

## CONSULTATION DRAFT

# AN ACT TO AMEND THE EMERGENCY MEASURES ACT

BILL NO.

2020

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BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

**1. The *Emergency Measures Act* R.S.P.E.I. 1988, Cap. E-6.1, is amended by the addition of the following after section 11:**

**11.1 Powers of Lieutenant Governor in Council**

- (1) On the making of a declaration of a state of emergency or local emergency under section 9, and for up to 90 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.

**Precondition**

- (4) The Lieutenant Governor in Council shall not make an order under subsection (1) unless, 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.

**Deadlines, time periods**

- (5) 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**

- (6) 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.

**Effect of suspension**

- (7) 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 (6), unless otherwise provided for by the Lieutenant Governor in Council in the order.

**Duration of order**

- (8) An order made under subsection (1) terminates on the earlier of
- (a) a date specified in the order; or
  - (b) a date that is 90 days after the date on which the order was made.

## EXPLANATORY NOTES

**SECTION 1** amends the *Emergency Measures Act* R.S.P.E.I. 1988, Cap. E-6.1, by adding a new section 11.1 to the Act.

- Subsection 11.1(1) authorizes the Lieutenant Governor in Council to make an order as specified, on the making of a declaration of a state of emergency or local emergency under section 9 and for up to 90 days following the termination of the declaration.
- Subsection 11.1(2) provides that the order made under subsection (1) may suspend or vary an enactment in whole or in part, as specified in the order.
- Subsection 11.1(3) provides that where the order made under subsection (1) conflicts with an enactment, the order made under subsection (1) prevails unless the enactment specifically provides that it is to apply despite section 11.1.
- Subsection 11.1(4) imposes a precondition that the Lieutenant Governor in Council shall not make the order under subsection (1) unless of the opinion that it is in the public interest.
- Subsection 11.1(5) authorizes the Lieutenant Governor in Council to make an order that varies the application or operation of a deadline or time period in an enactment under subsection (1) with retroactive effect, but provides that the effective date shall not be earlier than the date of the declaration made under section 9.
- Subsection 11.1(6) provides that a person who complies with a deadline or time period that has been varied by an order under this section is deemed, for the duration of the order, to have complied with the enactment.
- Subsection 11.1(7) clarifies the effect of an order that suspends the application or operation of an enactment or a provision of an enactment.
- Subsection 11.1(8) provides for the termination of an order made under section 11.1.