

CONSULTATION DRAFT

AN ACT TO AMEND THE PUBLIC HEALTH ACT

BILL NO.

2020

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

1. **Clause 1(x) of the *Public Health Act R.S.P.E.I. 1988, Cap. P-30.1*, is amended by the deletion of the words “or an environmental health officer” and the substitution of the words “, an environmental health officer or a person appointed as a public health official under clause 49(2)(f)”.**
2. **Section 39 of the Act is amended by the addition of the following after subsection (7):**
 - Order to unnamed person or class of persons**
 - (7.1) It is sufficient in an order under this section to direct the order to a person or class of persons described in the order and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.
 - Public notice of order**
 - (7.2) If it is not practicable to serve a copy of an order on each member of a class of persons described in an order, the Chief Public Health Officer may instead provide public notice of the order by any means of communication that the Chief Public Health Officer considers will make it known to the majority of the class of persons.
 - Contents of notice**
 - (7.3) A public notice referred to in subsection (7.2) shall include
 - (a) information to enable members of the class to understand to whom the order is directed;
 - (b) the details of the order; and
 - (c) information on where to direct inquiries about the order and obtain a copy of it.
3. **Section 40 of the Act is amended by the addition of the words “or public notice of it is provided to” after the words “and is served upon”.**
4. **The Act is amended by the addition of the words “or other facility or place” after the words “health facility” in the following provisions:**
 - (a) **clause 42(2)(a);**
 - (b) **subsections 42(6) and (9);**
 - (c) **clause 45(b).**

5. Section 43 of the Act is repealed and the following substituted:

43. Designation of medical practitioner

Where a person is detained in a health facility or other facility or place by an order issued under section 42, the Chief Public Health Officer or the administrator or person in charge of the facility or place shall designate a medical practitioner to have responsibility for the person while detained.

6. (1) Subsection 47(3) of the Act is amended by the deletion of the words “twenty-four hours” and the substitution of the words “seventy-two hours”.

(2) Subsections 47(4) and (7) of the Act are amended by the addition of the words “or other facility or place” after the words “health facility”.

(3) Clause 47(9)(b) of the Act is amended by the addition of the words “or other facility or place” after the words “health facility” wherever they appear.

7. (1) Subsection 49(2) of the Act is amended

(a) in the words immediately preceding clause (a), by the deletion of the words “the Minister, on the advice of the Chief Public Health Officer,” and the substitution of the words “the Chief Public Health Officer”;

(b) by addition of the following after clause (c):

(c.1) order persons to refrain from entering or attending a public place or premises;

(c) in subclause (d)(iii), by the deletion of the period and the substitution of a semicolon; and

(d) by the addition of the following after clause (d):

(e) order persons to refrain from travelling to or from any area of the province or on any road, street or highway;

(f) appoint a person as a public health official for a period of time specified in the appointment or until the end of the state of public health emergency, whichever occurs sooner;

(g) any other measure the Chief Public Health Officer reasonably believes is necessary for the protection of the health of the population during the public health emergency.

(2) Subsection 49(3) of the Act is amended by the addition of the words “or class of persons” after the words “may order a person”.

(3) Section 49 of the Act is amended by the addition of the following after subsection (3):

Public notice

(3.1) The Chief Public Health Officer shall provide public notice of an order made under clauses (2)(c) to (e) or in respect of a class of persons under subsection (3) by any means of

communication that the Chief Public Health Officer considers will make it known to the majority of the members of the public or class of persons, as the case may be.

(4) Section 49 of the Act is amended by the addition of the following after subsection (7):

Compliance with order

(8) A person to whom an order is directed under this section shall comply with the order.

8. (1) Subsection 50(1) of the Act is amended by the deletion of the word “Minister” wherever it occurs and the substitution of the words “Chief Public Health Officer”.

(2) Subsection 50(2) of the Act is amended by the deletion of the word “Minister” and the substitution of the words “Chief Public Health Officer”.

9. (1) Subsection 51(1) of the Act is amended

(a) in the words immediately preceding clause (a), by the deletion of the word “Minister” and the substitution of the words “Chief Public Health Officer”; and

(b) in clause (a),

(i) by the deletion of the word “Minister” and the substitution of the words “Chief Public Health Officer”, and

(ii) by the deletion of the word “Minister’s” and the substitution of the words “Chief Public Health Officer’s”.

(2) Subsection 51(2) of the Act is amended by the deletion of the words “the Minister or”.

(3) Subsection 51(4) of the Act is amended by the deletion of the word “Minister” and the substitution of the words “Chief Public Health Officer”.

10. The Act is amended by the addition of the following after section 51:

51.1 Powers of Lieutenant Governor in Council

(1) On the making of a declaration of a state of public health emergency under subsection 49(1), 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 subsection 49(1).

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 (8), 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.

- 11. Clause 52(1)(a) of the Act is amended by the deletion of the words “subsection 49(2)” and the substitution of the words “subsection 49(1)”.**

- 12. Subsection 59(1) of the Act is amended by the addition of the following after clause (b):**

- (b.1) require the operator of a vehicle to stop the vehicle and remain stopped, or move the vehicle to another location and remain stopped, until permitted to proceed by the public health official;

- 13. Section 60 of the Act is amended by the deletion of the words “The Chief Public Health Officer” and the substitution of the words “A public health official”.**

- 14. Subsection 66(1) of the Act is amended by the repeal of clauses (a) to (c) and the substitution of the following:**

- (a) in the case of an individual,
- (i) for a first offence, to a fine of \$1,000,
 - (ii) for a second offence, to a fine of \$2,000, and

- (iii) for a third and each subsequent offence, to a fine of \$10,000 or to imprisonment for a term not exceeding six months, or both; and
- (b) in the case of a corporation,
 - (i) for a first offence, to a fine of \$5,000,
 - (ii) for a second offence, to a fine of \$10,000, and
 - (iii) for a third and each subsequent offence, to a fine of \$25,000.

15. The Act is amended by the addition of the following after section 66:

66.1 Officers and directors of corporation

- (1) Every officer, director or representative of a corporation who directs, authorizes, assents to, acquiesces in, or participates in the commission of an offence by that corporation is also guilty of the offence and is liable, on summary conviction
 - (a) for a first offence, to a fine of \$5,000;
 - (b) for a second offence, to a fine of \$10,000; and
 - (c) for a third and each subsequent offence, to a fine of \$25,000 or to imprisonment for a term not exceeding six months, or both.

Application regardless of prosecution or conviction of corporation

- (2) Subsection (1) applies whether or not the corporation has been prosecuted or convicted of the offence.

16. Subsection 71(1) of the Act is amended by the deletion of the words “An order, notice or other document” and the substitution of the words “Except as otherwise provided in this Act, an order, notice or other document”.

EXPLANATORY NOTES

SECTION 1 amends the definition of “public health official” to include a person appointed as a public health official during a state of public health emergency.

SECTION 2 adds new subsections (7.1) to (7.3) to section 39 of the Act to provide for orders under that section respecting a communicable disease to be directed to a person or class of persons described in the order and for public notice of the order to be given.

SECTION 3 amends section 40 of the Act to reflect that public notice may be given of an order made under section 39.

SECTION 4 amends several provisions of the Act to provide or reflect that a person who fails to comply with an order respecting a communicable disease may be confined in a facility or place other than a health facility.

SECTION 5 requires that a medical practitioner be designated to have responsibility for a person who is detained in a health facility or other facility or place for failing to comply with an order respecting a communicable disease.

SECTION 6 amends section 47 of the Act to extend the validity of an order for detention to 72 hours and to reflect that a person who fails to comply with an order respecting a communicable disease may be confined in a facility or place other than a health facility.

SECTION 7 amends subsection 49(2) of the Act to provide the power to take the measures outlined in that provision to the Chief Public Health Officer instead of the Minister and adds measures that can be taken. It provides for an order made under subsection 49(3) to be directed to a class of persons and adds a new subsection (3.1), which provides for public notice of orders given under specified provisions. It also requires persons to comply with an order made under section 49.

SECTION 8 amends subsections 50(1) and (2) of the Act to provide for the Chief Public Health Officer to take possession of a place or premises for purposes related to a state of public health emergency and to clean and sanitize it before returning it to the possession of the owner.

SECTION 9 amends section 51 of the Act to provide for the Chief Public Health Officer to make an application for a court order in respect of taking possession of a place or premises for purposes related to a state of public health emergency.

SECTION 10 adds a new section 51.1 to the Act, which provides that, during a state of public health emergency, the Lieutenant Governor in Council may, by order, suspend or vary the application or operation of an enactment, subject to any terms and conditions specified in the order, if the Lieutenant

Governor in Council believes it is in the public interest. An order made under the section terminates on the earlier of the date specified in the order or 90 days after the order was made.

SECTION 11 corrects a cross-reference.

SECTION 12 provides for a public health official to, in the course of enforcement activities, require the operator of a vehicle to stop and remain stopped until permitted to proceed.

SECTION 13 corrects a reference to the Chief Public Health Officer to refer to a public health official.

SECTION 14 amends subsection 66(1) of the Act to provide different fine amounts for individuals and corporations.

SECTION 15 adds a new section 66.1 to the Act to provide that every officer, director or representative of a corporation who directs, authorizes, assents to, acquiesces in or participates in the commission of an offence by the corporation is also guilty of an offence and is liable on summary conviction to the same penalties as the corporation, regardless of whether the corporation has been prosecuted or convicted.

SECTION 16 amends subsection 71(1) of the Act to make it subject to other provisions in the Act that provide for service or notice.