

2020 Bill 10

Second Session, 30th Legislature, 69 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 10

**PUBLIC HEALTH (EMERGENCY POWERS)
AMENDMENT ACT, 2020**

THE MINISTER OF HEALTH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 10

2020

PUBLIC HEALTH (EMERGENCY POWERS) AMENDMENT ACT, 2020

(Assented to _____, 2020)

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

Amends RSA 2000 cP-37

1 The *Public Health Act* is amended by this Act.

**2 Section 1 is amended by adding the following after clause
(ff):**

(ff.1) “police officer” means a police officer as defined in the
Police Act;

3 Section 52.1(2) is repealed and the following is substituted:

(2) On the making of an order under subsection (1) and for up to
60 days following the lapsing of that order, a person referred to in
subsection (3) may by order, without consultation,

- (a) suspend or modify the application or operation of all or
part of an enactment, subject to the terms and conditions
that person may prescribe, or
- (b) specify or set out provisions that apply in addition to, or
instead of, any provision of an enactment,

if the person is satisfied that doing so is in the public interest.

Explanatory Notes

1 Amends chapter P-37 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads in part:

1 In this Act,

(ff) “owner” means the registered owner, and any person in the actual or apparent possession or control of land or a premises;

3 Section 52.1(2) presently reads:

(2) On the making of an order under subsection (1) and for up to 60 days following the lapsing of that order, a person referred to in subsection (3) may by order, without consultation, suspend or modify the application or operation of all or part of an enactment subject to the terms and conditions that person may prescribe if the person is satisfied that its application or operation is not in the public interest.

(2.1) An order made under subsection (2) may be made retroactive to a date not earlier than the date on which a state of public health emergency was declared under subsection (1).

(2.2) An order made under subsection (2) may not

- (a) impose or increase any tax or impost,
- (b) appropriate any part of the public revenue or any tax or impost, or
- (c) create a new offence with retroactive effect.

(2.3) Every order made under subsection (2) on or after March 17, 2020 and before the coming into force of this subsection that is purported to apply retroactively to a date not earlier than March 17, 2020 is deemed to have been validly made.

(2.4) Where there is a conflict or inconsistency between an order made under subsection (2) and a provision of the enactment to which the order relates, the order prevails to the extent of the conflict or inconsistency.

4 Section 52.21 is amended

(a) in subsection (1) by striking out “may authorize” and substituting “may make an order authorizing”;

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

(2) On the making of an order under subsection (1) and continuing until the lapsing of that order, a Minister authorized under subsection (1) may by order, without consultation,

- (a) suspend or modify the application or operation of all or part of an enactment for which the Minister is responsible, subject to the terms and conditions the Minister may prescribe, or
- (b) specify or set out provisions that apply in addition to, or instead of, any provision of an enactment for which the Minister is responsible,

4 Section 52.21 presently reads:

52.21(1) Where, on the advice of the Chief Medical Officer, the Lieutenant Governor in Council is satisfied that

- (a) there is a significant likelihood of pandemic influenza, and*
- (b) prompt co-ordination of action is required in order to avert or minimize the pandemic,*

the Lieutenant Governor in Council may authorize a Minister to make orders under subsection (2).

(2) A Minister authorized under subsection (1) may by order, without consultation, suspend or modify the application or operation of all or part of an enactment for which that Minister is responsible subject to the terms and conditions that Minister may prescribe if the Minister is satisfied that its application or operation may directly or indirectly unreasonably hinder or delay action required in order to protect the public health.

if the person is satisfied that failing to do so may directly or indirectly unreasonably hinder or delay action required in order to protect the public health.

(3) An order made by a Minister under subsection (2) may be made retroactive to a date not earlier than the date on which an order was made under subsection (1) in relation to that Minister.

(4) An order made under subsection (2) may not

- (a) impose or increase any tax or impost,
- (b) appropriate any part of the public revenue or any tax or impost, or
- (c) create a new offence with retroactive effect.

(5) Where there is a conflict or inconsistency between an order made under subsection (2) and a provision of the enactment to which the order relates, the order prevails to the extent of the conflict or inconsistency.

5 The following is added after section 60:

Assistance by police officer, expert

60.1 An executive officer making an inspection who enters in or on a public place or private place under section 59 or 60 may be accompanied by

- (a) a police officer whose presence is required by the executive officer for the purposes of assisting with the inspection, or
- (b) a qualified expert or professional whose presence is required by the executive officer for the purposes of inspecting and taking samples under section 59(2)(d) or 60(c) or performing tests, taking photographs or making recordings under section 59(2)(e) or 60(d).

6 The following is added after section 62:

Enforcement of order

62.1(1) If a person to whom an order is directed under section 62 fails to carry out the order within the time limited by it in the

5 Assistance by police officer, expert.

6 Enforcement of order.

case of an order that is not appealed, or within the time limited by the Board in the case of an order that is appealed to the Board, the executive officer or a person appointed by the executive officer may, together with any persons that are necessary, enter the public place or private place and carry out the order.

(2) A police officer may accompany an executive officer or a person appointed by the executive officer who is carrying out an order under subsection (1) for the purposes of assisting the executive officer or person appointed by the executive officer in carrying out the order.

7 Section 63(2) is repealed.

8 Section 68(1) is amended by striking out “or” at the end of clause (b) and adding the following after clause (b):

- (b.1) served by electronic means, including facsimile, on a person at the electronic address provided by that person, where the electronic means provides
 - (i) the sender with confirmation that transmission to the electronic address of the recipient of the order, notice or other document was successfully completed, and
 - (ii) the recipient with the order, notice or other document in a form that is usable for subsequent reference,

or

9 Section 73 is amended

(a) in subsection (2)

- (i) **by striking out** “medical officer of health or”;

7 Section 63(2) presently reads:

(2) If a person to whom an order is directed under section 62 fails to carry out the order within the time limited by it, in the case of an order that is not appealed, or within the time limited by the Board in the case of an order that is appealed to the Board, the executive officer or a person appointed by the executive officer may, together with any persons that are necessary, enter the public place or private place and carry out the order.

8 Section 68(1) presently reads:

68(1) Where this Act or the regulations require or permit the service of an order, notice or other document on a person, then unless this Act otherwise provides, the order, notice or other document is sufficiently served if it is

- (a) served personally on the person,*
- (b) sent by registered mail to the person at the person's last known address, or*
- (c) published in a newspaper in accordance with subsection (2).*

9 Section 73 presently reads in part:

(2) A person who contravenes an order under section 62 or an order of a medical officer of health or physician under Part 3 is

(ii) **by striking out** “not more than \$100 for each day the contravention continues” **and substituting** “not less than \$100 and not more than \$5000 for each day or part of a day during which the contravention occurs or continues”;

(b) in subsection (3)

(i) **by striking out** “Act or the regulations” **and substituting** “Act, the regulations or an order of a medical officer of health under Part 3”;

(ii) **by striking out** “2000” **and substituting** “100 000”;

(iii) **by striking out** “5000” **and substituting** “500 000”.

**Related Amendment, Validation of
Regulation and Effective Dates**

Amends SA 2006 cP-3.5

10(1) The *Peace Officer Act* is amended by this section.

(2) Section 13 is amended by adding the following after subsection (1):

(1.1) Where a state of emergency has been declared under section 18(1) of the *Emergency Management Act* or a state of public health emergency has been declared under section 52.1(1) of the *Public Health Act*, the Minister is not required to obtain the consent of peace officers and the peace officers’ employers before making an order under subsection (1) declaring the peace officers to have jurisdiction in any part of Alberta to which the declaration of a state of emergency or a state of public health emergency relates.

Validates AR 51/2020

11(1) The *Procedures (Public Health) Amendment Regulation* (AR 51/2020) is validated and declared for all purposes to have been validly made as of the date on which it was made.

liable to a fine of not more than \$100 for each day the contravention continues.

(3) A person who contravenes this Act or the regulations is, if no penalty in respect of that offence is prescribed elsewhere in this Act, liable to a fine of not more than \$2000 in the case of a first offence and \$5000 in the case of a subsequent offence.

10(1) Amends chapter P-3.5 of the Statutes of Alberta, 2006.

(2) Section 13 presently reads:

13(1) If the Minister considers that an emergency exists that requires the services of one or more peace officers, the Minister may, with the consent of the peace officers and the peace officers' employers, by order declare the peace officers

(a) to have jurisdiction in all or any part of Alberta, and

(b) to have the authority, responsibility and duties specified by the Minister.

(2) An order under this section expires 90 days after the date it is made unless it is renewed for a period specified by the Minister.

11 Validates AR 51/2020.

(2) Everything done under or in reliance of the *Procedures (Public Health) Amendment Regulation* (AR 51/2020) is validated and declared for all purposes to have been validly done.

(3) The *Procedures (Public Health) Amendment Regulation* (AR 51/2020) is not subject to and is deemed not to have been subject to section 3(5) of the *Regulations Act* and on filing is as valid against all persons as if it had been published.

Effective dates

12(1) This Act, except sections 2, 5 to 8 and 11, has effect on March 17, 2020.

(2) Section 11 has effect on March 27, 2020.

12 Effective dates.

