) A specified coordination agreement is not effective until the agreement is published, or until a later date specified in the agreement.

- (6) For certainty, subsection (5) applies to an agreement that amends a specified coordination agreement.

**Effect of specified coordination agreement**

- 36** If a specified coordination agreement has been entered into in relation to a power or duty referred to in Part 5 [*Provincial Response and Recovery Phases*] or 6 [*Local Authority Response and Recovery Phases*],
- (a) the power must be exercised and the duty must be performed, as applicable, in accordance with the agreement,
  - (b) a reference under this Act to the power or duty is to be read as a reference to the power as exercised or the duty as performed in accordance with the agreement, and
  - (c) the terms of the agreement relating to any requirements, limits, conditions or procedures referred to in section 35 (2) in respect of the exercise of the power or the performance of the duty have the force of law.

**Division 3 – Other Agreements in Relation to the  
*Declaration on the Rights of Indigenous Peoples Act***

**Decision-making agreements and  
statutory power agreements**

- 37** (1) For the purposes of this Act, the minister may enter into a statutory power agreement only in accordance with this section.
- (2) For the purposes of this Act, the Lieutenant Governor in Council may authorize the minister, on behalf of the government, to negotiate and enter into a statutory power agreement with an Indigenous governing body.
- (3) A decision-making agreement and a statutory power agreement must include a process for resolving any disputes in relation to the agreement.
- (4) Section 7 (2) to (5) of the *Declaration on the Rights of Indigenous Peoples Act* applies to a statutory power agreement.

**Effect of agreement**

- 38** If a decision-making agreement or a statutory power agreement has been entered into,
- (a) the statutory power of decision or the statutory power, as applicable, must be exercised in accordance with the agreement,
  - (b) a reference under this Act to the statutory power of decision referred to in paragraph (a) or the statutory power referred to in paragraph (a) is to be read as a reference to the statutory power of decision or the statutory power as exercised in accordance with the agreement, and



- (c) the following terms of the agreement have the force of law:
  - (i) terms identifying the person or entity that is exercising, or providing consent in relation to, a statutory power of decision or a statutory power in accordance with the agreement;
  - (ii) terms relating to the criteria or procedures for the exercise of, or consent in relation to, a statutory power of decision or a statutory power in accordance with the agreement.

## **PART 4 – MITIGATION AND PREPARATION PHASES**

### **Division 1 – Powers and Duties of Provincial Emergency Management Organization**

#### **Emergency management planning and information**

- 39** (1) The provincial administrator must prepare, maintain and implement the following:
- (a) a comprehensive emergency management plan that
    - (i) applies throughout British Columbia, and
    - (ii) includes the emergency management plans given to the provincial administrator under section 44 (2) (c) [*emergency management planning by lead ministers*];
  - (b) one or more emergency management plans.
- (2) An emergency management plan must, in relation to the area that the plan applies to,
- (a) include a description of each area, if any, that is described for the purposes of
    - (i) section 90 [*consultation, engagement and cooperation with Indigenous peoples*] in one or more of the following:
      - (A) an agreement made under section 41 (1) (d);
      - (B) any other agreement with an Indigenous governing body, or
    - (ii) section 120 [*consultation, engagement and cooperation with Indigenous peoples*] in an agreement made under section 55 (1) (e) [*consultation and cooperation with Indigenous peoples*], and
  - (b) specify the Indigenous governing body in relation to each area described.
- (3) The provincial administrator must review and revise, in accordance with the regulations, the comprehensive emergency management plan and the emergency management plan or plans referred to in subsection (1) (b).

- (4) The provincial administrator must make prescribed information available to the public in relation to potential emergencies that could affect all or part of British Columbia, including information relating to hazards, risks and vulnerabilities.

**Consultation with local authorities**

- 40** When preparing or reviewing and revising a comprehensive emergency management plan or an emergency management plan under section 39, the provincial administrator must
- (a) consult and coordinate, in accordance with the regulations, if any, with a local authority in a prescribed class of local authorities, and
  - (b) consider any comments received from a local authority consulted in accordance with paragraph (a).

**Consultation and cooperation with Indigenous peoples**

- 41** (1) When preparing or reviewing and revising a comprehensive emergency management plan or an emergency management plan under section 39, the provincial administrator must do all of the following, as applicable:
- (a) consult and cooperate, in accordance with the regulations, if any, with each Indigenous governing body that acts on behalf of Indigenous peoples whose traditional territory or treaty area includes an area to which the plan applies;
  - (b) consider
    - (i) any comments received from an Indigenous governing body consulted in accordance with paragraph (a), and
    - (ii) the rights of the Indigenous peoples referred to in paragraph (a);
  - (c) incorporate into the plan Indigenous knowledge, if available;
  - (d) subject to subsection (2), in the case of an emergency management plan, make reasonable efforts to reach agreement respecting areas to be described in the plan for the purposes of section 90 [*consultation, engagement and cooperation with Indigenous peoples*] with each Indigenous governing body referred to in paragraph (a) of this subsection.
- (2) Subsection (1) (d) does not apply if the Indigenous governing body or bodies referred to in that provision have entered into an agreement with a local authority under section 55 (1) (e) [*consultation and cooperation with Indigenous peoples*] or 179 (7) [*transition – mitigation and preparation requirements*].

- (3) If the provincial administrator enters into an agreement with an Indigenous governing body under subsection (1) (d) that includes an area within the jurisdiction of a local authority, the provincial administrator may provide to the local authority a description of each area agreed to and the Indigenous governing body that is specified in the agreement in relation to each area.

#### **Oversight of emergency management planning**

- 42** The provincial administrator may do one or more of the following:
- (a) require, by order, one or more regulated entities, other than a government minister, the Nisga'a Nation or a treaty first nation, to provide information and records respecting emergency management planning prepared by the regulated entities;
  - (b) request a government minister, the Nisga'a Nation or a treaty first nation to provide information and records respecting emergency management planning prepared by the government minister, Nisga'a Nation or treaty first nation;
  - (c) with respect to any information or records received under this Act, give advice and directions, including requiring changes to records.

#### **Government continuity plans**

- 43**
- (1) The Legislative Assembly must prepare and maintain a plan to ensure the continued delivery, during an emergency, of leadership and services necessary for the effective functioning of the legislative branch of government.
  - (2) The Executive Council must prepare and maintain a plan to ensure the continued delivery, during an emergency, of leadership and services necessary for the effective functioning of the Executive Council.
  - (3) The office of the Lieutenant Governor must prepare and maintain a plan to ensure the continued delivery, during an emergency, of leadership and services necessary for the effective functioning of the office of the Lieutenant Governor.
  - (4) The Court of Appeal, Supreme Court and Provincial Court must prepare and maintain a plan to ensure the continued delivery, during an emergency, of leadership and services necessary for the effective functioning of the judicial branch of government.
  - (5) For the purposes of subsection (4), each court may prepare a plan with respect to its responsibilities, or the courts may together prepare an integrated plan.
  - (6) The provincial administrator must give advice and assistance with respect to preparing or maintaining a plan referred to in this section as follows:
    - (a) to the Legislative Assembly, if requested in writing by the Speaker of the Legislative Assembly;

- (b) to the Executive Council, if requested in writing by the Premier of British Columbia;
- (c) to the office of the Lieutenant Governor, if requested in writing by the Executive Director of the office of the Lieutenant Governor;
- (d) to the Court of Appeal, if requested in writing by the Chief Justice of British Columbia;
- (e) to the Supreme Court, if requested in writing by the Chief Justice of the Supreme Court;
- (f) to the Provincial Court, if requested in writing by the Chief Judge of the Provincial Court.

## **Division 2 – Duties of Regulated Entities**

### **Emergency management planning by lead ministers**

- 44**
- (1) On request of the provincial administrator, a lead minister must exercise the powers of the provincial administrator under section 42 with respect to a prescribed public sector agency or critical infrastructure owner, or a public sector agency or critical infrastructure owner in a prescribed class.
  - (2) A lead minister must do all of the following:
    - (a) prepare and maintain one or more risk assessments with respect to prescribed types of hazards;
    - (b) prepare and maintain one or more emergency management plans with respect to prescribed types of hazards and any other prescribed persons, places, matters or things;
    - (c) give copies of the risk assessments and emergency management plans to the provincial administrator;
    - (d) take any emergency measures identified in the comprehensive emergency management plan as emergency measures to be taken by the lead minister.
  - (3) A lead minister must prepare and maintain a business continuity plan.
  - (4) A lead minister must review and revise, in accordance with the regulations, the lead minister's risk assessments, emergency management plans and business continuity plan.
  - (5) A lead minister is responsible for performing the lead minister's duties under this Act throughout British Columbia with respect to the matters for which the lead minister has responsibility.

**Emergency management planning by non-lead ministers**

- 45 (1) A government minister that is not a lead minister must do all of the following:
- (a) prepare and maintain a business continuity plan;
  - (b) take any emergency measures identified in the comprehensive emergency management plan as emergency measures to be taken by the government minister.
- (2) A government minister that is not a lead minister must review and revise, in accordance with the regulations, the government minister's business continuity plan.

**Emergency management planning by public sector agencies**

- 46 (1) A public sector agency must, if required by the regulations,
- (a) prepare and maintain a risk assessment with respect to prescribed types of hazards,
  - (b) prepare, maintain and implement an emergency management plan, and
  - (c) prepare and maintain a business continuity plan.
- (2) A public sector agency must review and revise, in accordance with the regulations, the public sector agency's risk assessment, emergency management plan and business continuity plan.

**Emergency management planning by local authorities**

- 47 (1) In this section, "local authority" does not include the Nisga'a Nation or a treaty first nation.
- (2) Subject to the regulations, a local authority must
- (a) prepare and maintain a risk assessment with respect to the hazards in the area within the jurisdiction of the local authority, and
  - (b) prepare, maintain and implement one or more emergency management plans, ensuring that there is at least one plan that applies to each area within the jurisdiction of the local authority.
- (3) A local authority must prepare and maintain a business continuity plan.
- (4) A local authority must review and revise, in accordance with the regulations, the local authority's risk assessment, emergency management plan and business continuity plan.
- (5) The minister may request that the Nisga'a Nation or a treaty first nation, in relation to Nisga'a Lands or treaty lands, do one or more of the things described in subsection (2), (3) or (4).

**Critical infrastructure identified**

- 48** (1) A system, network, facility or asset, whether physical or virtual and whether publicly or privately owned, is critical infrastructure for the purposes of this Act and the regulations if
- (a) it is prescribed as critical infrastructure, or
  - (b) it is within a prescribed class of systems, networks, facilities or assets.
- (2) A system, network, facility or asset, or a class of systems, networks, facilities or assets, must not be prescribed unless the system, network, facility or asset, or a class of any of these, is
- (a) designed, used or intended to be used in relation to functions performed by persons acting within a critical infrastructure sector, or
  - (b) necessary to protect, maintain or restore one or more of the following:
    - (i) the health, safety or well-being of persons;
    - (ii) the environment;
    - (iii) the economy;
    - (iv) the security of the province;
    - (v) the effective functioning of any branch of government;
    - (vi) the provision of emergency resources;
    - (vii) a prescribed matter.
- (3) Land is critical infrastructure for the purposes of this Act and the regulations if the land is occupied by, used in association with or necessary to access a system, network, facility or asset referred to in subsection (1).

**Emergency management planning by critical infrastructure owners**

- 49** (1) A critical infrastructure owner must, if required by the regulations,
- (a) prepare and maintain a risk assessment with respect to the types of hazards that may affect the critical infrastructure,
  - (b) prepare, maintain and implement an emergency management plan, and
  - (c) prepare and maintain a business continuity plan.
- (2) A critical infrastructure owner must review and revise, in accordance with the regulations, the critical infrastructure owner's risk assessment, emergency management plan and business continuity plan.
- (3) A critical infrastructure owner is responsible for performing its duties under this Act throughout British Columbia with respect to the persons, places and things for which the critical infrastructure owner has responsibility.

**Reporting by critical infrastructure owners**

- 50** (1) If required by the regulations, a critical infrastructure owner must give to the provincial administrator the following information and records:
- (a) a copy of the critical infrastructure owner’s risk assessment, emergency management plan and business continuity plan, including any revisions;
  - (b) any prescribed information and records;
  - (c) if required by the provincial administrator,
    - (i) a copy of the information and records used to prepare the records referred to in paragraph (a), and
    - (ii) any information specified by the provincial administrator.
- (2) Information and records referred to in this section must be given to the provincial administrator
- (a) in the form and manner required by the provincial administrator, and
  - (b) within the period specified by the regulations or, if the regulations do not specify a period or do not apply, by the date specified by the provincial administrator.

**Division 3 – Plans, Programs and Other Measures**

**Risk assessments**

- 51** (1) In this section and section 52, “**vulnerable**”, in relation to an individual, animal, place or thing, or a class of individuals, animals, places or things, means the following:
- (a) particularly susceptible, due to physical or geographic location or environmental factors, or other similar factors, to the adverse effects of an emergency;
  - (b) having prescribed characteristics.
- (2) A risk assessment must be prepared in accordance with this section and the regulations.
- (3) Subject to Division 2 [*Duties of Regulated Entities*] of this Part and the regulations, a risk assessment must identify all reasonably foreseeable hazards and assess all of the following:
- (a) the extent of the risk that each hazard presents, including
    - (i) the likelihood that an emergency may occur, and
    - (ii) the potential scale and scope of each emergency identified under subparagraph (i);

- (b) the potential consequences for persons or property, or for objects or sites of heritage value, if an emergency occurs, giving special consideration to
    - (i) individuals who may experience intersectional disadvantage, and
    - (ii) vulnerable individuals, animals, places or things;
  - (c) any prescribed matters.
- (4) A risk assessment must be based on all of the following:
- (a) studies and surveys;
  - (b) Indigenous knowledge and local knowledge, if available;
  - (c) changes in the local climate or extreme weather events that can reasonably be expected to result from a changing global climate;
  - (d) other relevant information that is reasonably available from prescribed sources of information or any other source;
  - (e) the results of the actions required under sections 54 [*consultation and coordination with local authorities*] and 55 [*consultation and cooperation with Indigenous peoples*].

#### **Emergency management plans**

- 52**
- (1) An emergency management plan must be prepared in accordance with this section and the regulations.
  - (2) Subject to the regulations, an emergency management plan must describe at least the following:
    - (a) measures that are necessary or advisable for the purposes of each phase;
    - (b) the roles, powers and duties of persons identified in the plan by name, title or position;
    - (c) requirements for emergency resources;
    - (d) procedures for engaging emergency systems;
    - (e) the emergency management training and exercise programs that will be conducted;
    - (f) measures to mitigate any adverse effects of an emergency on
      - (i) individuals who may experience intersectional disadvantage, and
      - (ii) vulnerable individuals, animals, places or things;
    - (g) measures to promote cultural safety;
    - (h) any prescribed matters.



- (3) In addition to the requirements of subsection (2), the emergency management plan of a local authority must
  - (a) include a plan for the evacuation and care of individuals and animals in the area within the jurisdiction of the local authority,
  - (b) include a description of each area, if any, that is described for the purposes of section 120 [*consultation, engagement and cooperation with Indigenous peoples*] in one or more of the following:
    - (i) an agreement made under section 55 (1) (e) [*consultation and cooperation with Indigenous peoples*];
    - (ii) any other agreement with an Indigenous governing body, and
  - (c) specify the Indigenous governing body in relation to each area described.
- (4) An emergency management plan must be based on all of the following:
  - (a) all applicable risk assessments that are available;
  - (b) the results of the actions required under sections 54 and 55;
  - (c) any prescribed matters.

**Business continuity plans**

- 53**
- (1) A business continuity plan must be prepared in accordance with this section and the regulations.
  - (2) A business continuity plan of a regulated entity other than a critical infrastructure owner must describe
    - (a) the measures to be taken to ensure the continued delivery, during an emergency, of leadership and services necessary for the effective functioning of the regulated entity, and
    - (b) any prescribed matter.
  - (3) A business continuity plan of a critical infrastructure owner must describe all of the following:
    - (a) the essential systems, networks, facilities or assets, or parts of any of these that must continue to function effectively during an emergency, including
      - (i) the level at which services must be provided by the essential systems, networks, facilities or assets, or parts of these,
      - (ii) the measures to be taken to ensure the continued provision of the services, and
      - (iii) if the services are interrupted or discontinued, the targeted period for restoring them to the level referred to in subparagraph (i);
    - (b) any prescribed matter.

**Consultation and coordination with local authorities**

- 54** A regulated entity that is required to prepare or review and revise a risk assessment or an emergency management plan must make reasonable efforts to do all of the following, as applicable:
- (a) consult and coordinate, in accordance with the regulations, if any, with the following:
    - (i) a local authority in a prescribed class of local authorities;
    - (ii) a person in a prescribed class of persons;
    - (iii) without limiting subparagraph (i), in the case of a regulated entity that is a local authority, each local authority, other than the Nisga'a Nation or a treaty first nation, having jurisdiction over an area that is adjacent to an area within the jurisdiction of the regulated entity;
  - (b) consider any comments received from the persons with whom the regulated entity consulted in accordance with paragraph (a);
  - (c) in the case of an emergency management plan, coordinate the plan with the emergency management plans, if any, of the persons with whom the regulated entity consulted in accordance with paragraph (a) to ensure that the plans can be implemented, and emergency measures taken under them, in an integrated manner.

**Consultation and cooperation with Indigenous peoples**

- 55** (1) A lead minister, local authority, public sector agency or critical infrastructure owner that is required to prepare or review and revise a risk assessment or an emergency management plan must do all of the following, as applicable:
- (a) consult and cooperate, in accordance with the regulations, if any, with the following:
    - (i) each Indigenous governing body that acts on behalf of Indigenous peoples whose traditional territory or treaty area includes
      - (A) an area or people in an area that may be affected by a hazard that is required to be included in the risk assessment, or
      - (B) an area to which the emergency management plan applies;
    - (ii) without limiting subparagraph (i), in the case of a local authority,
      - (A) each Indigenous governing body that acts on behalf of Indigenous peoples whose traditional territory or treaty area includes an area that is within the jurisdiction of the local authority, and
      - (B) the Nisga'a Nation or a treaty first nation if the Nisga'a Lands or the treaty lands of the treaty first nation, as applicable, are adjacent to an area within the jurisdiction of the local authority;

- (b) consider
    - (i) any comments received from the Nisga'a Nation, a treaty first nation or an Indigenous governing body consulted in accordance with paragraph (a), and
    - (ii) the rights of the Indigenous peoples on whose behalf the Nisga'a Nation, treaty first nation or Indigenous governing body referred to in subparagraph (i) acts;
  - (c) incorporate into the risk assessment or emergency management plan Indigenous knowledge, if available;
  - (d) in the case of an emergency management plan, coordinate the plan with the plans, if any, of the Nisga'a Nation or a treaty first nation or an Indigenous governing body consulted in accordance with paragraph (a) to ensure that the plans can be implemented, and emergency measures taken under them, in an integrated manner;
  - (e) in the case of an emergency management plan prepared by a local authority, make reasonable efforts to reach agreement respecting areas to be described in the plan for the purposes of section 120 [*consultation, engagement and cooperation with Indigenous peoples*] with each Indigenous governing body that acts on behalf of Indigenous peoples whose traditional territory or treaty area includes an area that is within the jurisdiction of the local authority.
- (2) If a local authority enters into an agreement with an Indigenous governing body under subsection (1) (e), the local authority must provide to the provincial administrator a description of each area agreed to and the Indigenous governing body that is specified in the agreement in relation to each area.

**Directed mitigation and preparation measures**

- 56** (1) The minister may make an order under this section if the minister is satisfied that, based on one or more risk assessments, the order is necessary for any of the following purposes:
- (a) to mitigate a specific hazard that presents a significant risk of giving rise to an emergency;
  - (b) to prepare for a specific type of hazard that presents a significant risk of becoming an emergency;
  - (c) to support a specific initiative in relation to the mitigation and preparation phases.

- (2) The minister may, by order, require a regulated entity, other than a government minister, the Nisga'a Nation or a treaty first nation, to provide to the provincial administrator or a lead minister one or more of the following:
- (a) information respecting particular infrastructure, facilities, equipment and related components, including maps showing the location of any of these;
  - (b) with respect to a hazard,
    - (i) a description of how the hazard may affect the regulated entity or persons, places and things for which the regulated entity has responsibility,
    - (ii) a statement of whether the regulated entity has undertaken studies or surveys of the hazard and, if so, copies of the results and any reports related to the studies or surveys, and
    - (iii) a description of the potential consequences for persons or property, or for objects or sites of heritage value, if an emergency occurs;
  - (c) if an event or circumstance referred to in paragraph (a) of the definition of “emergency” in section 1 (1) [*definitions*] has occurred, a description of
    - (i) the event or circumstance and its location and cause, and
    - (ii) the consequences for, or the likely consequences for, the regulated entity and other persons or property, or for objects or sites of heritage value;
  - (d) any prescribed information;
  - (e) any information requested by the provincial administrator or lead minister.
- (3) The minister may, by order, require a regulated entity, other than a government minister, the Nisga'a Nation or a treaty first nation, to do one or more of the following:
- (a) make changes to a risk assessment, emergency management plan or business continuity plan according to the directions of the minister, the provincial administrator or a lead minister;
  - (b) take particular emergency measures for the purposes of the mitigation or preparation phases;
  - (c) support or participate in specific emergency management training and exercise programs, including emergency planning sessions or programs relating to cultural safety or intersectional disadvantage;
  - (d) obtain or upgrade infrastructure, facilities, equipment and related components, whether physical or virtual;
  - (e) take a prescribed type of action.

- (4) Before making an order under subsection (3) (b) or (d), the minister must
  - (a) consult and cooperate, in accordance with the regulations, if any, with each Indigenous governing body that acts on behalf of Indigenous peoples whose traditional territory or treaty area includes an area or people in an area that will be affected by the order, and
  - (b) consider
    - (i) any comments received from an Indigenous governing body consulted in accordance with paragraph (a), and
    - (ii) the rights of the Indigenous peoples referred to in paragraph (a).

**Exceptions to requirements**

- 57**
- (1) This section applies despite any other provision of this Part or a regulation made in relation to this Part.
  - (2) The minister may make an order under this section if the minister is satisfied that
    - (a) complying with a requirement of this Part or a regulation made in relation to this Part would cause a regulated entity undue hardship, or
    - (b) a regulated entity is subject to, and is complying with, an enactment of British Columbia or Canada that imposes a requirement with respect to emergency management, and the requirement is equivalent to, or achieves the same objectives as, a requirement of this Part or a regulation made in relation to this Part.
  - (3) The minister may, by order, do any of the following:
    - (a) waive or modify a requirement under this Part, other than section 55, or a regulation made in relation to this Part;
    - (b) impose limits and conditions on a waiver or modification;
    - (c) substitute a different requirement for one that is waived.
  - (4) The minister may, for the purpose of making an order under this section, or varying or determining compliance with an order made under this section, do any of the following:
    - (a) collect and use information provided by the regulator of a regulated entity;
    - (b) request a regulated entity to provide information, records or proof of a matter to the minister, the provincial administrator or a lead minister.

**Imposing duties on persons who are not regulated entities**

- 58** (1) The minister may, by order, require a person who is not a regulated entity to provide to the provincial administrator or a lead minister any of the information referred to in section 56 (2)
- (a) if the minister has reason to believe that any of the circumstances referred to in subsection (3) of this section apply, or
  - (b) for the purpose of determining whether a system, network, facility or asset, or a class of any of these, should be prescribed as critical infrastructure.
- (2) If the minister has reason to believe that any of the circumstances referred to in subsection (3) apply, the minister may, by order, require a person who is not a regulated entity to do one or more of the following:
- (a) prepare and maintain a risk assessment;
  - (b) prepare, maintain and implement an emergency management plan;
  - (c) prepare and maintain a business continuity plan.
- (3) The circumstances for the purposes of subsections (1) (a) and (2) are as follows:
- (a) the person engages in an activity that is or may create a hazard;
  - (b) the person uses a process or property in a manner that is or may create a hazard;
  - (c) a condition that is or may create a hazard exists or may exist on land that the person owns or occupies;
  - (d) the person provides or may be able to provide emergency resources or the use of land.
- (4) If the minister makes an order under this section, the minister may include in the order a requirement that a person comply with one or more provisions, with or without modifications, of this Part or a regulation made in relation to this Part, as if the person were a regulated entity.

**PART 5 – PROVINCIAL RESPONSE AND RECOVERY PHASES**

**Division 1 – Response Phase**

**Declaration of state of provincial emergency**

- 59** (1) If the Lieutenant Governor in Council or the minister is satisfied that an emergency is present, the Lieutenant Governor in Council or the minister, as applicable, may, by order, make a declaration of a state of provincial emergency relating to all or part of British Columbia.

- (2) A declaration must identify the nature of the emergency and the area to which the declaration applies.
- (3) The minister may make a declaration orally or in writing.
- (4) As soon as reasonably practicable after a declaration is made, the minister must,
  - (a) in the case of a declaration made orally, reduce the declaration to writing and publish the declaration, and
  - (b) in the case of a declaration made in writing, publish the declaration.
- (5) For certainty, a declaration of a state of provincial emergency does not affect the authority of any person to declare, continue or extend
  - (a) a state of local emergency or a local recovery period under Part 6, except to the extent that the minister has cancelled a declaration of a state of local emergency or a declaration of a local recovery period, or
  - (b) an order made under another enactment with respect to an emergency within the meaning of that enactment.

**Amendment or extension of declaration**

- 60**
- (1) The Lieutenant Governor in Council may, by order, do one or both of the following:
    - (a) amend an order that makes a declaration of a state of provincial emergency with respect to the nature of the emergency or the area to which the declaration applies, or both;
    - (b) extend the period for which a declaration of a state of provincial emergency applies for additional periods of not more than 28 days each.
  - (2) An order made under subsection (1) (a) to amend an order that makes a declaration does not extend or otherwise affect the period for which the declaration applies.
  - (3) An order made under subsection (1) to amend an order that makes a declaration or to extend the period for which a declaration applies must
    - (a) identify the order number and date of the original declaration and of each previous amendment or extension, if any, and
    - (b) in the case of an extension of the period for which the declaration applies, specify the period of the extension.
  - (4) As soon as reasonably practicable after an order is made under this section, the minister must publish the order.

**Expiry or cancellation of declaration**

- 61** (1) Unless extended under section 60 (1) (b), a declaration of a state of provincial emergency expires
- (a) 28 days after being made by the Lieutenant Governor in Council, or
  - (b) 14 days after being made by the minister.
- (2) If, in the opinion of the Lieutenant Governor in Council or the minister, as applicable, the emergency to which a declaration of a state of provincial emergency relates is no longer present in an area,
- (a) the Lieutenant Governor in Council
    - (i) must, by order, cancel the declaration with respect to the area if the Lieutenant Governor in Council made the declaration, and
    - (ii) may, by order, cancel the declaration with respect to the area if the minister made the declaration, and
  - (b) the minister must, by order, cancel the declaration with respect to the area if the minister made the declaration and the declaration was not cancelled under paragraph (a) (ii).
- (3) If a declaration of a provincial recovery period is made with respect to an area in relation to which a declaration of a state of provincial emergency applies, the declaration of a state of provincial emergency is cancelled with respect to that area.
- (4) As soon as reasonably practicable after a declaration of a state of provincial emergency expires or is cancelled, the minister must publish the details of the expiry or cancellation.

**Division 2 – Recovery Phase**

**Declaration of provincial recovery period**

- 62** (1) The Lieutenant Governor in Council may, by order, make a declaration of a provincial recovery period if the Lieutenant Governor in Council is satisfied of both of the following:
- (a) that the nature or scope of the emergency that is the subject of a declaration of a state of provincial emergency has subsided sufficiently in an area that it is appropriate to transition the taking of emergency measures in that area from the response phase to the recovery phase;
  - (b) that the exercise in that area of one or more recovery powers is necessary for the area to recover from the emergency.



- (2) A declaration of a provincial recovery period may specify that any of the following continue to have effect during the provincial recovery period if the Lieutenant Governor in Council is satisfied that a continuation is necessary to recover from the emergency referred to in subsection (1):
- (a) an order made under
    - (i) section 75 [*essential matters*], other than section 75 (1) (d),
    - (ii) section 76 [*land and other property*], or
    - (iii) section 78 [*general restrictions*];
  - (b) a regulation made under
    - (i) section 83 [*modifying enactments and authorizations*],
    - (ii) section 84 [*modifying time periods*], or
    - (iii) section 86 [*enforcement of modified enactments and authorizations*].
- (3) A declaration of a provincial recovery period must specify all of the following:
- (a) the order number and date of the original declaration of a state of provincial emergency and of each amendment and extension, if any;
  - (b) the period for which the declaration of a provincial recovery period applies if that period is less than 90 days;
  - (c) the area to which the declaration of a provincial recovery period applies;
  - (d) the orders and regulations referred to in subsection (2) that continue to have effect, if any, during all or part of the provincial recovery period.
- (4) As soon as reasonably practicable after a declaration of a provincial recovery period is made, the minister must publish the declaration.

**Amendment or extension of declaration**

- 63** (1) The Lieutenant Governor in Council may, by order, do one or both of the following:
- (a) amend an order that makes a declaration of a provincial recovery period with respect to the area to which the declaration applies;
  - (b) extend the period for which a declaration of a provincial recovery period applies for additional periods of not more than 90 days each.
- (2) An order made under subsection (1) to amend an order that makes a declaration or to extend the period for which a declaration applies must specify all of the following, as applicable:
- (a) the order number and date of the original declaration of a provincial recovery period and of each previous amendment or extension, if any;
  - (b) in the case of an extension of the period for which the declaration applies, the period of the extension;

- (c) the matters referred to in section 62 (3) (c) and (d) that apply in relation to the declaration as amended or extended.
- (3) Section 60 (2) and (4) [*amendment or extension of declaration*] applies to an order made under this section.

**Expiry or cancellation of declaration**

- 64**
- (1) Unless extended under section 63 (1) (b), a declaration of a provincial recovery period expires 90 days after being made or at the end of the period specified in the declaration, whichever is earlier.
  - (2) The Lieutenant Governor in Council must, by order, cancel a declaration of a provincial recovery period with respect to any area
    - (a) in which, in the Lieutenant Governor in Council’s opinion, the exercise of recovery powers is no longer necessary for the area to recover from the emergency to which the declaration relates, or
    - (b) in relation to which a new declaration of a state of provincial emergency has been made in response to an emergency that is related to the original emergency to which the declaration of a provincial recovery period relates.
  - (3) A cancellation under subsection (2) (b) must be made as soon as reasonably practicable after the new declaration of a state of provincial emergency is made.
  - (4) As soon as reasonably practicable after a declaration of a provincial recovery period expires or is cancelled, the minister must publish the details of the expiry or cancellation.

**Division 3 – General Powers and Duties**

**When general powers and duties apply**

- 65** A person may exercise a power and must perform a duty under this Division whether or not a declaration of a state of provincial emergency or a declaration of a state of local emergency has been made.

**Minister must consider comprehensive emergency management plan**

- 66** Before taking any action for the purpose of responding to or recovering from an emergency, the minister must consider the comprehensive emergency management plan and any applicable emergency management plans prepared by the provincial administrator.

**Coordination of response and recovery efforts**

- 67 (1) For the purpose of responding to or recovering from an emergency, the minister and the provincial administrator
- (a) must coordinate the actions of the government or, if another person is responsible for coordinating particular actions of the government, may assist the other person in coordinating the actions of the government,
  - (b) may give advice and assistance to any person, and
  - (c) may request a lead minister to coordinate the taking of emergency measures by prescribed public sector agencies or critical infrastructure owners, or public sector agencies or critical infrastructure owners in a prescribed class.
- (2) For the purposes of subsection (1) (a), the minister or the provincial administrator may give directions to one or more of the following:
- (a) members of the provincial emergency management organization;
  - (b) government employees and persons who provide services to government under an agreement;
  - (c) public sector agencies that have emergency management plans.
- (3) For the purposes of subsection (1) (c), a lead minister may give directions to a prescribed public sector agency or critical infrastructure owner, or a public sector agency or critical infrastructure owner in a prescribed class.

**Requiring actions**

- 68 (1) The minister may make an order under this section if the minister is satisfied that an order is necessary to respond to or recover from an emergency.
- (2) The minister may, by order, require any of the following to take one or more actions referred to in subsection (3):
- (a) a regulated entity other than a government minister, the Nisga'a Nation or a treaty first nation;
  - (b) a person required to take an action under section 58 [*imposing duties on persons who are not regulated entities*].
- (3) The actions that may be the subject of an order are as follows:
- (a) providing to the provincial administrator or a lead minister any of the information referred to in section 56 (2) [*directed mitigation and preparation measures*];
  - (b) consulting and coordinating with a person with respect to assessing an emergency and the emergency measures to be taken;
  - (c) taking one or more emergency measures;

- (d) providing emergency resources or the use of land, including with respect to individuals and animals evacuated from another jurisdiction and personal property removed from another jurisdiction;
  - (e) complying with the directions of the provincial administrator or a lead minister with respect to any matters referred to in paragraphs (a) to (d).
- (4) The minister may request a government minister, the Nisga'a Nation or a treaty first nation to do one or more of the things described in subsection (3).
- (5) Nothing in this section affects the authority of any person to take, or continue to take, emergency measures set out in the person's emergency management plan.

**Requirement to support others**

- 69** (1) In this section, “**specified authority**” means the following:
- (a) a local authority, other than the Nisga'a Nation or a treaty first nation;
  - (b) a participating authority.
- (2) The minister may make an order or request under this section if the minister is satisfied that a person who is authorized under this Act to exercise response or recovery powers is unable to adequately respond to or recover from an emergency.
- (3) The minister may, by order, require a specified authority to take an action referred to in subsection (5)
- (a) in an area within another person's jurisdiction, or
  - (b) in relation to an emergency in an area within another person's jurisdiction, as follows:
    - (i) in the case of a local authority, in an area within the local authority's jurisdiction;
    - (ii) in the case of a participating authority, in an area that is subject to the participating authority's emergency measures agreement.
- (4) The minister may request the Nisga'a Nation or a treaty first nation to take an action referred to in subsection (5)
- (a) in an area within another person's jurisdiction, or
  - (b) in relation to an emergency in an area within another person's jurisdiction, in an area within the Nisga'a Nation's or treaty first nation's jurisdiction.
- (5) The actions that may be the subject of an order or request under this section are as follows:
- (a) taking one or more emergency measures;
  - (b) providing emergency resources or the use of land;

- (c) complying with the directions of the provincial administrator or a lead minister with respect to a matter referred to in paragraph (a) or (b).
- (6) If the Nisga'a Nation or a treaty first nation does not intend to comply with a request made under subsection (4), the Nisga'a Nation or treaty first nation must inform the minister in writing of the reasons for not complying with the request.
- (7) The minister may not make an order under subsection (3) in relation to an area within the specified land of an Indigenous people, unless an Indigenous governing body that acts on behalf of the Indigenous people consents to the order.

**Regulated entity must consider emergency management plan**

- 70** Before taking any action for the purpose of responding to or recovering from an emergency, a regulated entity, other than a critical infrastructure owner or local authority, that is required to prepare an emergency management plan must consider the emergency management plan.

**Division 4 – Minister's Response Powers**

**When response powers may be exercised**

- 71** (1) The minister may make an order under this Division during the period for which a declaration of a state of provincial emergency applies.
- (2) Before making an order under this Division, the minister must be satisfied that any prohibitions, requirements, limits or conditions imposed, or authorizations made, under the order are necessary to respond to the emergency.

**How response powers may be exercised**

- 72** (1) The minister may make an order under this Division orally or in writing.
- (2) The minister may provide in an order made under this Division that the order applies
- (a) to all or part of the area to which a declaration of a state of provincial emergency applies,
  - (b) to an area to which a declaration of a state of provincial emergency does not apply,
  - (c) for all or part of the period for which a declaration of a state of provincial emergency applies, and
  - (d) to a person or thing, or a class of persons or things, as established by the minister.
- (3) Subsection (2) (b) does not apply to an order made under 77 (1) [*evacuations and removals*].

- (4) The minister must identify in the order the declaration of a state of provincial emergency to which the order relates.
- (5) As soon as reasonably practicable after the minister makes an order under this Division, the minister must
  - (a) in the case of an order made orally, reduce the order to writing and publish the order, and
  - (b) in the case of an order made in writing, publish the order.
- (6) An order made under this Division ceases to have effect on the earliest of the following dates:
  - (a) the date provided for in the order;
  - (b) the date on which the minister rescinds the order;
  - (c) the date on which the declaration of a state of provincial emergency to which the order relates expires or is cancelled, unless the order is identified under section 62 (2) (a) [*declaration of provincial recovery period*] as an order that continues to have effect.

**General power to do all things necessary**

- 73**
- (1) The minister may, by order, do all acts and implement all procedures that the minister is satisfied are necessary to respond to an emergency.
  - (2) For certainty, nothing in this Division is intended to limit the power conferred under subsection (1) of this section.

**Emergency information and measures**

- 74**
- (1) If the minister is satisfied that a person possesses or controls information needed by another person to exercise a power or perform a duty under this Act, the minister may, by order, require the person to give the information to
    - (a) the other person, or
    - (b) the provincial administrator or a lead minister.
  - (2) The minister may, by order, require a person to do one or both of the following:
    - (a) take one or more emergency measures;
    - (b) comply with the directions of the provincial administrator, a lead minister or a person in a specified class of persons, with respect to the taking of emergency measures.

**Essential matters**

- 75**
- (1) The minister may, by order, do one or more of the following:
    - (a) identify supplies, equipment or other items, services, property or facilities, or a class of any of these, as essential;

- (b) for things identified under paragraph (a) as essential,
    - (i) establish or restrain increases in prices or rents for them,
    - (ii) ration or otherwise provide for their distribution or use,
    - (iii) provide for their restoration, and
    - (iv) prohibit or limit seizures of them or evictions from them;
  - (c) authorize a person to provide a service or give assistance of a type that the person is qualified to provide or give;
  - (d) require a person to provide a service or give assistance of a type that the person is qualified to provide or give;
  - (e) provide for, maintain and coordinate the provision and maintenance of necessities.
- (2) Subsection (1) (b) (i) and (iv) applies despite any enactment governing tenancies or the recovery of property.
  - (3) Subsection (1) (c) and (d) applies despite any contract, including a collective agreement.

**Land and other property**

- 76** (1) The minister may, by order, do one or more of the following:
- (a) appropriate, use or control the use of any personal property;
  - (b) use or control the use of any land;
  - (c) authorize the entry without warrant into any structure or onto any land by any person for the purpose of taking emergency measures;
  - (d) prohibit the entry into any structure or onto any land by any person;
  - (e) authorize or require the alteration, removal or demolition of any trees, crops, structures or landscapes;
  - (f) authorize or require the construction, alteration, removal or demolition of works;
  - (g) require the owner of a structure to
    - (i) have any damage to the structure assessed, and
    - (ii) give the results of the assessment to the minister or a person in a class of persons specified by the minister.
- (2) The power under subsection (1) (b) to use or control the use of land does not apply to specified land.

**Evacuations and removals**

- 77** (1) The minister may, by order, do one or more of the following in relation to any area to which a declaration of a state of provincial emergency applies:
- (a) require a person to evacuate from the area;

- (b) authorize the evacuation of individuals or animals, or both, from the area;
  - (c) authorize the removal of personal property from the area.
- (2) If the minister makes an order under subsection (1), the minister may arrange for
- (a) the adequate care and protection of evacuated individuals or animals, or both, and
  - (b) the adequate protection of personal property that has been removed.
- (3) Unless the minister directs otherwise, the provincial administrator may do all the things that the minister may do as described under this section with respect to any area that is not within the jurisdiction of a local authority.
- (4) Sections 71 and 72 [*when and how response powers may be exercised*] apply to an exercise of power under subsection (3) of this section as if the provincial administrator were the minister.

**General restrictions**

- 78** (1) The minister may, by order, control or prohibit one or more of the following:
- (a) travel to or from any area;
  - (b) the carrying on of a business or a type of business;
  - (c) an event or a type of event.
- (2) The minister may, by order, do one or more of the following:
- (a) require a person to stop doing an activity, including an activity that a person is licensed, permitted or otherwise authorized to do under an enactment;
  - (b) put limits or conditions on doing an activity, including limits or conditions that have the effect of modifying a licence, permit or other authorization issued under an enactment.

**Control of emergency fire services**

- 79** (1) The minister responsible for the administration of section 3 (5) [*duties of fire commissioner*] of the *Fire Services Act* may, by order,
- (a) assume control over one or more fire fighting and fire prevention services in British Columbia, and
  - (b) designate the fire commissioner under that Act to exercise authority over those services.
- (2) Sections 71 and 72 [*when and how response powers may be exercised*] apply to an exercise of power under subsection (1) of this section as if the minister referred to in subsection (1) were the minister responsible for the administration of this Act.



## **Division 5 – Lieutenant Governor in Council’s Response Powers**

### **When response powers may be exercised**

- 80** (1) The Lieutenant Governor in Council may make a regulation under this Division during the period for which a declaration of a state of provincial emergency applies.
- (2) Before making a regulation under this Division, the Lieutenant Governor in Council must be satisfied that
- (a) the regulation is necessary to respond to the emergency, and
  - (b) in the case of a regulation that has the effect of modifying an enactment, the benefit of making the regulation is greater than the benefit of the continued application of the enactment without the modification.

### **How response powers may be exercised**

- 81** (1) Without limiting section 41 of the *Interpretation Act*, the Lieutenant Governor in Council may provide in a regulation made under this Division that the regulation applies
- (a) to all or part of the area to which a declaration of a state of provincial emergency applies,
  - (b) to an area to which a declaration of a state of provincial emergency does not apply,
  - (c) for all or part of the period for which a declaration of a state of provincial emergency applies, and
  - (d) to a person or thing, or a class of persons or things, as established by the Lieutenant Governor in Council.
- (2) The Lieutenant Governor in Council must identify in the regulation the declaration of a state of provincial emergency to which the regulation relates.
- (3) A regulation made under this Division ceases to have effect on the earliest of the following dates:
- (a) the date provided for in the regulation;
  - (b) the date on which the regulation is repealed;
  - (c) the date on which the declaration of a state of provincial emergency to which the regulation relates expires or is cancelled, unless the regulation is identified under section 62 (2) (b) [*declaration of provincial recovery period*] as a regulation that continues to have effect.

### **Retroactive application of response powers**

- 82** (1) Subject to subsection (2), the Lieutenant Governor in Council may make a regulation under this Division retroactive to a specified date.

- (2) The Lieutenant Governor in Council may not do either of the following:
  - (a) make a regulation under section 86 [*enforcement of modified enactments and authorizations*] that is retroactive;
  - (b) make a regulation retroactive to a date that is earlier than the date on which the declaration of a state of provincial emergency to which the regulation relates was made.
- (3) A regulation made retroactive under subsection (1) is deemed to have come into force on the specified date.

#### **Modifying enactments and authorizations**

- 83** The Lieutenant Governor in Council may, by regulation, do one or more of the following:
- (a) make an exemption from one or more requirements under an enactment;
  - (b) modify a requirement set under an enactment;
  - (c) establish limits on the application of an enactment;
  - (d) establish powers or duties that apply in place of or in addition to an enactment;
  - (e) establish terms and conditions in relation to anything done under paragraph (a), (b), (c) or (d);
  - (f) authorize issuers of licences, permits or other authorizations issued under enactments to modify, add or remove limits or conditions, or the term, of the licences, permits or other authorizations.

#### **Modifying time periods**

- 84** (1) In this section:
- “**statutory power of decision**” has the same meaning as in section 33 [*definitions for Part 3*];
- “**time period**” means the following:
- (a) a limitation period established under an enactment;
  - (b) a period of time, established under an enactment, within which
    - (i) a proceeding must be commenced or a process must be begun, or
    - (ii) a step must be taken in a proceeding or process.
- (2) Subject to subsection (3), the Lieutenant Governor in Council may, by regulation, do one or more of the following:
- (a) suspend the running of a time period;
  - (b) extend a time period;
  - (c) replace a time period with a different time period;

- (d) authorize a person, tribunal or other body that, under an enactment, has a statutory power of decision to waive, suspend the running of or extend a mandatory time period relating to the exercise of that power.
- (3) A time period must not be shortened by
  - (a) a regulation made under this section, or
  - (b) a person, tribunal or other body acting under the authority referred to in subsection (2) (d).
- (4) A time period extended or replaced under this section may extend beyond the date on which the declaration of a state of provincial emergency to which the regulation relates expires or is cancelled.
- (5) If the running of a time period is suspended by a regulation made under this section or by a person, tribunal or other body acting under the authority referred to in subsection (2) (d), and the regulation, person, tribunal or body does not extend or replace the suspended time period,
  - (a) the time period resumes running on the date of the expiry or cancellation of the following, whichever is later:
    - (i) the declaration of a state of provincial emergency to which the regulation relates;
    - (ii) the declaration of a provincial recovery period that followed the declaration of a state of provincial emergency, if any, and
  - (b) the period of the suspension is not to be counted for the purposes of calculating the time period.

**Modifying fee requirements**

- 85** (1) If a regulation made under this Division suspends a requirement to pay a fee and does not provide for the payment of a replacement fee, no fee is payable at any time with respect to things done during the period of the suspension.
- (2) A regulation made under this Division must not increase the amount of a fee.

**Enforcement of modified enactments and authorizations**

- 86** The Lieutenant Governor in Council may, by regulation, specify that a failure to comply with a provision of a regulation made under this Division is to be treated as though it were a failure to comply with the enactment to which that provision relates.

## **Division 6 – Lieutenant Governor in Council’s Recovery Powers**

### **When recovery powers may be exercised**

- 87** (1) The Lieutenant Governor in Council may make a regulation under this Division during the period for which a declaration of a provincial recovery period applies.
- (2) Before making a regulation under this Division, the Lieutenant Governor in Council must be satisfied that any prohibitions, requirements, limits or conditions imposed, or authorizations made, under the regulation are necessary to recover from the emergency.

### **How recovery powers may be exercised**

- 88** (1) Without limiting section 41 of the *Interpretation Act*, the Lieutenant Governor in Council may provide in a regulation made under this Division that the regulation applies
- (a) to all or part of the area of British Columbia to which a declaration of a provincial recovery period applies,
  - (b) to an area of British Columbia to which a declaration of a provincial recovery period does not apply,
  - (c) for all or part of the period for which a declaration of a provincial recovery period applies, and
  - (d) to a person or thing, or a class of persons or things, as established by the Lieutenant Governor in Council.
- (2) The Lieutenant Governor in Council must identify in the regulation the declaration of a provincial recovery period to which the regulation relates.
- (3) A regulation made under this Division, and a regulation or order continued under section 62 (2) (a) or (b) [*declaration of provincial recovery period*], ceases to have effect on the earliest of the following dates:
- (a) the date provided for
    - (i) in the declaration of a provincial recovery period, in the case of a regulation or order identified under section 62 (2) (a) or (b), or
    - (ii) in the regulation or order, in any case;
  - (b) the date on which the regulation is repealed or the order is rescinded;
  - (c) the date on which the declaration of a provincial recovery period to which the regulation or order relates expires or is cancelled.
- (4) A regulation or order that continues to have effect under section 62 (2) (a) or (b) may not be amended during the provincial recovery period, except that provisions of a regulation may be repealed.

**Recovery powers**

- 89** (1) The Lieutenant Governor in Council may, by regulation, do all the things that the minister may do as described under the following provisions:
- (a) section 75 [*essential matters*], other than section 75 (1) (d);
  - (b) section 76 [*land and other property*];
  - (c) section 78 [*general restrictions*].
- (2) Without limiting subsection (1) (b), the Lieutenant Governor in Council may, by regulation, prohibit the entry into any structure or onto any land, by any person and for any purpose related to
- (a) protecting the health, safety or well-being of persons, or the safety of property or of objects or sites of heritage value, or
  - (b) taking emergency measures to recover from the emergency.

**Division 7 – Consultation with Indigenous Peoples**

**Consultation, engagement and cooperation  
with Indigenous peoples**

- 90** (1) In this section, “**specified action**” means an action described in subsection (2) (a) in relation to a provision referred to in subsection (6) (a), (b) or (c) of this section.
- (2) This section applies if
- (a) the minister is intending to do any of the following in relation to a provision set out in subsection (6) of this section, as applicable:
    - (i) make an order;
    - (ii) recommend that the Lieutenant Governor in Council make a regulation;
    - (iii) take any other action, and
  - (b) the order, regulation or other action will affect an area, or the people in an area, that is
    - (i) within Nisga’a Lands or treaty lands of a treaty first nation, or
    - (ii) described for the purposes of this section in one or more of the following:
      - (A) an emergency management plan referred to in section 39 (1) (b) [*emergency management planning and information*];
      - (B) an agreement made under this Act with an Indigenous governing body.

- (3) Subject to subsection (5), the minister must, before taking an action described in subsection (2) (a) and (b), do all of the following, as applicable:
- (a) in the case of an action that will affect an area, or the people in an area, that is referred to in subsection (2) (b) (ii), consult and cooperate, in accordance with the regulations, if any, with the Indigenous governing body that is specified in the emergency management plan or agreement, as applicable, in relation to the area;
  - (b) give notice to the Nisga'a Nation or treaty first nation, or an Indigenous governing body consulted in accordance with paragraph (a), as applicable, of the details of the intended action and, if applicable, of any arrangements the minister intends to make under section 77 (2) [*evacuations and removals*] with respect to evacuated individuals;
  - (c) consider
    - (i) any comments received from the Nisga'a Nation or treaty first nation or an Indigenous governing body consulted in accordance with paragraph (a), and
    - (ii) the rights of the Indigenous peoples on whose behalf the Nisga'a Nation, treaty first nation or Indigenous governing body referred to in subparagraph (i) of this paragraph acts.
- (4) The minister must not take an action described in subsection (2) (a) that will affect an area, or the people in an area, that is referred to in subsection (2) (b) (i) unless the Nisga'a Nation or treaty first nation, as applicable, consents to the action being taken.
- (5) If, in the opinion of the minister, it would not be practicable to comply with subsection (3) (a), (b) or (c), or to seek to obtain consent under subsection (4), in relation to a specified action due to an imminent risk of loss of life or risk of injury to individuals or animals, or risk of significant loss or damage to property,
- (a) the requirements of that provision do not apply, and
  - (b) the minister must, as soon as reasonably practicable after taking the action, do all of the following, as applicable:
    - (i) in the case of subsection (3) (a), engage and cooperate, in accordance with the regulations, if any, with the Indigenous governing body referred to in that subsection;
    - (ii) in the case of subsection (3) (b), give to the Nisga'a Nation or treaty first nation, or an Indigenous governing body engaged in accordance with subparagraph (i) of this paragraph, as applicable, notice of the details of the action taken and, if applicable, of any arrangements the minister made or intends to make under section 77 (2) with respect to evacuated individuals;

- (iii) in the case of subsection (3) (c), consider
  - (A) any comments received from the Nisga'a Nation or treaty first nation or an Indigenous governing body engaged in accordance with subparagraph (i) of this paragraph, and
  - (B) the rights of the Indigenous peoples on whose behalf the Nisga'a Nation, treaty first nation or Indigenous governing body referred to in clause (A) acts.
- (6) For the purposes of subsection (2) (a), the following provisions are set out:
  - (a) section 76 (1) (a), (b), (c), (d), (e) and (f) [*land and other property*];
  - (b) section 77 (1) or (2);
  - (c) section 78 (1) (a) [*general restrictions*];
  - (d) section 89 (1) (b) and (c) [*recovery powers*], to the extent that provision authorizes the Lieutenant Governor in Council to do things the minister may do under a provision referred to in paragraph (a) or (c) of this subsection;
  - (e) section 89 (2).
- (7) This section applies to the provincial administrator in relation to an exercise of power under section 77 (3) as if the provincial administrator were the minister.

## **Division 8 – Reporting Requirements**

### **Definition**

**91** In this Division, “**business day**” means a day other than a Saturday or a holiday.

### **Report on exercise of response or recovery powers**

- 92**
- (1) The minister must, within 5 business days from the date on which a response power or a recovery power is exercised by the minister or the Lieutenant Governor in Council, do both of the following:
    - (a) submit a report to the Speaker of the Legislative Assembly on the exercise of the power;
    - (b) include with the report a copy of the relevant regulation or order.
  - (2) If the minister, under section 90 (5) [*consultation, engagement and cooperation with Indigenous peoples*], was of the opinion that it was not practicable to comply with subsection (3) (a), (b) or (c) of that section, or to seek to obtain consent under subsection (4) of that section, the report under subsection (1) of this section must include the reasons for the minister's opinion.

**Final report**

- 93** (1) The provincial administrator must prepare a report with respect to a declaration of a state of provincial emergency and, if applicable, with respect to a declaration of a provincial recovery period, that summarizes all of the following:
- (a) the nature of the emergency;
  - (b) the response powers and recovery powers exercised with respect to the emergency;
  - (c) any other matter as required by the minister and the regulations.
- (2) The provincial administrator must provide the report to the minister within 120 days of the expiry or cancellation of the following, whichever is later:
- (a) the declaration of a state of provincial emergency to which the report relates;
  - (b) the declaration of a provincial recovery period that followed the declaration of a state of provincial emergency, if any.
- (3) The minister must, within 5 business days of receiving the report, submit a copy of the report to the Speaker of the Legislative Assembly.

**Report to Legislative Assembly**

- 94** (1) If there is no Speaker of the Legislative Assembly,
- (a) the minister must submit a report made under this Division to the Clerk of the Legislative Assembly, and
  - (b) the Clerk must provide the report to the Speaker as soon as possible after the Speaker's election.
- (2) The Speaker of the Legislative Assembly must, on receiving a report under this Division, table the report in the Legislative Assembly as soon as possible.

**PART 6 – LOCAL AUTHORITY RESPONSE  
AND RECOVERY PHASES**

**Division 1 – Response Phase**

**Declaration of state of local emergency**

- 95** (1) A declaration of a state of local emergency relating to all or part of the area within a local authority's jurisdiction may be made, by emergency instrument, by the following:
- (a) the local authority, if the local authority is satisfied that an emergency is present;



- (b) the head of the local authority, if the head
  - (i) is satisfied that an emergency is present, and
  - (ii) has used reasonable efforts to obtain the consent, to the declaration, of the other governing members of the local authority.
- (2) A declaration of a state of local emergency must identify the nature of the emergency and the area to which the declaration applies.
- (3) As soon as reasonably practicable after a declaration is made under this section, the local authority must
  - (a) give a copy of the declaration to the minister, and
  - (b) publish the declaration.

**Amendment or extension of declaration**

- 96** (1) Subject to this section, a local authority may, by emergency instrument, do one or both of the following:
- (a) amend an emergency instrument that makes a declaration of a state of local emergency with respect to the nature of the emergency or the area to which the declaration relates, or both;
  - (b) extend the period for which a declaration of a state of local emergency applies for additional periods of not more than 14 days each.
- (2) A local authority, other than the Nisga'a Nation or a treaty first nation, must not make an emergency instrument under subsection (1) unless, before the instrument is made,
- (a) in the case of a proposed extension, the local authority gives notice to the minister of the types of response powers the local authority proposes to exercise during the proposed extension,
  - (b) the local authority gives to the minister a summary of any consultation or engagement undertaken in accordance with section 120 (3) or (5) [*consultation, engagement and cooperation with Indigenous peoples*], as applicable, in relation to an action referred to in that section, which action is in respect of the declaration of a state of local emergency referred to in subsection (1) of this section, including any comments received from the Nisga'a Nation, a treaty first nation or an Indigenous governing body, as applicable, and
  - (c) the minister approves, in writing, the proposed amendment or extension.
- (3) The head of a local authority, other than the Nisga'a Nation or a treaty first nation, must not make an emergency instrument under subsection (1) unless the head of the local authority, before making the emergency instrument, makes reasonable efforts to obtain the consent of the other governing members of the local authority.

- (4) An emergency instrument made under subsection (1) (a) to amend an emergency instrument that makes a declaration of a state of local emergency does not extend or otherwise affect the period for which the declaration applies.
- (5) An emergency instrument made under subsection (1) to amend an emergency instrument that makes a declaration or to extend the period for which a declaration applies must
  - (a) specify the date of the original declaration and of each previous amendment or extension, if any, and
  - (b) in the case of an extension of the period for which the declaration applies, specify the period of the extension.
- (6) As soon as reasonably practicable after an emergency instrument is made under this section, the local authority must
  - (a) give notice to the minister, and
  - (b) publish the amendment or extension.

**Expiry or cancellation of declaration**

- 97**
- (1) Unless extended under section 96, a declaration of a state of local emergency expires 14 days after being made.
  - (2) If, in the opinion of the local authority, the emergency to which a declaration of a state of local emergency relates is no longer present in an area, the local authority must, by emergency instrument, cancel the declaration with respect to the area.
  - (3) The minister may, by order, cancel at any time a declaration of a state of local emergency made by a local authority, or the head of a local authority, other than the Nisga'a Nation or a treaty first nation.
  - (4) A declaration of a state of local emergency is cancelled with respect to any area to which a declaration of a local recovery period, made in relation to the declaration of a state of local emergency, applies.
  - (5) As soon as reasonably practicable after a declaration of a state of local emergency expires or is cancelled, the local authority must
    - (a) give notice to the minister, and
    - (b) publish the expiry or cancellation.

## Division 2 – Recovery Phase

### Declaration of local recovery period

- 98** (1) Subject to this section, a local authority may, by emergency instrument, make a declaration of a local recovery period.
- (2) A local authority, other than the Nisga’a Nation or a treaty first nation, must not make a declaration under subsection (1) unless, before the declaration is made,
- (a) the local authority gives to the minister
    - (i) notice of
      - (A) the types of recovery powers the local authority proposes to exercise during the local recovery period, and
      - (B) the emergency instruments referred to in subsection (4), if any, the local authority proposes would continue to have effect during all or part of the local recovery period, and
    - (ii) a summary of any consultation or engagement undertaken in accordance with section 120 (3) or (5) [*consultation, engagement and cooperation with Indigenous peoples*], as applicable, in relation to an action referred to in that section, which action is in respect of the original declaration of a state of local emergency, including any comments received from the Nisga’a Nation, a treaty first nation or an Indigenous governing body, as applicable, and
  - (b) the minister approves, in writing, all of the following:
    - (i) the area to which the declaration applies;
    - (ii) the emergency instruments referred to in subsection (4) that continue to have effect, if any, during all or part of the local recovery period.
- (3) The minister may give the approval referred to in subsection (2) (b) (i) if the minister is satisfied of both of the following:
- (a) that the nature or scope of the emergency that is the subject of the declaration of a state of local emergency has subsided sufficiently in an area that it is appropriate to transition the taking of emergency measures in that area from the response phase to the recovery phase;
  - (b) that the exercise in that area of one or more recovery powers is necessary for the area to recover from the emergency.

- (4) For the purposes of subsection (2) (b) (ii), the minister may approve an emergency instrument made under any of the following provisions to continue to have effect during the local recovery period if the minister is satisfied that a continuation is necessary to recover from the emergency:
  - (a) section 107 (1) (a) [*response powers*], to the extent that provision authorizes the local authority to do things the minister may do under section 75 (1) [*essential matters*], other than section 75 (1) (d);
  - (b) section 107 (1) (b) and (d);
  - (c) section 110 [*response borrowing*].
- (5) The minister may impose prohibitions, requirements, limits or conditions on giving an approval under subsection (2) (b).
- (6) A declaration of a local recovery period must specify all of the following:
  - (a) the instrument number and date of the original declaration of a state of local emergency and of each amendment and extension, if any;
  - (b) the period for which the declaration of a local recovery period applies if that period is less than 90 days;
  - (c) the area to which the declaration of a local recovery period applies;
  - (d) in the case of a declaration made by a local authority, other than the Nisga'a Nation or a treaty first nation,
    - (i) the emergency instruments referred to in subsections (4) and (8) that continue to have effect, if any, during all or part of the local recovery period, and
    - (ii) any prohibitions, requirements, limits or conditions imposed by the minister under subsection (5), if applicable.
- (7) If the minister approves a bylaw adopted under section 110 to continue to have effect during the local recovery period, money may be borrowed under the bylaw to pay expenses incurred in responding to or recovering from the emergency to which the declaration relates.
- (8) Unless repealed, a regulation made under section 113 [*response powers*] continues to have effect during the local recovery period.
- (9) As soon as reasonably practicable after a declaration is made under subsection (1), the local authority must
  - (a) give a copy of the declaration to the minister, and
  - (b) publish the declaration.

**Amendment or extension of declaration**

- 99** (1) Subject to subsection (2), a local authority may, by emergency instrument, do one or both of the following:
- (a) amend an emergency instrument that makes a declaration of a local recovery period with respect to the area to which the declaration applies or the recovery powers that may be exercised under the declaration, or both;
  - (b) extend the period for which a declaration of a local recovery period applies for additional periods of not more than 90 days each.
- (2) A local authority, other than the Nisga’a Nation or a treaty first nation, must not make an emergency instrument under subsection (1) unless, before the instrument is made,
- (a) the local authority gives to the minister a summary of any consultation or engagement undertaken in accordance with section 120 (3) or (5) [*consultation, engagement and cooperation with Indigenous peoples*], as applicable, in relation to an action referred to in that section, which action is in respect of the declaration of a local recovery period referred to in subsection (1) of this section, including any comments received from the Nisga’a Nation, a treaty first nation or an Indigenous governing body, as applicable, and
  - (b) the minister approves, in writing, the proposed amendment or extension.
- (3) An emergency instrument made under subsection (1) (a) to amend an emergency instrument that makes a declaration does not extend or otherwise affect the period for which the declaration applies.
- (4) An emergency instrument made under subsection (1) to amend an emergency instrument that makes a declaration or to extend the period for which a declaration applies must specify all of the following, as applicable:
- (a) the date of the original declaration of a local recovery period and of each previous amendment or extension, if any;
  - (b) in the case of an extension of the period for which the declaration applies, the period of the extension;
  - (c) the matters referred to in section 98 (6) (c) and (d) [*declaration of local recovery period*], as applicable, that apply in relation to the declaration as amended or extended.
- (5) Section 96 (6) [*amendment or extension of declaration*] applies in relation to an emergency instrument made under this section.

**Expiry or cancellation of declaration**

- 100** (1) Unless extended under section 99, a declaration of a local recovery period expires 90 days after being made or at the end of the period specified in the declaration, whichever is earlier.

- (2) A local authority must, by emergency instrument, cancel a declaration of a local recovery period with respect to any area
  - (a) in which, in the local authority's opinion, the exercise of recovery powers is no longer necessary for the area to recover from the emergency to which the declaration relates, or
  - (b) in relation to which a new declaration of a state of local emergency has been made in response to an emergency that is related to the original emergency to which the declaration of a local recovery period relates.
- (3) A cancellation under subsection (2) (b) must be made as soon as reasonably practicable after the new declaration of a state of local emergency is made.
- (4) Section 97 (3) and (5) [*expiry or cancellation of declaration*] applies in relation to a declaration of a local recovery period.

### **Division 3 – General Powers and Duties**

#### **When general powers and duties apply**

- 101** (1) A local authority may exercise a power and must perform a duty under this Division whether or not a declaration of a state of provincial emergency or a declaration of a state of local emergency has been made.
- (2) The minister may make an order under section 104 [*restrictions on exercising powers*] during the period for which a declaration of a state of local emergency or a declaration of a local recovery period applies.

#### **Local authority must consider emergency management plan**

- 102** Before taking any action for the purpose of responding to or recovering from an emergency, the local authority must consider the local authority's emergency management plan.

#### **Coordination of response and recovery efforts**

- 103** For the purpose of responding to or recovering from an emergency in an area within a local authority's jurisdiction, the local authority
  - (a) must coordinate actions in the area or, if another person is responsible for coordinating particular actions in the area, assist the other person in coordinating actions in that area,
  - (b) may, for the purposes of paragraph (a), give directions to members of the local authority's emergency management organization, and
  - (c) may give advice and assistance to any person.

**Restrictions on exercising powers**

- 104** (1) Before making an order under this section, the minister must be satisfied that the order is necessary for one or both of the following purposes:
- (a) to coordinate the exercise of response powers or recovery powers;
  - (b) to provide certainty to persons affected by the exercise of response powers or recovery powers.
- (2) The minister may, by order, do any of the following:
- (a) require a local authority, other than the Nisga'a Nation or a treaty first nation, to refrain from or stop exercising one or more response powers or recovery powers;
  - (b) require a participating authority exercising response powers or recovery powers under an emergency measures agreement to refrain from or stop exercising one or more of the response powers or recovery powers;
  - (c) set limits or conditions on the exercise, by a local authority or participating authority referred to in paragraph (a) or (b), of one or more response powers or recovery powers.
- (3) Immediately on making an order under this section, the minister must notify the local authority or participating authority, or its head, of the details of the order.
- (4) The minister
- (a) may make an order under this section orally or in writing, and
  - (b) as soon as reasonably practicable after making an order orally, must reduce the order to writing.

**Division 4 – Local Authority's Response Powers**

**When response powers may be exercised**

- 105** (1) A local authority may make an emergency instrument under this Division during the period for which a declaration of a state of local emergency applies, except as permitted under section 110 [*response borrowing*].
- (2) Before making an emergency instrument under this Division, a local authority must be satisfied that any prohibitions, requirements, limits or conditions imposed, or authorizations made, under the emergency instrument are necessary to respond to the emergency.

**How response powers may be exercised**

- 106** (1) A local authority may make an emergency instrument under this Division
- (a) in writing, or
  - (b) orally, if the emergency instrument is an order made by an individual.

- (2) A local authority may provide in an emergency instrument made under this Division that the instrument applies
  - (a) to all or part of the area to which a declaration of a state of local emergency applies,
  - (b) for all or part of the period for which a declaration of a state of local emergency applies, and
  - (c) to a person or thing, or a class of persons or things, as established by the local authority.
- (3) A local authority must, if applicable, identify in an emergency instrument the declaration of a state of local emergency to which the emergency instrument relates.
- (4) As soon as reasonably practicable after a local authority makes an emergency instrument under this Division, the local authority must
  - (a) in the case of an emergency instrument made orally, reduce the emergency instrument to writing and publish the emergency instrument, and
  - (b) in the case of an emergency instrument made in writing, publish the emergency instrument.
- (5) Subject to section 110 [*response borrowing*], an emergency instrument made under this Division ceases to have effect on the earliest of the following dates:
  - (a) the date provided for in the emergency instrument;
  - (b) the date on which the local authority rescinds or repeals the emergency instrument;
  - (c) the date on which the declaration of a state of local emergency to which the emergency instrument relates expires or is cancelled, unless the emergency instrument is approved under section 98 (4) [*declaration of local recovery period*] as an emergency instrument that continues to have effect.
- (6) For certainty, the powers of a local authority, other than the Nisga'a Nation or a treaty first nation, under this Division are subject to any
  - (a) prescribed prohibitions, requirements, limits or conditions, and
  - (b) orders made under section 104 (2) [*restrictions on exercising powers*].

**Response powers**

- 107** (1) For the purposes of this Division, a local authority may, by emergency instrument, do all the things that the minister may do as described under the following provisions:
- (a) section 75 [*essential matters*], other than section 75 (1) (b) (iv);
  - (b) section 76 (1) [*land and other property*];



- (c) section 77 (1) or (2) [*evacuations and removals*];
  - (d) section 78 [*general restrictions*].
- (2) The exception in subsection (1) (a) does not apply in relation to the Nisga'a Nation or a treaty first nation.

**Consultation and coordination before evacuation and re-entry**

- 108** (1) This section applies if
- (a) a local authority is intending to do any of the following:
    - (i) make an emergency instrument under section 107 (1) (c) requiring persons to evacuate an area;
    - (ii) issue a warning that the evacuation of an area may be required;
    - (iii) permit evacuated persons to return to an evacuated area, and
  - (b) the area that will be affected by the evacuation, warning or permission is adjacent to an area that is within the jurisdiction of another local authority, other than the Nisga'a Nation or a treaty first nation.
- (2) Subject to subsection (3), a local authority must, before taking an action described in subsection (1) (a), do all of the following, as applicable:
- (a) consult and coordinate, in accordance with the regulations, if any, with the other local authority in whose jurisdiction the area referred to in subsection (1) (b) is located;
  - (b) give to a local authority consulted in accordance with paragraph (a) notice of the details of the intended action and, if applicable, of any arrangements the local authority intends to make under section 107 (1) (c) with respect to evacuated persons;
  - (c) consider any comments received from a local authority consulted in accordance with paragraph (a);
  - (d) coordinate with a local authority consulted in accordance with paragraph (a) in respect of
    - (i) the prohibitions, requirements, limits and conditions that apply to the evacuation and re-entry, and
    - (ii) the form, content and timing of any warnings.
- (3) If, in the opinion of the head of the local authority, it would not be practicable to comply with subsection (2) (a), (b), (c) or (d) due to an imminent risk of loss of life or risk of injury to individuals or animals, or risk of significant loss or damage to property,
- (a) the requirements of that provision do not apply, and

- (b) in the case of subsection (2) (b), the local authority must, as soon as reasonably practicable after taking the action referred to in subsection (1) (a), give notice to the other local authority in whose jurisdiction the area referred to in subsection (1) (b) is located of the details of the action taken and, if applicable, of any arrangements the local authority made or intends to make under section 107 (1) (c) with respect to evacuated persons.

**General power of Nisga'a Nation and  
treaty first nations to do all things necessary**

- 109**
- (1) The head of the Nisga'a Nation or of a treaty first nation may, by emergency instrument, do all acts and implement all procedures that the head of the Nisga'a Nation or treaty first nation is satisfied are necessary to respond to an emergency.
  - (2) For certainty, nothing in this Division is intended to limit the power conferred under subsection (1) of this section.

**Response borrowing**

- 110**
- (1) A municipality or regional district may adopt a bylaw to borrow money to pay expenses incurred in responding to an emergency in an area within the jurisdiction of the municipality or regional district.
  - (2) A municipality or regional district may adopt a bylaw under this section no later than 60 days after the latest date on which
    - (a) the municipality or regional district makes a declaration of, or extends the period of, a state of local emergency in relation to the emergency, or
    - (b) the Lieutenant Governor in Council or the minister makes a declaration of, or the Lieutenant Governor in Council extends the period of, a state of provincial emergency in relation to the emergency.
  - (3) Despite subsection (2), a municipality or regional district may adopt a bylaw under this section later than the period referred to in that subsection if the provincial administrator extends that period or grants an exception to that period.
  - (4) Despite anything to the contrary in the *Community Charter*, the *Local Government Act* or the *Vancouver Charter*,
    - (a) the borrowing of money under a bylaw adopted under this section need not be of a capital nature, and
    - (b) the approval of the electors is not required to adopt the bylaw referred to in paragraph (a).

- (5) A bylaw adopted under this section has no effect until the bylaw is approved by the minister responsible for the administration of the *Community Charter* and by the inspector of municipalities, appointed under the *Local Government Act*.
- (6) Subsection (5) does not apply to the City of Vancouver.

### **Division 5 – Lieutenant Governor in Council’s Response Powers**

#### **When response powers may be exercised**

- 111 (1) The Lieutenant Governor in Council may make a regulation under this Division during the period for which a declaration of a state of local emergency applies.
- (2) The Lieutenant Governor in Council may not make a regulation under this Division in relation to a declaration of a state of local emergency made by the Nisga’a Nation or a treaty first nation, or the head of the Nisga’a Nation or of a treaty first nation, unless the Nisga’a Nation or treaty first nation consents to the regulation being made.

#### **How response powers may be exercised**

- 112 (1) The Lieutenant Governor in Council may make a regulation under this Division after consulting with a local authority that has made an emergency instrument declaring a state of local emergency.
- (2) A regulation made under this Division ceases to have effect on the earliest of the following dates:
  - (a) the date provided for in the regulation;
  - (b) the date on which the regulation is repealed;
  - (c) the date on which the declaration of a state of local emergency to which the regulation relates expires or is cancelled, unless the regulation is approved under section 98 (4) [*declaration of local recovery period*] as a regulation that continues to have effect.

#### **Response powers**

- 113 For the purposes of this Division, the Lieutenant Governor in Council may make regulations as described under the following provisions:
  - (a) section 83 [*modifying enactments and authorizations*];
  - (b) section 84 [*modifying time periods*];
  - (c) section 85 [*modifying fee requirements*];
  - (d) section 86 [*enforcement of modified enactments and authorizations*].

**Application of other provisions**

- 114** (1) The following provisions apply in relation to a regulation made under this Division:
- (a) section 80 (2) [*when response powers may be exercised*];
  - (b) section 81 (1) and (2) [*how response powers may be exercised*];
  - (c) section 82 [*retroactive application of response powers*].
- (2) Section 84 (3), (4) and (5) [*modifying time periods*] applies in relation to a time period suspended, extended or replaced, as applicable, by a regulation made under section 113 (b).

**References for interpretive purposes**

- 115** For the purposes of a provision that applies under this Division, a reference to a declaration of a state of provincial emergency must be read as a reference to a declaration of a state of local emergency.

**Division 6 – Local Authority’s Recovery Powers**

**When recovery powers may be exercised**

- 116** (1) A local authority may make an emergency instrument under this Division during the period for which a declaration of a local recovery period applies, except as permitted under section 119 [*recovery borrowing*].
- (2) Before making an emergency instrument under this Division, a local authority must be satisfied that any prohibitions, requirements, limits or conditions imposed, or authorizations made, under the emergency instrument are necessary to recover from the emergency.

**How recovery powers may be exercised**

- 117** (1) Section 106 (2), (3) and (6) [*how response powers may be exercised*] applies in relation to an emergency instrument made under this Division.
- (2) Subject to section 119, an emergency instrument made under this Division ceases to have effect on the earliest of the following dates:
- (a) the date provided for
    - (i) in a declaration of a provincial recovery period, in the case of an emergency instrument approved under section 98 (4) [*declaration of local recovery period*], or
    - (ii) in the emergency instrument, in any case;
  - (b) the date on which the emergency instrument is repealed or rescinded;
  - (c) the date on which the declaration of a local recovery period to which the emergency instrument relates expires or is cancelled.

- (3) As soon as reasonably practicable after an emergency instrument is made under this Division, the local authority must
  - (a) give notice to the minister, and
  - (b) publish the emergency instrument.

#### **Recovery powers**

- 118** (1) For the purposes of this Division, a local authority may, by emergency instrument, do all the things that the minister may do as described under the following provisions:
- (a) section 75 (1) [*essential matters*], other than section 75 (1) (b) (iv) or (d);
  - (b) section 76 (1) [*land and other property*];
  - (c) section 78 [*general restrictions*].
- (2) Without limiting subsection (1) (b), a local authority may, by emergency instrument, prohibit the entry into any structure or onto any land, by any person and for any purpose related to
- (a) protecting the health, safety or well-being of persons, or the safety of property or of objects or sites of heritage value, or
  - (b) taking emergency measures to recover from the emergency.

#### **Recovery borrowing**

- 119** (1) A municipality or regional district may adopt a bylaw to borrow money to pay expenses incurred in recovering from an emergency in an area within the jurisdiction of the municipality or regional district.
- (2) A municipality or regional district may adopt a bylaw under this section no later than 90 days after the latest date on which
- (a) the municipality or regional district declares or extends the period of a declaration of a local recovery period in relation to the emergency, or
  - (b) the Lieutenant Governor in Council declares or extends the period of a declaration of a provincial recovery period in relation to the emergency.
- (3) Section 110 (3), (4), (5) and (6) [*response borrowing*] applies in relation to a bylaw adopted under this section.
- (4) A bylaw made under section 110 that continues to have effect under section 98 (4) [*declaration of local recovery period*] or that is adopted under this section may not be amended after the 90-day period referred to in subsection (2) of this section, except that provisions of the bylaw may be repealed.

## Division 7 – Consultation with Indigenous Peoples

### Consultation, engagement and cooperation with Indigenous peoples

- 120** (1) In this section, “**specified action**” means an action described in subsection (2) (a) (i) in relation to a provision set out in subsection (6) (a) or (b) of this section.
- (2) This section applies if
- (a) a local authority, other than the Nisga’a Nation or a treaty first nation, is intending to do any of the following:
    - (i) make an emergency instrument or take any other action under a provision set out in subsection (6) of this section, as applicable;
    - (ii) issue a warning that the evacuation of an area may be required;
    - (iii) permit evacuated persons to return to an evacuated area, and
  - (b) the emergency instrument or action, warning or permission will affect an area, or the people in an area, that is
    - (i) within Nisga’a Lands or treaty lands of a treaty first nation,
    - (ii) described for the purposes of this section in one or more of the following:
      - (A) the local authority’s emergency management plan;
      - (B) an agreement made under this Act with an Indigenous governing body, or
    - (iii) if the local authority was unable to reach agreement with an Indigenous governing body under section 55 (1) (e) [*consultation and cooperation with Indigenous peoples*], described for the purposes of section 90 [*consultation, engagement and cooperation with Indigenous peoples*] in an emergency management plan referred to in section 39 (1) (b) [*emergency management planning and information*] for that Indigenous governing body.
- (3) Subject to subsection (5), the local authority must, before the local authority takes an action described in subsection (2) (a) and (b), do all of the following, as applicable:
- (a) in the case of an action that will affect an area, or the people in an area, that is referred to in subsection (2) (b) (ii) or (iii), consult and cooperate, in accordance with the regulations, if any, with the Indigenous governing body that is specified in the plan or agreement, as applicable, in relation to the area;

- (b) give to the Nisga'a Nation or treaty first nation, or an Indigenous governing body consulted in accordance with paragraph (a) of this subsection, as applicable, notice of the details of the intended action and, if applicable, of any arrangements the local authority intends to make under section 107 (1) (c) [*response powers*] with respect to evacuated individuals;
- (c) consider
  - (i) any comments received from the Nisga'a Nation or treaty first nation or an Indigenous governing body consulted in accordance with paragraph (a), and
  - (ii) the rights of the Indigenous peoples on whose behalf the Nisga'a Nation, treaty first nation or Indigenous governing body referred to in subparagraph (i) of this paragraph acts.
- (4) The local authority must not take an action described in subsection (2) (a) that will affect an area, or the people in an area, that is referred to in subsection (2) (b) (i) unless the Nisga'a Nation or treaty first nation, as applicable, consents to the action being taken.
- (5) If, in the opinion of the head of the local authority, it would not be practicable to comply with subsection (3) (a), (b) or (c), or to seek to obtain consent under subsection (4), in relation to a specified action due to an imminent risk of loss of life or risk of injury to individuals or animals, or risk of significant loss or damage to property,
  - (a) the requirements of that provision do not apply, and
  - (b) the local authority must, as soon as reasonably practicable after taking the specified action, do all of the following, as applicable:
    - (i) in the case of subsection (3) (a), engage and cooperate, in accordance with the regulations, if any, with the Indigenous governing body referred to in that subsection;
    - (ii) in the case of subsection (3) (b), give to the Nisga'a Nation or treaty first nation, or an Indigenous governing body engaged under subparagraph (i) of this paragraph, as applicable, notice of the details of the action taken and, if applicable, of any arrangements the local authority made or intends to make under section 107 (1) (c) with respect to evacuated persons;
    - (iii) in the case of subsection (3) (c), consider
      - (A) any comments received from the Nisga'a Nation or treaty first nation or an Indigenous governing body engaged under subparagraph (i) of this paragraph, and
      - (B) the rights of the Indigenous peoples on whose behalf the Nisga'a Nation, treaty first nation or Indigenous governing body referred to in clause (A) acts.

- (6) For the purposes of this section, the following provisions are set out:
- (a) sections 107 (1) (b) and 118 (1) (b) [*recovery powers*], to the extent those provisions authorize the local authority to do things the minister may do under section 76 (1) (a), (b), (c), (d), (e) and (f) [*land and other property*];
  - (b) section 107 (1) (c);
  - (c) sections 107 (1) (d) and 118 (1) (c), to the extent those provisions authorize the local authority to do things the minister may do under section 78 (1) (a) [*general restrictions*];
  - (d) section 118 (2).

### **Division 8 – Reporting Requirements**

#### **Final report**

- 121** (1) A local authority, other than the Nisga'a Nation or a treaty first nation, must prepare a report with respect to a declaration of a state of local emergency and, if applicable, a declaration of a local recovery period, by the local authority that summarizes all of the following:
- (a) the nature of the emergency;
  - (b) the response powers and recovery powers exercised with respect to the emergency;
  - (c) if the head of the local authority, under section 120 (5), was of the opinion that it was not practicable to comply with subsection (3) (a), (b) or (c) of that section, or to seek to obtain consent under subsection (4) of that section, the reasons for the head of the local authority's opinion;
  - (d) any other matter as required by the minister and the regulations.
- (2) The local authority must provide a copy of the report to the provincial administrator
- (a) in the form and manner required by the provincial administrator, and
  - (b) within 120 days of the expiry or cancellation of the following, whichever is later:
    - (i) the declaration of a state of local emergency to which the report relates;
    - (ii) the declaration of a local recovery period, if any, that followed the declaration of a state of local emergency to which the report relates.
- (3) If required by the regulations, the local authority must publish the report in accordance with the regulations.



- (4) The minister may request the Nisga'a Nation or a treaty first nation to prepare a report described in subsection (1) in relation to a declaration of a state of local emergency and, if applicable, a declaration of a local recovery period, by the Nisga'a Nation or treaty first nation.

## PART 7 – COMPENSATION AND FINANCIAL ASSISTANCE

### Division 1 – Compensation for Exercise of Response or Recovery Power

#### Definitions

**122** In this Division:

“**claimant**” means a person who makes a claim for compensation under this Division in accordance with section 126 [*claiming compensation*];

“**specified date**”, in relation to an area in which property that is the subject of a claim for compensation is located, means the latest of the following dates that applies:

- (a) the date on which a declaration of a state of provincial emergency or a declaration of a state of local emergency made with respect to the area, or the last extension of that declaration, if any, is cancelled or expires;
- (b) if a declaration of a provincial recovery period or a declaration of a local recovery period is made with respect to the area, the date on which that declaration, or the last extension of it, if any, is cancelled or expires.

#### Persons entitled to compensation

**123** (1) Subject to this Division and the regulations, a person is entitled to compensation for loss of or damage to property if all of the following conditions are met:

- (a) the loss of or damage to the property was caused by the exercise of a power under any of the following provisions:
  - (i) section 76 (1) (a), (b), (c), (d), (e) or (f) [*land and other property*] or 89 (1) (b) [*recovery powers*];
  - (ii) sections 107 (1) (b) [*response powers*] or 118 (1) (b) [*recovery powers*], to the extent those provisions authorize things the minister may do under section 76 (1) (a), (b), (c), (d), (e) or (f);
- (b) the person owned the property at the time the loss or damage was caused.

(2) A person is entitled to claim compensation under subsection (1) from

- (a) the government, if the minister or the Lieutenant Governor in Council exercised the power,
- (b) a local authority, if the local authority exercised the power, or

- (c) a participating authority, if the participating authority exercised the power under an emergency measures agreement.

**Persons not entitled to compensation**

- 124** (1) A person is not entitled to compensation under this Division if the loss or damage has a value of less than a prescribed amount.
- (2) A person is not entitled to compensation under this Division in prescribed circumstances.

**Amount of compensation**

- 125** (1) Subject to subsection (2), the amount of compensation to which a person is entitled under this Division is the least of the following amounts:
- (a) the prescribed amount, if any;
  - (b) the amount required to repair the property that is the subject of the claim to the property's condition as it was immediately before the loss or damage was caused;
  - (c) the amount required to replace the property that is the subject of the claim with property that is of similar nature, value and quality to that of the property as it was immediately before the loss or damage was caused.
- (2) The amount of compensation to which a person is entitled under this Division does not include an amount equal to any amount of compensation for the loss or damage that is paid or payable, to any person, in prescribed circumstances or under any of the following:
- (a) Division 3 [*Financial Assistance*] of this Part;
  - (b) another enactment of British Columbia or an enactment of Canada;
  - (c) an agreement, including a contract of insurance;
  - (d) a settlement of or judgment in legal proceedings.
- (3) The value of property and the amounts referred to in subsections (1) (b) and (c) and (2) must be determined in accordance with the regulations, if any.

**Claiming compensation**

- 126** To claim compensation under this Division, a person must do all of the following:
- (a) make the claim in writing;
  - (b) include with the claim
    - (i) a written assessment of the loss or damage, prepared by the claimant's insurer or by another person who is qualified to perform assessments and is independent of the claimant, and
    - (ii) the information or records required by the regulations, if any;

- (c) submit the claim
  - (i) in the form and manner required by the government, local authority or participating authority, as applicable, and
  - (ii) no later than 60 days after the specified date in relation to the area in which the property that is the subject of the claim is located.

**If claim for compensation made**

- 127**
- (1) On receiving a claim made in accordance with section 126, the government, local authority or participating authority, as applicable, must
    - (a) determine, in accordance with this Division and the regulations, whether the claimant is entitled to compensation under this Division, and
    - (b) if the claimant is entitled to compensation, either
      - (i) offer to the claimant an amount as compensation, or
      - (ii) designate an adjuster to determine the amount of compensation to which the claimant is entitled.
  - (2) On making a determination respecting compensation, the government, local authority or participating authority must notify the claimant as follows:
    - (a) the notice must be in writing;
    - (b) the notice must include all of the following:
      - (i) a statement of whether the claimant is entitled to compensation and, if so, an offer of an amount as compensation or details of the designation of an adjuster, as applicable;
      - (ii) the reasons for the determination.
  - (3) The government, local authority or participating authority must make the determination respecting compensation no later than 90 days after the latest of the following:
    - (a) the specified date in relation to the area in which the property that is the subject of the claim is located;
    - (b) the date the claim was received.
  - (4) If an offer was made under subsection (1) (b) (i) and the amount offered was refused within the time stated in the offer, the government, local authority or participating authority must designate an adjuster no later than 60 days after the date on which the offer was refused.

**If adjuster designated**

- 128**
- (1) If an adjuster is designated under section 127, the adjuster must
    - (a) determine, in accordance with this Division and the regulations, the amount of compensation to which the claimant is entitled,

- (b) notify the claimant, in writing,
    - (i) of the determination and the reasons for it, and
    - (ii) that the determination may be disputed before an arbitrator, and
  - (c) notify the government, local authority or participating authority, as applicable, of the determination and whether the claimant accepts the determination.
- (2) If the claimant or the government, local authority or participating authority disputes the adjuster's determination, the government, local authority or participating authority, as applicable, must initiate arbitration no later than 60 days after the date on which it was notified of the determination.
  - (3) The *Arbitration Act* applies to an arbitration under subsection (2), except that an arbitral tribunal may be composed of only one arbitrator.
  - (4) An adjuster, other than a person appointed under the *Public Service Act*, may be remunerated, in accordance with the regulations, if any, for performing duties under this section.

#### **Paying compensation**

- 129** If a claimant is entitled to compensation under this Division, the government, local authority or participating authority, as applicable, must promptly pay to the claimant whichever of the following amounts applies:
- (a) the amount the claimant accepted under an offer or after a determination by an adjuster under section 128;
  - (b) the amount determined on arbitration.

### **Division 2 – Compensation for Taking Emergency Measure**

#### **Discretionary compensation**

- 130** (1) The government may pay compensation to a person for loss of or damage to property as a result of taking an emergency measure if
- (a) the person is not entitled to compensation under Division 1 [*Compensation for Exercise of Response or Recovery Power*] of this Part,
  - (b) compensation under this Division is authorized under the regulations,
  - (c) the person is eligible, under the regulations, for compensation under this Division,
  - (d) a request for compensation is made in accordance with the regulations, and
  - (e) compensation is determined in accordance with the regulations.

- (2) A local authority may pay compensation to a person for loss of or damage to property as a result of taking an emergency measure if
  - (a) the person is not entitled to compensation under Division 1 of this Part,
  - (b) compensation under this Division is authorized under a bylaw adopted by the local authority,
  - (c) the person is eligible, under the bylaw, for compensation under this Division,
  - (d) a request for compensation is made in accordance with the bylaw, and
  - (e) compensation is determined in accordance with the bylaw.

### **Division 3 – Financial Assistance**

#### **Definitions**

**131** In this Division:

“**financial assistance authorization**” means an authorization made under section 132 (1);

“**loss**” means a financial loss, loss of or damage to property, a cost or an expense, or a type of any of these,

- (a) that a person incurred or is likely to incur as a result of an emergency, and
- (b) for which, under the regulations, financial assistance is available.

#### **Authorizing financial assistance**

- 132** (1) The Lieutenant Governor in Council, the minister or the provincial administrator may authorize financial assistance to be paid under this Division with respect to an emergency if the Lieutenant Governor in Council, minister or provincial administrator is satisfied that
- (a) the emergency meets prescribed criteria, and
  - (b) any additional prescribed conditions are met.
- (2) A financial assistance authorization may be made whether or not a declaration of a state of provincial emergency or a declaration of a state of local emergency is made.
- (3) A financial assistance authorization must be made in writing and identify
- (a) the emergency to which the authorization relates, and
  - (b) the area in respect of which financial assistance is authorized.
- (4) As soon as reasonably practicable after a financial assistance authorization is made, the minister must publish the authorization.

**Requesting financial assistance**

- 133** (1) To request financial assistance under this Division, a person must do all of the following:
- (a) within the prescribed period after the date on which the applicable financial assistance authorization is made, notify the provincial administrator that the person intends to request financial assistance;
  - (b) make the request in writing;
  - (c) include with the request any prescribed information and records;
  - (d) submit the request to the provincial administrator within the prescribed period and in the form and manner required by the provincial administrator.
- (2) Despite subsection (1) (a) and (d), a person may notify, or submit a request to, the provincial administrator after the period referred to in that provision, as applicable, if
- (a) the Lieutenant Governor in Council, the minister or the provincial administrator extends, or grants an exception to, the period, and
  - (b) the person is eligible for the extension or exception.

**Determining financial assistance**

- 134** (1) On receiving a request made in accordance with section 133, the provincial administrator must determine, in accordance with this Division and the regulations,
- (a) whether the person is eligible to receive financial assistance under this Division, and
  - (b) if financial assistance is to be paid, the amount payable.
- (2) The provincial administrator may refuse financial assistance or reduce the amount payable in relation to property in any of the following circumstances:
- (a) compensation for the loss is paid or payable, to any person, in prescribed circumstances or under
    - (i) Division 1 [*Compensation for Exercise of Response or Recovery Power*] or 2 [*Compensation for Taking Emergency Measure*] of this Part, or
    - (ii) a settlement of or judgment in legal proceedings;
  - (b) prescribed circumstances.

**Further information and evaluators**

- 135** For the purposes of making a determination under section 134, the provincial administrator may do one or more of the following:
- (a) require the person making the request to provide additional information or records, including proof of a loss;

- (b) subject to the regulations, request a person who has relevant training and qualifications to do one or more of the following:
  - (i) evaluate damaged property;
  - (ii) assess the amount of a loss, including an amount needed to repair or replace lost or damaged property;
  - (iii) give advice on any matter referred to in section 134.

**Notice of determination**

**136** On making a determination respecting financial assistance, the provincial administrator must notify the person who requested assistance of the determination as follows:

- (a) the notice must be in writing;
- (b) the notice must include all of the following:
  - (i) a statement of whether financial assistance is to be paid and, if so, the amount payable;
  - (ii) the reasons for the determination;
  - (iii) procedural information respecting how the determination may be reconsidered or appealed.

**Appeal of determination**

**137** (1) A person who requested financial assistance may appeal a determination made under section 136 to the minister if

- (a) the determination has been reconsidered in accordance with the regulations, and
- (b) the appeal is made on one or more of the following grounds:
  - (i) the provincial administrator erred in law;
  - (ii) the provincial administrator failed to observe the rules of procedural fairness;
  - (iii) prescribed grounds.

(2) An appeal may be made by

- (a) submitting the appeal, in writing,
  - (i) in the form and manner required by the minister, and
  - (ii) no later than 90 days after the date on which the person received notice of the result of the reconsideration, and
- (b) including with the appeal any prescribed information or records.

(3) Despite subsection (2) (a) (ii), a person may submit an appeal after the period referred to in that provision if the minister extends that period.

(4) On receiving an appeal, the minister may do one or more of the following:

- (a) request the appellant to provide additional information or records;

- (b) reject the appeal for a failure to comply with this section, the regulations made with respect to this section or a request made under paragraph (a) of this subsection;
  - (c) confirm or vary the result of the reconsideration.
- (5) The minister must notify the appellant, in writing, of the minister's decision under subsection (4) (b) or (c) and of the reasons for the decision.

**Recovering amounts paid**

- 138** (1) Subject to subsection (2), the minister may, by order, require a person who received an amount under this Division as financial assistance to repay all or part of the amount to the government if any of the following circumstances apply:
- (a) the person was not entitled to the amount;
  - (b) the amount was not authorized under or determined in accordance with this Division or the regulations;
  - (c) the amount was incorrectly calculated;
  - (d) the person received full or partial compensation from another source for the loss with respect to which the person received financial assistance, including under
    - (i) Division 1 [*Compensation for Exercise of Response or Recovery Power*] or 2 [*Compensation for Taking Emergency Measure*] of this Part, or
    - (ii) a settlement of or judgment in legal proceedings;
  - (e) the person obtained the financial assistance by fraudulent means;
  - (f) prescribed circumstances.
- (2) An order under this section may be made no later than 5 years after the date on which the person was notified under section 136 of the amount of financial assistance payable to the person.
- (3) The minister must determine the amount to be repaid under subsection (1) in accordance with the regulations.
- (4) If a person fails to comply with an order made under this section,
- (a) the amount that must be repaid may be recovered as a debt due to the government,
  - (b) the minister may, in accordance with the regulations, file a certificate in the prescribed form with a court that has jurisdiction, and
  - (c) on filing, the certificate has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court with which it is filed.



## **PART 8 – ENFORCEMENT AND COSTS RECOVERY**

### **Division 1 – Enforcing Compliance**

#### **Mandatory compliance**

- 139** A person must comply with
- (a) this Act and the regulations, and
  - (b) all orders and emergency instruments made under this Act that apply to the person.

#### **Peace officer assistance**

- 140**
- (1) The provincial administrator may request that a peace officer assist a person in the exercise of a power or the performance of a duty with respect to the taking of an emergency measure.
  - (2) A peace officer whose assistance is requested under this section may take any action that the peace officer considers necessary for a purpose described in subsection (1).

#### **Injunctions**

- 141**
- (1) Without notice to any person, the minister or a local authority may apply, in the manner set out in the regulations, if any, to the Supreme Court for an order under this section.
  - (2) The court may order a person to do or refrain from doing those things that the court considers necessary if the court is satisfied that there is reason to believe the person is interfering with or obstructing, or will likely interfere with or obstruct, a person or peace officer who is
    - (a) exercising a power or performing a duty under this Act, or
    - (b) taking an emergency measure in relation to a declaration of a state of provincial emergency, a declaration of a state of local emergency, a declaration of a provincial recovery period or a declaration of a local recovery period
      - (i) in accordance with an emergency management plan, or
      - (ii) under an order of the minister or an emergency instrument of a local authority.
  - (3) If the court is satisfied that there has been or will be a contravention of this Act or the regulations, or an order or emergency instrument, the court may grant an injunction requiring a person to comply with, or restraining a person from contravening,
    - (a) the Act or a regulation made under it, or
    - (b) an order or emergency instrument made in the exercise of a response power or a recovery power.

- (4) The court may grant an interim order or injunction until the outcome of an application under this section is determined.

## **Division 2 – Costs Recovery and Administrative Penalties**

### **Definition**

- 142** In this Division, “**costs or penalty order**” means an order made under section 143 or 145 [*order to impose administrative penalty*].

### **Order to recover costs**

- 143** (1) Subject to the regulations, the provincial administrator may, by order, require a person to pay costs in an amount determined in accordance with section 144 if both of the following conditions are met:
- (a) an emergency is threatened or caused in whole or in part by the person’s acts or omissions;
  - (b) the government or a local authority, or a participating authority acting under an emergency measures agreement, incurs an expense to mitigate or prepare for the threat or to respond to or recover from the emergency.
- (2) For the purposes of this section, an emergency is threatened or caused by a person’s acts or omissions if those acts or omissions
- (a) contribute, directly or indirectly and beyond a minimal extent, to the presence of the threat or emergency, or
  - (b) change the nature or scope of the emergency or disaster so as to increase, directly or indirectly and beyond a minimal extent, the severity of the emergency.
- (3) The provincial administrator may, for the purposes of this section, collect information from another person, organization or entity.

### **Amount of costs**

- 144** (1) The amount of costs that a person may be required to pay under section 143 is the lesser of the following:
- (a) the amount determined under subsection (2) (b);
  - (b) the amount demanded by the minister, local authority or participating authority referred to in section 143 (1) (b), as applicable.
- (2) The provincial administrator must determine, in accordance with the regulations, if any, the following amounts:
- (a) the amount of the costs incurred by the government, local authority or participating authority to mitigate or prepare for the threat of, or to respond to or recover from, the emergency;
  - (b) the portion of those costs that equals the portion of the liability for the threat or emergency that is attributable to the person’s acts or omissions.

**Order to impose administrative penalty**

- 145** Subject to the regulations, the provincial administrator may, by order, impose an administrative penalty on a person if both of the following conditions are met:
- (a) the provincial administrator determines that a person has contravened
    - (i) a prescribed provision of this Act or the regulations, or
    - (ii) an order made under a prescribed provision of this Act or the regulations by the minister or provincial administrator;
  - (b) the person has not been charged with an offence with respect to the same incident.

**Making costs or penalty orders**

- 146** (1) When making a costs or penalty order, the provincial administrator must
- (a) make the order in the prescribed form, and
  - (b) include in the order any prescribed information.
- (2) Subject to the regulations and section 159 [*duty to protect confidentiality*], on making an order under section 145, the provincial administrator may publish the following information:
- (a) the details of the contravention that was the subject of the order, including the name of the person who must pay the administrative penalty;
  - (b) the amount of the administrative penalty;
  - (c) prescribed information.

**Payment of costs or penalty order**

- 147** (1) A person who is subject to a costs or penalty order must pay the amount of the costs or of the penalty stated in the order
- (a) within the prescribed period after the order is made, and
  - (b) in the prescribed manner.
- (2) Subject to section 145 (b), nothing in this Division relieves a person from any other liability under another enactment for the person's acts or omissions in relation to a matter that is the subject of a costs or penalty order.

**Appeal of costs or penalty order**

- 148** (1) A person who is subject to a costs or penalty order may appeal the order on one or more of the following grounds:
- (a) the provincial administrator erred in law;
  - (b) the provincial administrator failed to observe the rules of procedural fairness;
  - (c) relevant evidence that was not reasonably available at the time the provincial administrator made the order has become available;

- (d) prescribed grounds.
- (2) An appeal may be made by
  - (a) submitting the appeal, in writing,
    - (i) in the form and manner required by the minister, and
    - (ii) no later than 60 days after the date on which the person was served with the order being appealed, and
  - (b) including with the appeal the prescribed information or records.
- (3) On receiving an appeal, the minister may
  - (a) reject the appeal for a failure to comply with this section or the regulations made with respect to this section, or
  - (b) confirm, vary or rescind the order being appealed.
- (4) The minister must notify the appellant, in writing, of the minister's decision and the reasons for it.

**Amount under order is debt due**

- 149** If a person fails to pay an amount in accordance with section 147,
- (a) the amount that must be paid under the order may be recovered as a debt due to the government,
  - (b) the minister may, in accordance with the regulations, file a certificate in the prescribed form with a court that has jurisdiction, and
  - (c) on filing, the certificate has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court with which it is filed.

**Division 3 – Offences**

**Offences**

- 150** (1) Sections 4 and 5 of the *Offence Act* do not apply with respect to this Act or the regulations.
- (2) A person who does any of the following commits an offence:
- (a) contravenes an order made under section 56 [*directed mitigation and preparation measures*];
  - (b) contravenes an order or emergency instrument made under any of sections 73 to 78, 89, 107, 109 or 118 [*response or recovery powers*];
  - (c) provides false or misleading information with respect to
    - (i) a claim for compensation under section 126 [*claiming compensation*],
    - (ii) a request for compensation under section 130 [*discretionary compensation*],

- (iii) a request for financial assistance under section 133 [*requesting financial assistance*], or
  - (iv) a request for information under section 158 (1) (c) (i) [*information about persons needing services*];
  - (d) interferes with or obstructs, in the exercise of a power, the performance of a duty or the taking of an emergency measure by a person who is a protected person within the meaning of section 154 [*protection against legal proceedings*] or a peace officer;
  - (e) contravenes section 158 (3).
- (3) A proceeding for an offence under this section may not be commenced
- (a) in any court more than 2 years after the facts on which the proceeding is based first come to the knowledge of the minister, or
  - (b) if an order imposing an administrative penalty is made under section 145 [*order to impose administrative penalty*] with respect to the same incident that gave rise to the offence.

#### **Offence involving corporation**

- 151** If a corporation commits an offence under this Act, an officer, director, employee or agent of the corporation who directs, authorizes, permits, participates or acquiesces in the offence also commits the offence, whether or not the corporation is prosecuted.

#### **Continuing offences**

- 152** If a person commits an offence under this Act and continues to commit the offence, separate penalties may be imposed with respect to the offence for each day the offence continues.

#### **Penalties**

- 153** (1) If an individual commits an offence under this Act, the individual is liable to one or both of the following:
- (a) imprisonment for a term of not more than one year;
  - (b) a fine of not more than \$100 000.
- (2) If a corporation commits an offence under this Act,
- (a) the corporation is liable to a fine of not more than \$1 000 000, and
  - (b) an officer, director, employee or agent of the corporation who directed, authorized, permitted, participated or acquiesced in the offence is liable to one or both of the following:
    - (i) imprisonment for a term of not more than one year;
    - (ii) a fine of not more than \$300 000.

## PART 9 – ADMINISTRATIVE MATTERS

### Division 1 – Protections

#### Protection against legal proceedings

154 (1) In this section:

“**decision-making agreement**” has the same meaning as in section 33 [definitions for Part 3];

“**official guidance**” means guidance or direction, with respect to taking an action or refraining from taking an action, that is issued for the purposes of mitigating, preparing for, responding to or recovering from a critical incident or emergency by any of the following:

- (a) a regulated entity or a member, officer or employee of a regulated entity;
- (b) the provincial administrator or a member of the provincial emergency management organization;
- (c) a local authority or a member of an emergency management organization or a multijurisdictional emergency management organization;
- (d) a participating authority;
- (e) a department or agency of the government of Canada that
  - (i) takes emergency measures or provides assistance under an agreement made under section 8 [minister may enter into agreements], or
  - (ii) is responsible for national defence;
- (f) the person who is responsible for coordinating actions taken in relation to the critical incident or emergency;
- (g) in the case of a volunteer, the person who is responsible for the immediate supervision of the volunteer or coordinating the actions taken by the volunteer;

“**person**” includes an Indigenous governing body;

“**protected person**” means the following:

- (a) the government;
- (b) a local authority;
- (c) an Indigenous governing body;
- (d) a participating authority;
- (e) a person who exercises a power or performs a duty under this Act;
- (f) a person who, in accordance with a decision-making agreement or a statutory power agreement, provides or does not provide consent in relation to a statutory power of decision or a statutory power;

- (g) a person who, under this Act, takes emergency measures or provides emergency resources or the use of land;
- (h) a public safety provider, a person or entity that under the regulations is authorized for the purposes of section 32 (4) [*requests for deployment*] or a person or entity in a prescribed class, which provider, person or entity registers volunteers in accordance with the regulations, if any;
- (i) a person who is an employer, member, director, officer or employee of a person or entity referred to in paragraph (e), (f), (g) or (h);
- (j) a volunteer who is registered in accordance with the regulations, if any, with the provincial administrator, a local authority or a person or entity referred to in paragraph (h);
- (k) a person who is an employer of a volunteer referred to in paragraph (j);
- (l) a person who acts under the order, emergency instrument or direction, as applicable, of
  - (i) a person referred to in paragraph (e), (h) or (j), or
  - (ii) a person who is an employer, member, director, officer or employee of a person or entity referred to in paragraph (e) or (h);
- (m) a person who is an employer, member, director, officer or employee of a person referred to in paragraph (l);

**“statutory power agreement”** has the same meaning as in section 33.

- (2) Subject to subsections (3) and (4), no legal proceeding for damages lies or may be commenced or maintained against a protected person because of anything done or omitted
  - (a) in the exercise or intended exercise of a power under this Act,
  - (b) in the performance or intended performance of a duty under this Act,
  - (c) without limiting paragraph (a) or (b), in respect of the provision of consent in relation to a statutory power of decision or a statutory power in accordance with a decision-making agreement or a statutory power agreement,
  - (d) in taking an action that the person is authorized or required to take under this Act, including under an agreement made in respect of this Act, or
  - (e) in complying with, or intending to comply with,
    - (i) a direction given by a person who is taking an action described in paragraph (a), (b) or (d), or
    - (ii) official guidance.
- (3) Subsection (2) does not apply to a protected person in relation to anything done or omitted in bad faith or if the protected person was grossly negligent.

- (4) Subsection (2) does not affect an obligation of the government to pay compensation under Division 1 [*Compensation for Exercise of Response or Recovery Power*] of Part 7.

**Employment protection**

- 155** (1) In this section and section 156, “**protected employee**” means a person who is employed by, or provides services under contract to, an employer and either
- (a) is a volunteer
    - (i) who, because of the person’s unique training and experience, is identified by name by the provincial administrator, a public safety provider or a person who makes a request under section 32 [*requests for deployment*] in response to a critical incident or emergency, and
    - (ii) who is deployed under section 32 (4) to take specialized measures, or
  - (b) is required, by an order made under section 75 (1) (d) [*essential matters*] or an emergency instrument made under section 107 (1) (a) [*response powers*], to provide a service or give assistance.
- (2) An employer must not terminate, or change the terms or conditions of, the employment of a protected employee on the grounds that the protected employee failed to attend as scheduled or otherwise contravened a term or condition of employment if
- (a) the protected employee gives, in accordance with the regulations, written notice to the employer of being a protected employee, and
  - (b) the failure or contravention occurred as a result of
    - (i) being deployed under section 32 (4) to take specialized measures, or
    - (ii) complying with, or intending to comply with, an order made under section 75 (1) (d) or an emergency instrument made under section 107 (1) (a) to provide a service or give assistance.

**Application to release protected employee**

- 156** (1) An employer may apply in accordance with this section to request that a protected employee to whom section 155 applies be released from deployment or from complying with the order or emergency instrument referred to in subsection (2) (b) (ii) of that section.
- (2) An application under this section may be made only on the grounds that the deployment or compliance with the order
- (a) unduly interferes with the employer’s ability to carry on business, or
  - (b) otherwise creates undue financial hardship for the employer.



- (3) An application under this section must be made
  - (a) to the local authority, in the form and manner required by the local authority, in the case of a protected employee acting under an emergency instrument made under section 107 (1) (a) [*response powers*] to provide a service or give assistance, or
  - (b) to the provincial administrator, in the form and manner required by the provincial administrator, in any other case.
- (4) An application under this section must include the records, including proof of a matter, required by the local authority or provincial administrator, as applicable.

## **Division 2 – Personal and Sensitive Information and Indigenous Knowledge**

### **Definitions**

**157** In this Division:

**“authorized person”** means a person or entity who is any of the following:

- (a) a regulated entity;
- (b) the provincial administrator or a member of the provincial emergency management organization;
- (c) a member of an emergency management organization or a member of a multijurisdictional emergency management organization;
- (d) an Indigenous governing body;
- (e) a participating authority that has entered into an emergency measures agreement;
- (f) a prescribed person or public safety provider, or a person or public safety provider in a prescribed class;
- (g) an individual who
  - (i) is a member, officer or employee of a person or entity referred to in paragraph (a), (b), (c), (d), (e) or (f) of this definition, and
  - (ii) has responsibilities in relation to emergency management;

**“essential information”** means the following:

- (a) information necessary to identify a person, including the person’s age, date of birth, gender and image;
- (b) information that enables a person to be contacted other than at a place of business;
- (c) information about a person’s current or last known location;

- (d) to the extent that it is relevant to whether or how an emergency measure is or may be taken, information about a person's requirements with respect to one or more types of
  - (i) necessities,
  - (ii) transportation,
  - (iii) counselling, health care or social services,
  - (iv) child care, or
  - (v) animal care;
- (e) prescribed types of information;

**“person needing services”** means the following:

- (a) an individual who is believed to be in an area where there is a critical incident or emergency and who may be disproportionately affected, including as a result of intersectional disadvantage or vulnerability;
- (b) an individual whose health, safety or well-being is significantly at risk due to a critical incident or emergency;
- (c) an individual who has responsibility for an animal or property that is significantly at risk due to a critical incident or emergency;

**“sensitive information”** means information that

- (a) could reasonably be expected, if disclosed, to compromise the security of critical infrastructure or employees of critical infrastructure owners,
- (b) is commercial, financial, labour relations, scientific or technical information of or about a regulated entity,
- (c) is a trade secret within the meaning of the *Freedom of Information and Protection of Privacy Act*, or
- (d) is a prescribed type of information.

**Information about persons needing services**

- 158** (1) Subject to the regulations and subsection (2), an authorized person may do the following:
- (a) collect and use essential information about a person needing services from a family member of, or a person who resides with, the person needing services;
  - (b) if a person is or may be a person needing services and the person's location is not immediately known, collect and use essential information about the person from any other person who may have information relevant to determining the person's whereabouts;
  - (c) if a person's health, safety or well-being is significantly at risk due to a critical incident or emergency,
    - (i) request essential information about the person from any other person who may have information about the person, and

- (ii) collect and use any essential information about the person that is provided to the authorized person as a result of the request;
  - (d) disclose, to another authorized person, essential information about a person needing services.
- (2) The collection, use and disclosure of essential information may be for one or more of the following purposes only:
  - (a) to take an emergency measure;
  - (b) to locate and contact a person who is or may be a person needing services;
  - (c) to provide assistance to a person needing services, including assistance that may reduce the person's level of vulnerability;
  - (d) to protect or reduce risk to the animals or property of a person needing services;
  - (e) in the case of the disclosure of essential information, a purpose referred to in section 159;
  - (f) a prescribed purpose.
- (3) A person who has custody or control of essential information requested under subsection (1) (c) (i) must, promptly after receiving the request, disclose that information to the authorized person.

**Duty to protect confidentiality**

- 159** (1) A person who obtains personal information or sensitive information under this Act must keep the information confidential and not disclose it except as follows:
- (a) for the purpose of administering or enforcing this Act and the regulations;
  - (b) for a purpose authorized under this Act, other than section 16 [*disclosing and publishing information*];
  - (c) for the purpose of taking an emergency measure or supporting another person to take an emergency measure;
  - (d) in accordance with an agreement made under this Act;
  - (e) as required under an enactment of British Columbia or Canada;
  - (f) for the purposes of a legal proceeding before a court or tribunal, including a quasi-judicial tribunal;
  - (g) to publish or disclose information that, in the opinion of the minister, must be published or disclosed in the public interest.

- (2) Personal information or sensitive information may be disclosed for a purpose referred to in subsection (1)
  - (a) without the consent of or notice to the person to whom the information relates, and
  - (b) to a person outside British Columbia, if the person is in a prescribed class of persons.

**Confidentiality of Indigenous knowledge**

- 160**
- (1) Any Indigenous knowledge of an Indigenous people that is provided in confidence by the Indigenous people in relation to the exercise of a power or the performance of a duty under this Act may be
    - (a) used only for the purposes for which the Indigenous knowledge is provided, and
    - (b) disclosed only as authorized under subsection (2).
  - (2) Indigenous knowledge referred to in subsection (1) may be disclosed as follows:
    - (a) with the written consent of the Indigenous governing body of the Indigenous people;
    - (b) without restriction if the Indigenous knowledge is publicly available;
    - (c) to a person for the purposes of the exercise of a power or the performance of a duty under this Act if the Indigenous knowledge is necessary for the exercise of the power or performance of the duty as they relate to the purposes for which the Indigenous knowledge was provided;
    - (d) to legal counsel for the purposes of obtaining legal advice;
    - (e) by order of a court;
    - (f) in prescribed circumstances.
  - (3) Before disclosing Indigenous knowledge under any of the following provisions, a person must give written notice of the contemplated disclosure to the Indigenous governing body of the Indigenous people that provided the knowledge:
    - (a) subsection (2) (e);
    - (b) if required by regulation, subsection (2) (f).
  - (4) If a person discloses Indigenous knowledge under subsection (2) (c), unless subsection (2) (a) or (b) applies, the person must, as soon as practicable after the disclosure, give written notice of the disclosure to an Indigenous governing body that acts on behalf of the Indigenous people that provided the knowledge.

- (5) The following persons may impose conditions on the further disclosure of Indigenous knowledge by the person to whom the Indigenous knowledge is disclosed under subsection (2):
- (a) a justice, if the Indigenous knowledge is disclosed under subsection (2) (e);
  - (b) a prescribed person, if the Indigenous knowledge is disclosed under subsection (2) (f).

### **Division 3 – Conflict of Laws**

#### **Conflict of laws**

- 161** (1) An order or emergency instrument made or direction given under this Act has no effect to the extent that it prevents or interferes with any of the following:
- (a) the chief veterinarian’s exercise of a power under the *Animal Health Act* in relation to an emergency declared under section 59 of that Act;
  - (b) the minister responsible for the administration of the *Environmental Management Act*, or a public officer authorized by that minister, in exercising a power under section 87 of that Act in relation to an environmental emergency;
  - (c) the fire commissioner’s exercise of a power under the *Fire Services Act* in relation to an emergency referred to in section 25 (1) or (3) of that Act;
  - (d) the exercise of a power under section 7 (3) of the *Ministry of Energy and Mines Act* by the minister responsible for the administration of that Act, or a person’s exercise of a power under a regulation made under that section, in relation to controlling and regulating the use and supply of, and the demand for, energy resources in an emergency;
  - (e) an official in restricting or prohibiting access to a public area under section 51 (1) of the *Energy Resource Activities Act* or in the exercise of a power under section 52 (1) of that Act in relation to an emergency;
  - (f) the provincial health officer’s exercise of a power under the *Public Health Act* in relation to an emergency for which the provincial health officer has given notice under section 52 (2) of that Act;
  - (g) the commission’s making of an order under section 125.2 of the *Utilities Commission Act* in relation to the adoption and administration of reliability standards;
  - (h) the exercise of a power under a regulation made under section 127 (1) (g) of the *Water Sustainability Act* by the minister responsible for the administration of that Act, or an engineer’s or officer’s exercise of a power under section 93 of that Act, in relation to the diversion and use of water;

- (i) the comptroller's authorization of a thing to be done under section 91 (4) of the *Water Sustainability Act* in relation to a risk or hazard;
  - (j) the exercise of a power under section 11 (1) of the *Wildfire Act* by the minister responsible for the administration of that Act, or an official's exercise of a power under section 9 (1), (2) or (3), 11 (2), 13 (1) or 16 (1) of that Act, in relation to carrying out fire control;
  - (k) a prescribed person's exercise of a prescribed power or type of power in relation to a prescribed type of hazard or an emergency.
- (2) Without limiting subsection (1), a local authority must not exercise a power or perform a duty under this Act to the extent that it prevents or interferes with the exercise of a power or the performance of a duty by
- (a) the minister or the provincial administrator under this Act, or
  - (b) a public officer under another enactment.

#### **Resolving conflicts between laws**

- 162** If there is a conflict between a provision of this Act, or of an order, emergency instrument or regulation made under this Act, and another Act or regulation, this Act and the order, emergency instrument or regulation made under this Act prevail.

### **PART 10 – REGULATION-MAKING POWERS**

#### **Provincial matters**

- 163** The Lieutenant Governor in Council may make regulations as follows:
- (a) designating government ministers as lead ministers, based on
    - (i) the types of functions for which government ministers are responsible under the *Constitution Act*,
    - (ii) the critical infrastructure sectors with which ministries are associated,
    - (iii) the types of expertise held by ministry officials,
    - (iv) the emergency resources available to ministries, or
    - (v) any other criteria;
  - (b) respecting the responsibilities of government ministers, including lead ministers, in relation to emergency management and the taking, or coordinating the taking, of emergency measures;
  - (c) respecting the coordination of responsibilities
    - (i) among the provincial administrator and lead ministers, and
    - (ii) among lead ministers, if there is overlap or conflict between the responsibilities of lead ministers;
  - (d) respecting persons who are or are not critical infrastructure owners for the purposes of this Act;

- (e) authorizing the minister to determine who is responsible for performing duties under this Act if multiple persons are critical infrastructure owners with respect to a single system, network, facility or asset that is prescribed as critical infrastructure;
- (f) establishing classes of critical infrastructure based on
  - (i) how critical the infrastructure is considered to be,
  - (ii) common characteristics, or
  - (iii) other criteria;
- (g) requiring a public sector agency or critical infrastructure owner, or a public sector agency or critical infrastructure owner in a prescribed class, to prepare, maintain and, if applicable, implement one or more of the following:
  - (i) a risk assessment with respect to prescribed types of hazards;
  - (ii) an emergency management plan;
  - (iii) a business continuity plan;
- (h) for the purposes of section 50 [*reporting by critical infrastructure owners*], respecting the giving of information and records to the provincial administrator by critical infrastructure owners.

**Local authority matters**

**164** The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the establishment of, appointment of members to, and maintenance of an emergency management organization by a local authority other than the Nisga'a Nation or a treaty first nation;
- (b) respecting the establishment, governance and responsibilities of multijurisdictional emergency management organizations;
- (c) without limiting paragraph (a) or (b), respecting the terms and conditions of agreements to establish or join multijurisdictional emergency management organizations;
- (d) providing for the resolution of any conflicts or inconsistencies relating to the exercise of response powers and recovery powers in
  - (i) an area that is within the jurisdiction of a local authority, and
  - (ii) an area that is subject to an emergency measures agreement;
- (e) imposing prohibitions, requirements, limits and conditions on the exercise, by a local authority, other than the Nisga'a Nation or a treaty first nation, of response powers and recovery powers.

**Volunteers**

- 165** The Lieutenant Governor in Council may make regulations respecting volunteers as follows:
- (a) respecting the types of actions that are specialized measures for the purposes of this Act;
  - (b) respecting the actions that may or may not be undertaken by volunteers in relation to critical incidents or emergencies;
  - (c) for the purposes of the definition of “volunteer” in section 1 (1) [*definitions*], respecting the receipt of compensation, remuneration or other benefits by volunteers;
  - (d) respecting the recruitment, management, registration and deployment of volunteers;
  - (e) respecting the authorization of public safety providers under section 30 [*authorization of public safety providers*];
  - (f) respecting the training of volunteers, including in respect of
    - (i) training in relation to cultural safety or intersectional disadvantage,
    - (ii) training or qualifications that persons must have before taking a type of specialized measure, and
    - (iii) participation in critical incident or emergency management training and exercise programs, including respecting the payment of fees to participate in programs provided by the provincial emergency management organization;
  - (g) respecting the reimbursement of expenses incurred by public safety providers and volunteers, including
    - (i) respecting making and determining claims for reimbursement,
    - (ii) respecting the types of expenses that may, or must not, be reimbursed,
    - (iii) setting a schedule, rate or flat fee or providing any other method for calculating the amount of expenses that may be reimbursed, and
    - (iv) prescribing the maximum amount that will be reimbursed, in total or by type of expense;
  - (h) respecting the authorization for the purposes of section 32 (4) [*requests for deployment*] of persons or entities that register volunteers, other than local authorities or public safety providers, including
    - (i) establishing a process and criteria in relation to applications to be authorized,
    - (ii) respecting the revocation of authorizations, and
    - (iii) respecting the duties of authorized persons or entities.



**Emergency management**

- 166** The Lieutenant Governor in Council may make regulations respecting emergency management as follows:
- (a) respecting matters to be assessed under risk assessments;
  - (b) respecting standards and procedures for conducting risk assessments and for preparing emergency management plans and business continuity plans, including
    - (i) respecting the sources of information on which assessments or plans are to be based,
    - (ii) respecting the obtaining and incorporating of Indigenous knowledge, local knowledge and other information,
    - (iii) respecting cultural safety and intersectional disadvantage, and
    - (iv) respecting matters that must be considered or addressed;
  - (c) respecting the form and content of emergency management plans and business continuity plans;
  - (d) for the purposes of section 47 (2) [*emergency management planning by local authorities*], respecting areas within the jurisdiction of a regional district in respect of which the regional district is not required to prepare a risk assessment or an emergency management plan, or both;
  - (e) respecting the review and revision of risk assessments, the comprehensive emergency management plan, emergency management plans and business continuity plans, including
    - (i) requiring reviews according to a schedule or when certain circumstances exist,
    - (ii) respecting standards and procedures for conducting reviews, and
    - (iii) respecting circumstances in which a new assessment or plan must be completed;
  - (f) respecting emergency systems and requirements for the provincial emergency management organization and regulated entities to adopt emergency systems;
  - (g) establishing, adopting or setting standards respecting emergency management training and exercise programs, including programs in relation to cultural safety or intersectional disadvantage, and respecting qualifications to conduct such programs;
  - (h) requiring persons to conduct or participate in emergency management training and exercise programs, including according to a schedule.

**Consultation and coordination**

- 167** The Lieutenant Governor in Council may make regulations respecting consultation and coordination with local authorities and other persons as follows:
- (a) respecting who must be consulted, including
    - (i) providing methods for determining who must be consulted and authorizing the provincial administrator to determine who must be consulted, and
    - (ii) providing for requests for consultation;
  - (b) respecting the form and level of consultation required, including
    - (i) procedural matters and the sharing of information,
    - (ii) the stages at which consultation must occur,
    - (iii) the actions that must be taken during or after consultation, and
    - (iv) the obtaining and incorporating of Indigenous knowledge, local knowledge and other information.

**Consultation, engagement and cooperation  
with Indigenous peoples**

- 168** The Lieutenant Governor in Council may make regulations respecting consultation, engagement and cooperation with Indigenous peoples as follows:
- (a) respecting who must be consulted, including
    - (i) providing methods for determining who must be consulted and authorizing the provincial administrator to determine who must be consulted, and
    - (ii) providing for requests for consultation or cooperation;
  - (b) respecting the form and level of consultation or engagement required, including
    - (i) procedural matters and the sharing of information,
    - (ii) the stages at which consultation or engagement must occur,
    - (iii) the actions that must be taken during or after consultation or engagement, and
    - (iv) the obtaining of Indigenous knowledge and other information;
  - (c) respecting the form and level of cooperation required, including
    - (i) procedural matters and the sharing of information,
    - (ii) the actions that must be taken, and
    - (iii) the incorporating of Indigenous knowledge.

**Compensation and financial assistance**

- 169** The Lieutenant Governor in Council may make regulations for the purposes of Part 7 as follows:
- (a) authorizing compensation to be paid under Division 2 [*Compensation for Taking Emergency Measure*] of Part 7;
  - (b) respecting the conditions for making a financial assistance authorization under section 132 (1) [*authorizing financial assistance*];
  - (c) respecting types of losses or damages with respect to which compensation or financial assistance may be paid, including providing that compensation or financial assistance is not available for losses or damage
    - (i) valued at less than a prescribed amount, or
    - (ii) that occurred due to prescribed circumstances;
  - (d) respecting claims of or requests for compensation and requests for financial assistance;
  - (e) respecting eligibility for or entitlement to compensation or eligibility for financial assistance, including
    - (i) setting eligibility or entitlement criteria,
    - (ii) setting conditions for receiving compensation or financial assistance,
    - (iii) providing for circumstances that would disqualify a person from receiving compensation or financial assistance, and
    - (iv) providing for circumstances in which compensation or financial assistance must or may be denied or reduced;
  - (f) respecting amounts of compensation and financial assistance that may be paid, including prescribing minimum and maximum amounts that may be paid;
  - (g) respecting determinations of amounts of compensation or financial assistance that may be paid, including respecting
    - (i) methods for conducting valuations and assessments,
    - (ii) the collection and use of information, including personal information, and
    - (iii) persons qualified to conduct valuations and assessments;
  - (h) without limiting paragraph (f), respecting determinations of matters referred to in section 134 [*determining financial assistance*];
  - (i) respecting the process of engaging adjusters or persons who are not appointed under the *Public Service Act* to conduct valuations or assessments, including the terms and conditions of agreements to retain the services of those adjusters or persons;

- (j) respecting the remuneration of the adjusters or persons referred to in paragraph (i);
- (k) respecting the making or content of offers of compensation;
- (l) respecting payment of financial assistance;
- (m) respecting reconsiderations for the purpose of section 137 (1) [*appeal of determination*], including establishing
  - (i) limits and conditions on the availability of a reconsideration, and
  - (ii) processes for requesting and conducting a reconsideration;
- (n) respecting determinations of amounts to be repaid for the purposes of orders authorized under section 138 [*recovering amounts paid*];
- (o) for the purposes of section 138 (4), respecting the filing of certificates by the minister.

**Applications to court**

- 170** (1) The Lieutenant Governor in Council may make regulations as follows:
- (a) respecting the process for making an application in the Supreme Court for an order under section 141 [*injunctions*], including
    - (i) authorizing applications to be made electronically or by any other means,
    - (ii) respecting the giving of notice of an application, and
    - (iii) respecting affidavits or other evidence that must accompany an application;
  - (b) prescribing the Supreme Court Civil Rules that apply, with or without modification, to an application referred to in paragraph (a).
- (2) Section 6 [*consultation and recommendations*] of the *Court Rules Act* applies in relation to a regulation made under subsection (1) of this section.

**Costs recovery and administrative penalties**

- 171** (1) The Lieutenant Governor in Council may make regulations respecting determinations under section 144 [*amount of costs*] as follows:
- (a) requiring or authorizing the provincial administrator to waive a person's liability for costs or reduce the amount of costs that a person must pay if
    - (i) the person is liable to pay costs under this and another enactment with respect to the same acts or omissions, or
    - (ii) prescribed circumstances apply;
  - (b) respecting the types of costs that must not be included in a determination;
  - (c) respecting the apportionment of liability for costs;
  - (d) prescribing maximum amounts that a person may be required to pay.

- (2) The Lieutenant Governor in Council may make regulations for the purposes of section 145 [*order to impose administrative penalty*] as follows:
  - (a) prescribing contraventions in relation to which an administrative penalty may be imposed;
  - (b) respecting circumstances in which an administrative penalty must not be imposed;
  - (c) prescribing a schedule of administrative penalties that may be imposed;
  - (d) respecting the matters that must be considered by the provincial administrator in establishing an administrative penalty in a particular case;
  - (e) authorizing administrative penalties to be imposed on a daily basis for continuing contraventions.
- (3) The Lieutenant Governor in Council may make regulations for the purposes of Division 2 [*Costs Recovery and Administrative Penalties*] of Part 8 as follows:
  - (a) prescribing a limitation period for making a costs or penalty order and respecting evidentiary matters in relation to that period;
  - (b) respecting the process that must be followed before making a costs or penalty order, including giving notice and an opportunity to be heard;
  - (c) respecting information that may or must not be published by the provincial administrator with respect to an order made under section 145;
  - (d) prescribing the consequences of failing to pay an amount as required under a costs or penalty order, including requiring the payment of
    - (i) interest for unpaid amounts under an order to recover costs, or
    - (ii) additional penalties for unpaid amounts under an order to impose an administrative penalty;
  - (e) respecting the determination of interest or additional penalties for the purposes of paragraph (d) and the process that must be followed to impose interest or additional penalties.

**Other matters**

- 172** The Lieutenant Governor in Council may make regulations as follows:
- (a) respecting the giving of directions under this Act and requiring persons to comply with those directions;
  - (b) except as otherwise provided under this Act, respecting
    - (i) the making and keeping of records, including records made or obtained in fulfilling a requirement or condition under this Act,
    - (ii) the making of reports, including requirements respecting proof of a matter, and

- (iii) the publishing of things under this Act, including requiring that a thing or type of thing be published;
- (c) respecting the disclosure or publishing of information or records by the provincial administrator under section 16 [*disclosing and publishing information*];
- (d) for the purposes of section 158 [*information about persons needing services*], respecting the collection, use and disclosure of essential information;
- (e) for the purposes of section 160 [*confidentiality of Indigenous knowledge*], respecting the disclosure of Indigenous knowledge that is provided in confidence in relation to the exercise of a power or the performance of a duty under this Act;
- (f) respecting the content, manner of giving and deemed receipt of notices to be given, and orders made, under this Act;
- (g) respecting hearings under this Act, including providing for
  - (i) the form and manner of hearings, including requiring or permitting hearings to be held by means of written submissions only, and
  - (ii) practices and procedures to be followed, including timelines in which processes and exchanges or submissions of records must be completed.

**General powers respecting regulations**

- 173** (1) The Lieutenant Governor in Council may make regulations as follows:
- (a) delegating a matter to a person;
  - (b) conferring a discretion on a person;
  - (c) making different regulations for
    - (i) different persons, places, circumstances, matters or other things, or
    - (ii) different classes of persons, places, circumstances, matters or other things;
  - (d) establishing or defining classes of persons, places, circumstances, matters or other things;
  - (e) exempting a person, place or thing, or a class of persons, places or things, from one or more requirements under this Act, other than sections 17, 41, 55, 56 (4), 90 and 120;
  - (f) modifying a requirement under this Act with respect to a person, place or thing, or a class of persons, places or things;
  - (g) setting terms and conditions on an exemption or modification referred to in paragraph (e) or (f);

- (h) without limiting paragraph (b), conferring a discretion on the minister or the provincial administrator to, by order,
  - (i) exempt a person, place or thing from one or more requirements under this Act other than a provision referred to in paragraph (e),
  - (ii) modify a requirement set under this Act with respect to a person, place or thing, and
  - (iii) set terms and conditions on an exemption or modification referred to in this paragraph.
- (2) The Lieutenant Governor in Council may make regulations
  - (a) referred to in section 41 of the *Interpretation Act*, and
  - (b) respecting any matter for which regulations are contemplated by this Act.
- (3) The authority to make regulations under another provision of this Part does not limit subsection (1) or (2).

## **PART 11 – REVIEW OF ACT**

### **Review of Act and regulations**

- 174**
- (1) Within 5 years after the coming into force of this section, the minister must initiate a review of this Act and the regulations.
  - (2) In conducting a review under subsection (1), the minister must
    - (a) assess whether the Act and regulations are providing for effective emergency management in relation to each phase, and
    - (b) make reasonable efforts to do all of the following, as applicable:
      - (i) consult local authorities, other than the Nisga'a Nation and treaty first nations;
      - (ii) consult and cooperate with Indigenous governing bodies;
      - (iii) consider
        - (A) any comments received from the person whom the minister consulted under subparagraph (i) or (ii), as applicable, and
        - (B) the rights of the Indigenous peoples on whose behalf the Indigenous governing bodies referred to in subparagraph (ii) act.
  - (3) On completing a review initiated under subsection (1), the minister must make public a report of the review.

## PART 12 – TRANSITIONAL PROVISIONS

### Division 1 – Definitions for This Part

#### Definitions for this Part

175 In this Part:

“**declaration of a state of emergency**”, in relation to an area, means a declaration of a state of emergency made under section 9 (1) of the former Act to which, on the date this section comes into force, both of the following apply:

- (a) the declaration, including any extension of the duration of the declaration, has not expired;
- (b) the declaration has not been cancelled under section 11 of the former Act in relation to the area;

“**declaration of a state of local emergency**”, in relation to an area, means a declaration of a state of local emergency made under section 12 (1) of the former Act to which, on the date this section comes into force, both of the following apply:

- (a) the declaration, including any extension of the duration of the declaration, has not expired;
- (b) the declaration has not been cancelled under section 14 (1) or (2) of the former Act in relation to the area;

“**disaster**” means a disaster as defined in section 1 (1) of the former Act;

“**former Act**” means the *Emergency Program Act*, R.S.B.C. 1996, c. 111.

### Division 2 – Transitional Provisions for Parts 2 and 4

#### Transition – committees and other powers and duties of minister

- 176
- (1) A committee appointed under section 3 (1) of the former Act is deemed to have been established under section 6 (1) [*committees*] of this Act, and any members of the committee appointed under the former Act are deemed to have been appointed under section 6 (2) of this Act.
  - (2) Nothing in this Act or the regulations affects a payment or grant, or a term or condition imposed in relation to a payment or grant, made under section 4 (2) (c) of the former Act.
  - (3) A procedure established by order under section 5 (c) of the former Act is deemed to have been established under this Act for the purposes of section 4 [*standards, protocols and procedures*] of this Act.



**Transition – provincial emergency management organization**

- 177 (1) The director of the Provincial Emergency Program continued under section 2 (1) of the former Act is deemed to have been designated under section 11 (3) [*provincial emergency management organization*] of this Act as the provincial administrator.
- (2) The officers and employees of the Provincial Emergency Program continued under the former Act are deemed to have been appointed under this Act as officers and employees of the provincial emergency management organization.

**Transition – comprehensive emergency management plan**

- 178 The emergency plans prepared under section 4 (1) of the former Act and the emergency plans and procedures prepared by ministries under that Act are deemed to be, collectively, a comprehensive emergency management plan prepared under section 39 (1) [*emergency management planning and information*] of this Act.

**Transition – mitigation and preparation requirements**

- 179 (1) Emergency plans and procedures prepared by a ministry of a lead minister under the former Act are deemed to be emergency management plans for the purposes of this Act.
- (2) Business continuation plans and procedures prepared by a government minister under the former Act are deemed to be business continuity plans for the purposes of this Act.
- (3) In the event of an emergency, a government corporation, as defined in the former Act, must implement any emergency plans and procedures prepared by the government corporation under the former Act to the extent required.
- (4) Subsection (3) does not apply on or after the earlier of the following dates:
- (a) the date that is 5 years after the date on which this section comes into force;
  - (b) if a regulation made with respect to Division 2 [*Duties of Regulated Entities*] or 3 [*Plans, Programs and Other Measures*] of Part 4 of this Act applies to the government corporation, the date the regulation comes into force.
- (5) A local emergency plan that a local authority prepared or caused to be prepared under the former Act is deemed to be an emergency management plan for the purposes of this Act.
- (6) An order made under section 6 (3.2) of the former Act is deemed to have been made under section 5 (2) (a) [*ensuring Act's objectives are met*] of this Act.

- (7) Without limiting section 55 (1) (e) [*consultation and cooperation with Indigenous peoples*] of this Act, a local authority must, as soon as practicable after the date this section comes into force, make reasonable efforts to reach agreement respecting areas to be described in the local authority’s emergency management plan for the purposes of section 120 [*consultation, engagement and cooperation with Indigenous peoples*] of this Act with each Indigenous governing body that acts on behalf of Indigenous peoples whose traditional territory or treaty area includes an area that is within the jurisdiction of the local authority.

**Transition – emergency management organizations**

- 180** (1) An emergency management organization established by a local authority under section 6 (3) of the former Act is deemed to be an emergency management organization for the purposes of this Act.
- (2) If a local authority delegated, under section 6 (4) of the former Act, any of its powers and duties under the former Act to an emergency management organization established under that Act, the delegation is deemed to be a designation, made under section 19 [*authority to act as or on behalf of local authority*] of this Act, of the emergency management organization to act on behalf of the local authority in respect of any power or duty under this Act that is equivalent to the power or duty under the former Act.

**Division 3 – Transitional Provisions for Parts 5 and 6**

**Transition – declaration of state of emergency**

- 181** (1) In this section, “**former provisions**” means the following:
- (a) Division 2 of Part 3 of the former Act;
  - (b) sections 25 and 26 of the former Act.
- (2) Despite the repeal of the former Act, and despite any provision of Division 1, 4 or 5 of Part 5 [*Provincial Response and Recovery Phases*] of this Act, the former provisions continue to apply in relation to a declaration of a state of emergency in respect of an area.
- (3) For certainty, all of the following continue to apply in relation to a declaration of a state of emergency:
- (a) the powers and duties of the minister under sections 10 and 11 of the former Act;
  - (b) the powers and duties of the Lieutenant Governor in Council under sections 10.1 and 10.2 of the former Act;
  - (c) any orders or regulations made in the exercise of the powers and performance of the duties referred to in paragraphs (a) and (b).
- (4) Section 62 [*declaration of provincial recovery period*] applies in relation to a declaration of a state of emergency.

- (5) For the purposes of subsection (4),
  - (a) a reference to a declaration of a state of provincial emergency in section 62 (1) (a) and (3) (a) is to be read as a reference to a declaration of a state of emergency, and
  - (b) a reference in section 62 (2) to
    - (i) an order made under a provision of this Act is to be read as a reference to an equivalent order of the minister made under section 10 of the former Act, and
    - (ii) a regulation made under a provision of this Act is to be read as a reference to a regulation of the Lieutenant Governor in Council made under section 10.1 or 10.2 of the former Act.

**Transition – declaration of state of local emergency**

- 182**
- (1) In this section, “**former provisions**” means the following:
    - (a) Division 3 of Part 3 of the former Act;
    - (b) section 25 of the former Act.
  - (2) Despite the repeal of the former Act, and despite any provision of Division 1, 4 or 5 of Part 6 [*Local Authority Response and Recovery Phases*] of this Act, the former provisions continue to apply in relation to a declaration of a state of local emergency in respect of an area.
  - (3) For certainty, all of the following continue to apply in relation to a declaration of a state of local emergency:
    - (a) the powers and duties of a local authority and the minister under section 13 of the former Act;
    - (b) any orders, bylaws or instruments made in the exercise of the powers and performance of the duties referred to in paragraph (a).
  - (4) Section 98 (1) to (7) and (9) [*declaration of local recovery period*] applies in relation to a declaration of a state of local emergency.
  - (5) For the purposes of subsection (4),
    - (a) a reference to a declaration of a state of local emergency in section 98 (3) (a) and (6) (a) is to be read as a reference to a declaration of a state of local emergency made under the former Act,
    - (b) a reference in section 98 (4) to an emergency instrument made under a provision of this Act is to be read as a reference to an equivalent action taken under section 13 of the former Act, and
    - (c) a reference to a bylaw adopted under section 110 [*response borrowing*] is to be read as a reference to a bylaw made under section 13 (6) of the former Act to borrow money to pay expenses incurred in responding to an emergency or disaster.

#### **Division 4 – Transitional Provisions for Part 7**

##### **Transition – compensation for loss under former Act**

- 183** (1) In this section, “**former compensation provisions**” means the following:
- (a) section 19 of the former Act;
  - (b) Part 1 of the Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, as it read on the date of the repeal of the former Act.
- (2) Despite the repeal of the former Act, and despite any provision of Division 1 [*Compensation for Exercise of Response or Recovery Power*] or 2 [*Compensation for Taking Emergency Measure*] of Part 7 of this Act, the former compensation provisions apply for the purposes of compensating a person for a loss, as described in section 19 of the former Act, in relation to the following:
- (a) a declaration of a state of emergency made under section 9 (1) of the former Act that, on the date this section comes into force, has expired or been cancelled;
  - (b) a declaration of a state of emergency as defined in section 175 [*definitions for this Part*] of this Act;
  - (c) a declaration of a state of local emergency made under section 12 (1) of the former Act that, on the date this section comes into force, has expired or been cancelled;
  - (d) a declaration of a state of local emergency as defined in section 175 of this Act;
  - (e) an action taken under section 7 or 8 (1) of the former Act.

##### **Transition – entitlement to compensation for loss during interim period**

- 184** (1) In this section:
- “**interim period**” means the period beginning on the date the former Act is repealed by this Act and ending on the earlier of
- (a) the date Part 1 of the Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, is repealed, and
  - (b) 5 years after the date this section comes into force;
- “**interim provisions**” means the following:
- (a) section 19 (1) and (3) of the former Act;
  - (b) Part 1 of the Compensation and Disaster Financial Assistance Regulation.

- (2) If a person is entitled under section 123 (1) [*persons entitled to compensation*] to compensation for loss of or damage to property, despite the repeal of the former Act, and despite any provision of Division 1 [*Compensation for Exercise of Response or Recovery Power*] of Part 7 of this Act, the interim provisions apply during the interim period for the purposes of compensating the person.
- (3) For the purposes of subsection (2),
- (a) the exercise of a power under a provision referred to in section 123 (1) (a) (i) by the government is deemed to be an acquisition or use by the government under section 10 (1) (d) of the former Act,
  - (b) the exercise of a power under a provision referred to in section 123 (1) (a) (ii) by any of the following is deemed to be an acquisition or use by, or directed or authorized by, a local authority under section 13 (1) (b) or (c) of the former Act:
    - (i) a local authority;
    - (ii) a participating authority under an emergency measures agreement,
  - (c) a reference to a local authority in an interim provision is to be read as a reference to the following, as applicable:
    - (i) in the case of the exercise of a power by a participating authority under an emergency measures agreement, the participating authority;
    - (ii) in any other case, a local authority as defined in this Act, and
  - (d) a reference to an emergency or a disaster in an interim provision is to be read as a reference to an emergency as defined in this Act.

**Transition – discretionary compensation for loss during interim period**

**185** (1) In this section:

“**interim period**” means the period beginning on the date the former Act is repealed by this Act and ending on the earlier of

- (a) the date Part 1 of the Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, is repealed, and
- (b) 5 years after the date this section comes into force;

“**interim provisions**” means the following:

- (a) section 19 (2) and (3) of the former Act;
- (b) Part 1 of the Compensation and Disaster Financial Assistance Regulation.

- (2) If the government or a local authority may, under section 130 (1) or (2) [*discretionary compensation*], pay to a person compensation for loss of or damage to property, despite the repeal of the former Act and despite any provision of Division 2 [*Compensation for Taking Emergency Measure*] of Part 7 of this Act, the interim provisions apply during the interim period for the purposes of compensating the person.
- (3) For the purposes of subsection (2),
  - (a) an emergency measure taken by the government is deemed to be an action taken by the government under section 7 or 10 (1) of the former Act,
  - (b) an emergency measure taken by a local authority is deemed to be an action taken by the local authority under section 8 (1) or 13 (1) of the former Act, and
  - (c) a reference to an emergency or a disaster in an interim provision is to be read as a reference to an emergency as defined in this Act.

**Transition – financial assistance for disaster  
under former Act**

- 186 (1) In this section, “**former financial assistance provisions**” means the following:
- (a) sections 20 to 24 of the former Act;
  - (b) Parts 2 to 4 and the Schedules to the Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, as they read on the date of the repeal of the former Act.
- (2) Despite the repeal of the former Act, and despite any provision of Division 3 [*Financial Assistance*] of Part 7 of this Act, the former financial assistance provisions apply for the purpose of providing financial assistance to a person who suffered a loss, as described in section 20 (2) of the former Act, in relation to the following:
- (a) a declaration of a state of emergency made under section 9 (1) of the former Act that, on the date this section comes into force, has expired or been cancelled;
  - (b) a declaration of a state of emergency as defined in section 175 [*definitions for this Part*] of this Act;
  - (c) a declaration of a state of local emergency made under section 12 (1) of the former Act that, on the date this section comes into force, has expired or been cancelled;
  - (d) a declaration of a state of local emergency as defined in section 175 of this Act.

- (3) For the purposes of subsection (2),
  - (a) a reference to the director in section 21, 22 or 24 of the former Act is to be read as a reference to the minister, and
  - (b) a reference to the director in any other former financial assistance provision is to be read as a reference to the provincial administrator.

**Transition – financial assistance for  
loss during interim period**

187 (1) In this section:

“**interim period**” means the period beginning on the date the former Act is repealed by this Act and ending on the earlier of

- (a) the date Parts 2 to 4 and the Schedules to the Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, are repealed, and
- (b) 5 years after the date this section comes into force;

“**interim provisions**” means the following:

- (a) sections 20 to 24 of the former Act;
- (b) Parts 2 to 4 and the Schedules to the Compensation and Disaster Financial Assistance Regulation.

(2) Despite the repeal of the former Act, and despite any provision of Division 3 [*Financial Assistance*] of Part 7 of this Act, the interim provisions apply during the interim period for the purposes of providing financial assistance to a person in relation to an emergency as defined in section 1 (1) [*definitions*] of this Act.

- (3) For the purposes of subsection (2),
  - (a) a reference to a disaster in an interim provision is to be read as a reference to an emergency as defined in this Act,
  - (b) a reference to a loss in an interim provision is to be read as a reference to a loss as defined in section 131 [*definitions*], except that a reference in that section to the regulations is to be read as a reference to the Compensation and Disaster Financial Assistance Regulation,
  - (c) a reference to the director in section 21, 22 or 24 of the former Act is to be read as a reference to the minister,
  - (d) a reference to the director in any other interim provision is to be read as a reference to the provincial administrator, and
  - (e) a reference to the Provincial Emergency Program in an interim provision is to be read as a reference to the provincial emergency management organization.
- (4) Nothing in section 10 (2) [*money from consolidated revenue fund*] authorizes the minister to make a payment out of the consolidated revenue fund for financial assistance under this section.

## **Division 5 – Transitional Provisions for Parts 8, 9 and 12**

### **Transition – costs recovery**

- 188** (1) In this section, “**former costs recovery provision**” means section 17 of the former Act.
- (2) This section and the former costs recovery provision apply for the purpose of recovering costs from persons whose acts or omissions threatened or caused, in whole or in part, an emergency or disaster that arose before the repeal of the former cost recovery provision.
- (3) If the minister or the head of a local authority makes a demand under the former costs recovery provision,
- (a) all determinations with respect to the apportionment or amount of liability must be made in accordance with the former costs recovery provision, and
  - (b) the person referred to in subsection (1) of the former costs recovery provision is liable for the amount demanded as if the former costs recovery provision had not been repealed.

### **Transition – protection against legal proceedings**

- 189** Despite the repeal of the former Act, section 18 of the former Act continues to apply in relation to any acts done or omitted to be done under the former Act, including under sections 181 (2) and (3) [*transition – declaration of state of emergency*] and 182 (2) and (3) [*transition – declaration of state of local emergency*] of this Act.

### **Transition – interim period regulations**

- 190** Without limiting section 169 [*compensation and financial assistance*], the Lieutenant Governor in Council may, for the purposes of an interim period referred to in section 184 [*transition – entitlement to compensation for loss during interim period*], 185 [*transition – discretionary compensation for loss during interim period*] or 187 [*transition – financial assistance for loss during interim period*], make regulations contemplated by sections 20 (1) and 28 (2) (c), (d) and (j) of the former Act, as if the former Act were not repealed.

## **PART 13 – REPEAL, AMENDMENTS TO THIS ACT AND CONSEQUENTIAL AMENDMENTS**

### **Repeal**

#### **Repeal of *Emergency Program Act***

- 191** The *Emergency Program Act*, R.S.B.C. 1996, c. 111, is repealed.



### Amendments to This Act

- 192** *Section 79 (1) of this Act is amended by striking out “section 3 (5) [duties of fire commissioner] of the Fire Services Act” and substituting “section 4 (1) (b) [powers and duties of fire commissioner] of the Fire Safety Act”.*
- 193** *Section 161 (1) (c) is repealed and the following substituted:*
- (c) a fire chief, or a person authorized by a fire chief, in exercising a power under section 13 of the *Fire Safety Act* in relation to an immediate threat to life due to a fire hazard or explosion; .

### Consequential Amendments

#### *Assessment Act*

- 194** *Section 19 (12) of the Assessment Act, R.S.B.C. 1996, c. 20, is amended by striking out “a disaster or emergency within the meaning of the Emergency Program Act” and substituting “an emergency within the meaning of the Emergency and Disaster Management Act”.*

#### *Community Charter*

- 195** *Section 20 (1) of the Community Charter, S.B.C. 2003, c. 26, is amended by striking out “Emergency Program Act” and substituting “Emergency and Disaster Management Act”.*
- 196** *Section 220 (1) (p) is amended by striking out “a disaster or emergency within the meaning of the Emergency Program Act” and substituting “an emergency within the meaning of the Emergency and Disaster Management Act”.*

#### *Expropriation Act*

- 197** *Section 2 (3) of the Expropriation Act, R.S.B.C. 1996, c. 125, is amended by striking out “the Emergency Program Act,”.*

*Financial Administration Act*

**198** *Section 24 (1) of the Financial Administration Act, R.S.B.C. 1996, c. 138, is amended in the definition of “state of emergency” by striking out “state of emergency declared under section 9 of the Emergency Program Act” and substituting “state of provincial emergency declared under section 59 (1) of the Emergency and Disaster Management Act”.*

*Local Government Act*

**199** *Section 295 of the Local Government Act, R.S.B.C. 2015, c. 1, is amended by striking out “Emergency Program Act” and substituting “Emergency and Disaster Management Act”.*

*Motor Vehicle Act*

**200** *Section 26 (1) (c) of the Motor Vehicle Act, R.S.B.C. 1996, c. 318, is amended*

*(a) by adding “or” at the end of subparagraph (xi), and*

*(b) by repealing subparagraphs (xii) and (xiii).*

**201** *Section 26 (1) (c) is amended*

*(a) by striking out “or” at the end of subparagraph (xii), by adding “or” at the end of subparagraph (xiii), and*

*(b) by adding the following subparagraph:*

*(xiv) the Emergency and Disaster Management Act, .*

**202** *Section 60 (5.1) is amended*

*(a) by repealing paragraph (a) and substituting the following:*

*(a) a state of provincial emergency declared under section 59 (1) of the Emergency and Disaster Management Act, or , and*

*(b) in paragraph (b) by striking out “section 12 (1) of the Emergency Program Act” and substituting “section 95 (1) of the Emergency and Disaster Management Act”.*

*Public Interest Disclosure Act*

**203** *Section 16 (1) (b) of the Public Interest Disclosure Act, S.B.C. 2018, c. 22, is amended by striking out “the agency responsible for the Emergency Program Act” and substituting “the provincial administrator as defined in section 1 (1) of the Emergency and Disaster Management Act”.*

*Vancouver Charter*

**204** *Section 154 of the Vancouver Charter, S.B.C. 1953, c. 55, is repealed.*

**205** *Section 173 is repealed and the following substituted:*

**Emergency powers**

- 173.** (1) If an emergency within the meaning of the *Emergency and Disaster Management Act* arises in the city, the Council has the powers provided under that Act.
- (2) If another form of emergency arises in the city, the Council may declare that the emergency exists and provide for the necessary powers to deal with the emergency.

**206** *Section 191 is repealed.*

**207** *Section 396 (1) (d) is amended by striking out “a disaster or emergency within the meaning of those terms as used in the Emergency Program Act” and substituting “an emergency within the meaning of the Emergency and Disaster Management Act”.*

*Workers Compensation Act*

**208** *Item 20 of Schedule 1 to the Workers Compensation Act, R.S.B.C. 2019, c. 1, is amended in column 1*

*(a) by repealing subsection (2) (b) and (c) and substituting the following:*

- (b) a state of provincial emergency declared under section 59 (1) of the *Emergency and Disaster Management Act*;
- (c) a state of local emergency declared under section 95 (1) of the *Emergency and Disaster Management Act*; , **and**

*(b) in subsection (2) (d) by striking out “section 173” and substituting “section 173 (2)”.*

**Commencement**

**209** The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 <b>Provisions of Act</b>	Column 2 <b>Commencement</b>
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Section 41	By regulation of the Lieutenant Governor in Council
3	Sections 43 and 44	By regulation of the Lieutenant Governor in Council
4	Section 47	By regulation of the Lieutenant Governor in Council
5	Section 192	On the date section 4 of the <i>Fire Safety Act</i> , S.B.C. 2016, c. 19, comes into force
6	Section 193	On the date section 13 of the <i>Fire Safety Act</i> , S.B.C. 2016, c. 19, comes into force
7	Section 198	By regulation of the Lieutenant Governor in Council
8	Section 200	By regulation of the Lieutenant Governor in Council
9	Section 202	By regulation of the Lieutenant Governor in Council
10	Section 208	By regulation of the Lieutenant Governor in Council