

Municipal & Environmental Law Bulletin

Bill 56: Ontario Seeks New Emergency Powers for the Premier

by Lana Finney

As of December 15, 2005, the Ontario government has introduced legislation which seeks to broaden the powers granted to the Premier under the ***Emergency Management Act***. Bill 56, “an Act to amend the ***Emergency Management Act***, the ***Employment Standards Act, 2000*** and the ***Workplace Safety and Insurance Act, 1997***” was introduced by the Minister of Community Safety and Correctional Services and given First Reading on December 15, 2005. Some of the key highlights of the proposed legislation are as follows:

- Cabinet or the Premier would have the authority to declare a provincial emergency if the resources normally available to the government were considered insufficient to respond adequately to a crisis.
- A declaration of a state of emergency would end 14 days after it is declared unless the Premier declares an earlier end to it or it is extended by Cabinet for an additional 14 day period.
- If recommended by the Premier, the legislature can extend the emergency for additional periods of no more than 28 days.
- The premier would have to report to the legislature within 120 days after an emergency ended to explain the criteria used to declare the emergency.
- The legislature may disallow a declaration of a state of emergency by resolution.
- The definition of emergency would be expanded to include dangers caused by disease or health risk, a change undoubtedly motivated by SARS, concerns about an avian flu pandemic and the perceived threat of terrorism.

- Fines may be rendered of up to \$10 million for corporations, \$500,000 for directors and officers, and \$100,000 for individuals, for failing to comply with an emergency order or interfering with a person acting under an emergency order.
- The Act will be known as the “***Emergency Management and Civil Protection Act***”.


According to the government, this legislation will further improve the province’s ability to respond quickly to all types of emergencies and will help clarify under what conditions the province can declare an emergency. The press release accompanying the introduction of the bill indicates that Ontario is currently the only jurisdiction in Canada without this type of emergency legislation.

Some of the things that cabinet would have the power to do if a state of emergency is declared would include:

- restrict travel or order evacuations;
- establish facilities for the care, welfare, safety and shelter of individuals, including emergency shelters and hospitals;

- fix prices for necessary goods, services and resources, and prohibit price-gouging; and
- authorize any reasonably qualified person to render services.

The proposed legislation has not been without controversy, particularly given that it enables the Premier to suspend individual rights and purports to provide the premier the power to order qualified individuals to render “services”. This has union leaders concerned about the effect on collective agreements and health care professionals concerned about health risks and potential fines or jail terms for refusing to be conscripted.

The government has indicated that it hopes to have Bill 56 passed before the summer recess in June 2006. A copy of Bill 56 can be found on the Ontario Legislative Assembly website at http://www.ontla.on.ca/documents/Bills/38_Parliament/session2/b056.pdf. 

Bill 69: Regulatory Modernization Act

by David Crocker

Introduction

On February 27, 2006 the provincial government introduced and gave first reading to Bill 69, the ***Regulatory Modernization Act, 2006*** (the “Act”). The stated purpose of the Act is to allow for information sharing about regulated organizations to improve efficiency in the administration and enforcement of regulatory legislation and to make consequential amendments to other acts.

The Act is designed to increase compliance in regulated sectors by empowering Ministers to authorize the collection, use and disclosure of certain information and empowering Ministers to authorize the same person or class of persons to exercise functions under more than one provincial statute.

The Act has the potential to change the way the Ontario government ensures compliance with its legislation and regulations.

Contents of the Act

Part I of the Act includes all of the introductory sections: the definitions, the scope of the Act, the types of information which may be collected and shared and the use to which that information can be put. Of significance is section 5 which provides that this shared information will assist the government in determining whether licenses and other authorizations should be issued, and how inspections should be undertaken, and should assist in administrative proceedings such as appeals and reviews and to assist in sentencing.

Part II of the Act deals with the sharing of information. Of note is section 7 which provides that information collected under one act or regulation may be used for another. The sections of Part II which follow section 7 allow for the distribution of this information. It should be noted that Part II requires the making of regulations to designate the legislation and the regulations which would be subject to these provisions.

Part III of the Act authorizes persons or classes of persons to exercise powers and perform duties under any of the acts or regulations designated pursuant to Part II of the Act.

Part IV of the Act allows for a conviction under any of the legislation or regulations designated pursuant to Part II of the Act to be considered in sentencing for any other legislation or regulations so designated.

Part V of the Act amends a number of pieces of legislation so that advantage can be taken of provisions of the Act.

Comment

Although on its surface the Act may appear to be a simple piece of administrative legislation it goes much further. The Act allows for a pool of Ontario provincial officers to be created which can enforce legislation under any number of statutes such as the ***Environmental Protection Act*** and all of the other environmental legislation, the ***Occupational Health & Safety Act*** and all of its related regulations, and all of the legislation administered by the Ministers of Natural Resources, Northern Development and Mines, Government Services, Finance as well as others. In other words, a regulatory police force can be established with much broader responsibilities than is now the case. Such a police force may improve efficiency in regulating Ontario legislation; however, one wonders about whether provincial officers who had previously been restricted to enforcement in the environmental field would have the expertise to enforce labour legislation, for example.

Part IV of the Act allows a prosecutor to use a previous conviction under an unrelated Ontario statute or regulation to be considered an aggravating factor in sentencing for violation of any other statute or regulation designated under Part II. The discretion of determining whether the previous conviction is relevant is given to the prosecutor. A court is given the power to indicate that a more severe sentence is being imposed than otherwise would be the case because of a previous conviction pursuant to any of the designated statutes or regulations. Prior to this, such aggravating factors have been restricted to previous convictions of statutes directly related to the offence being

considered by the court; for example, when sentencing for an offence of the **Occupational Health & Safety Act** a previous conviction under that statute alone would be considered by a court in determining whether aggravating factors existed to warrant a higher fine than would otherwise be the case.

There has long been talk that the Ontario government would consolidate enforcement to create a type of regulatory police force. It appears as if the **Regulatory Modernization Act, 2006** will do just that. 🌟

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Municipal and Environmental Law Group

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For specific advice, please contact one of our lawyers:

Thomas R. Lederer	416.365.3516	tlederer@davis.ca
David Crocker	416.941.5415	dcrocker@davis.ca
Lana Finney	416.941.5409	lfinney@davis.ca
Chris Barnett	416.365.3502	cbarnett@davis.ca
Karen O'Neill	416.941.5390	koneill@davis.ca
Laura Bisset	416.941.5400	lbisset@davis.ca
Liliane Gingras	416.941.5404	lgingras@davis.ca

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Offices

Vancouver

2800 Park Place
666 Burrard Street
Vancouver, British Columbia
Canada V6C 2Z7
Tel 604.687.9444
Fax 604.687.1612

Toronto

1 First Canadian Place
Suite 5600, PO Box 367
100 King Street West
Toronto, Ontario
Canada M5X 1E2
Tel 416.365.3500
Fax 416.365.7886

Montréal

1501 McGill College Avenue
Suite 1400
Montréal, Québec
Canada H3A 3M8
Tel 514.392.1991
Fax 514.392.1999

Calgary

3000 Shell Centre
400 - 4th Avenue SW
Calgary, Alberta
Canada T2P 0J4
Tel 403.296.4470
Fax 403.296.4474

Edmonton

1201 Scotia Tower 2
10060 Jasper Avenue
Edmonton, Alberta
Canada T5J 4E5
Tel 780.426.5330
Fax 780.428.1066

Whitehorse

Suite 200
304 Jarvis Street
Whitehorse, Yukon Territory
Canada Y1A 2H2
Tel 867.393.5100
Fax 867.667.2669

Yellowknife

Suite 802 Northwest Tower
5201 - 50th Avenue
Yellowknife, Northwest Territories
Canada X1A 3S9
Tel 867.669.8400
Fax 867.669.8420

Tokyo

Kasumigaseki Building, 31st Floor
2-5, Kasumigaseki 3-Chome
Chiyoda-ku, Tokyo
100-6031, Japan
Tel 81.3.5251.5071
Fax 81.3.5251.5072

www.davis.ca