

PRINCE EDWARD ISLAND



BILL NO. 37

AN ACT TO AMEND THE EMERGENCY MEASURES ACT

HOUSE AMENDMENT

AMENDMENT TO BE MOVED by
Peter Bevan-Baker, Leader of the Official Opposition

PRINCE EDWARD ISLAND

BRIEFING NOTE

THIS MOTION replaces the power contained in Bill 37 for the Lieutenant Governor in Council to suspend or vary an enactment, in whole or in part with the same power, but makes the power narrower by adding to the list of preconditions that must exist for the exercise of the power and changes the permitted length of an order period from 90 days to 30 days. The amended power may not be used for making any reduction in services, programs, benefits or compensation; shortening a limitation period; increasing the amount of a fee or penalty; making any reduction in agricultural or environmental standards; making any reduction in employment standards or occupational health and safety standards or requirements; or making any reduction in public health standards or requirements. The amendment also allows the Legislative Assembly to disallow an order made under the power, or to disallow an order made by the Minister. The amendment also exempts the following from the application of an order:

- (a) the *Audit Act*;
- (b) the *Child and Youth Advocate Act*;
- (c) the *Legislative Assembly Act*;
- (d) the *Human Rights Act*;
- (e) the *Election Act*; and
- (f) the *Election Expenses Act*;
- (g) the *Emergency Measures Act*;
- (h) the *Financial Administration Act*;
- (i) the *Freedom of Information and Protection of Privacy Act*;
- (j) the *Conflict of Interest Act*;
- (k) the *Lands Protection Act*;
- (l) the *Public Health Act*;
- (m) the *Water Act*; and
- (n) the rules of the Legislative Assembly.

PRINCE EDWARD ISLAND

MOVED THAT

Section 1 of Bill 37 is amended by deleting proposed section 11.1 and substituting the following:

11.1 Powers of Lieutenant Governor in Council

- (1) Subject to subsection (4), on the making of a declaration of a state of emergency or local emergency under section 9, and for up to 30 days following the termination of that declaration, the Lieutenant Governor in Council may, by order, suspend or vary the application or operation of an enactment, subject to the terms and conditions specified by the Lieutenant Governor in Council in the order.

Application of order

- (2) For greater certainty, an order of the Lieutenant Governor in Council under subsection (1) may suspend or vary an enactment in whole or in part, as specified in the order.

Conflict

- (3) In the event of a conflict between an order made under subsection (1) and an enactment, the order made under subsection (1) prevails unless the enactment specifically provides that it is to apply despite this section.

Preconditions

- (4) The Lieutenant Governor in Council shall not make an order under subsection (1) unless
 - (a) in the opinion of the Lieutenant Governor in Council, the suspension or variation of all or part of the enactment is in the public interest and would facilitate providing assistance to victims of the emergency or disaster, or would otherwise help the public to deal with the emergency or disaster and its aftermath; and
 - (b) the provisions of the enactment that are subject to suspension or variation
 - (i) govern services, benefits or compensation, including,
 - (A) fixing maximum amounts,
 - (B) establishing eligibility requirements,
 - (C) requiring that something be proved or supplied before services, benefits or compensation become available,
 - (D) requiring the payment of a fee to access a service or program,
 - (E) restricting how often a service or benefit may be provided or a payment may be made in a given time period, or
 - (F) restricting the duration of services, benefits or compensation or the time period during which they may be provided,
 - (ii) establish a limitation period or a period of time within which a step must be taken in a proceeding,
 - (iii) govern an action or activity in respect of carrying out a business or participating in a regulated activity, including by establishing a deadline or time period within which a report or information must be filed or submitted,

PRINCE EDWARD ISLAND

- (iv) require the payment of fees in respect of a proceeding or in connection with anything done in the administration of justice,
- (v) require the holding of a proceeding in person, including an administrative tribunal hearing,
- (vi) require an action or activity to be undertaken in the presence of a person, or
- (vii) require the payment of late fees, interest or a monetary penalty.

Administrative tribunal, defined

- (5) For greater certainty, in subsection (4) "administrative tribunal" means a body established or an individual appointed by or under an Act to decide matters in accordance with the authority given under that Act, but does not include
- (a) a justice of the peace appointed under the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25;
 - (b) the Provincial Court or a judge of that court;
 - (c) the Supreme Court or a judge of that court; or
 - (d) the Court of Appeal or a judge of that court.

Restrictions

- (6) For greater certainty, this section does not authorize
- (a) making any reduction in services, programs, benefits or compensation;
 - (b) shortening a limitation period;
 - (c) increasing the amount of a fee or penalty;
 - (d) making any reduction in agricultural or environmental standards;
 - (e) making any reduction in employees' rights and entitlements, employment standards or occupational health and safety standards or requirements; or
 - (f) making any reduction in public health standards or requirements.

Deadlines, time periods

- (7) For greater certainty, and without limiting the authority stated in subsection (1) to make an order, the Lieutenant Governor in Council may, in an order under subsection (1), vary the application or operation of a deadline or time period in an enactment with retroactive effect, but the variation shall not have an effective date earlier than the date of the declaration made under section 9.

Deemed compliance

- (8) Where a deadline or time period in an enactment has been varied by an order of the Lieutenant Governor in Council under this section, a person who complies with the varied deadline or time period is deemed, for the duration of the order, to have complied with the enactment in which the deadline or time period is established.

PRINCE EDWARD ISLAND

Effect of suspension

- (9) Where an order made under subsection (1) suspends the application or operation of an enactment or a provision of an enactment, no action or proceeding under the suspended enactment or provision shall be commenced until the order terminates in accordance with subsection (8), unless otherwise provided for by the Lieutenant Governor in Council in the order.

Duration of order

- (10) Subject to subsection (11), an order made under subsection (1) terminates on the earlier of
- (a) a date specified in the order; or
 - (b) a date that is 30 days after the date on which the order was made.

Disallowance or modification of order by Legislative Assembly

- (11) The Legislative Assembly may, by resolution, disallow or modify an order made under subsection (1), subject to the terms and conditions specified in the resolution and the preconditions specified in subsection (4).

Disallowance of a state of emergency

- (12) If the Legislative Assembly passes a resolution disallowing the declaration of a state of emergency or the extension of one, any order made under section 11 is revoked as of the day the resolution passes unless otherwise provided by the resolution.

Certain enactments exempt

- (13) An order under subsection (1) shall not suspend or vary the application or operation of the following acts and the regulations made under them:
- (a) the *Audit Act*; R.S.P.E.I. 1988, Cap. A-24;
 - (b) the *Child and Youth Advocate Act* R.S.P.E.I. 1988, Cap. C-4.3;
 - (c) the *Legislative Assembly Act* R.S.P.E.I. 1988, Cap. L-7;
 - (d) the *Human Rights Act* R.S.P.E.I. 1988, Cap. H-12;
 - (e) the *Election Act* R.S.P.E.I. 1988, Cap. E-1.1;
 - (f) the *Election Expenses Act* R.S.P.E.I. 1988, Cap. E-2.01;
 - (g) the *Emergency Measures Act* R.S.P.E.I. 1988, Cap. E-6.1;
 - (h) the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9;
 - (i) the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01;
 - (j) the *Conflict of Interest Act* R.S.P.E.I. 1988, Cap. C-17.1;
 - (k) the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5;
 - (l) the *Public Health Act*; R.S.P.E.I. 1988, Cap. P-30.1;
 - (m) the *Water Act* S.P.E.I. 2017, Cap. 17;
 - (n) the rules of the Legislative Assembly.

PRINCE EDWARD ISLAND