

**SNL2008 CHAPTER E-9.1
EMERGENCY SERVICES ACT**

Amended:
2016 c45 ss3 to 7
CHAPTER E-9.1

**AN ACT TO PROVIDE FOR THE ORGANIZATION AND ADMINISTRATION OF
EMERGENCY SERVICES IN THE PROVINCE**

(Assented to December 18, 2008)

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Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the Emergency Services Act .

2008 cE-9.1 s1

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Definitions

2. In this Act

(a) [Rep. by 2016 c43 s3]

(b) "assistance agreement" means an agreement to provide assistance in a time of declared emergency by way of human and other resources made under the authority of section 16;

(c) "business continuity plan" means a document containing procedures and guidelines to help recover and restore government's essential services to normal operational status within an acceptable time frame following an emergency or disruptive event;

(d) [Rep. by 2016 c43 s3]

(e) "council" includes the council of a municipality, a regional council, a local service district committee, a regional emergency management committee and an Inuit Community Council created under the Labrador Inuit Land Claims Agreement as defined in the Labrador Inuit Land Claims Agreement Act;

(f) "director" means the Director of Emergency Services appointed under subsection 4.1(1);

(g) "emergency" means a real or anticipated event or an unforeseen combination of circumstances which necessitates the immediate action or prompt co-ordination of action as declared or renewed by the Lieutenant-Governor in Council, the minister, a regional emergency management committee or a council;

(h) "emergency management plan" means a plan, program or procedure prepared by

(i) the province; or

(ii) a council in writing and approved by the director

which is intended to prepare for, respond to, mitigate the effects of and recover from an emergency and to provide for the health, safety and well-being of persons and the protection of property and the environment;

(i) "minister" means the minister appointed under the Executive Council Act to administer this Act;

(j) "municipality" means a municipality under the Municipalities Act, 1999 , the City of St. John's, the City of Mount Pearl and the City of Corner Brook and, for the purpose of this Act, includes a local service district and an Inuit community referred to in section 8.2 of the Labrador Inuit Land Claims Agreement Act ;

(k) "police officer" means a member of the Royal Newfoundland Constabulary and a member of the Royal Canadian Mounted Police;

(l) "regional emergency management committee" means a committee consisting of

(i) representative of councils of municipalities,

(ii) committees of local service districts, or

(iii) other persons representing unincorporated areas

which is responsible for the development and implementation of a regional plan; and

(m) "regional plan" means an emergency management plan made by a regional emergency management committee.

2008 cE-9.1 s2; 2016 c43 s3

PART I

EMERGENCY SERVICES

2016 c45 s4

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Government business continuity and emergency management plans

3. The minister shall develop and maintain

- (a) a business continuity plan for the government of the province; and
- (b) an emergency management plan for the province.

2016 c45 s4

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Emergency response

4. The minister shall, as appropriate, organize and deploy emergency response in the province.

2016 c45 s4

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Director of emergency services

4.1 (1) There shall be appointed a Director of Emergency Services for the province.

(2) The director may

(a) authorize or perform surveys of industries, resources and facilities within the province necessary for the carrying out of this Act;

(b) establish programs including public information programs respecting emergency preparedness; and

(c) take all other preparatory steps, including partial or full mobilization of emergency resources in advance of actual necessity for the purpose of

(i) instructing persons in methods and procedures that may be adopted or followed in the implementation of this Act,

(ii) organizing the training, equipment and personnel to carry out duties under this Act, and

(iii) acquiring equipment necessary for the carrying out of emergency response.

2016 c45 s4

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Officers, etc. to be appointed

4.2 There shall be appointed those officers, clerks, and other employees necessary to carry out this Act.

2016 c45 s4

PART II

MUNICIPAL OR REGIONAL EMERGENCY

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Emergency management plan required

5. (1) The councils of every municipality shall, within 3 years of this Act having come into force, adopt an emergency management plan.

(2) An emergency management plan shall, before adoption by a municipality, be submitted to the director for review, and a council shall make any changes required by the director so that the plan may be approved by the director before the plan is adopted by a council.

(3) An emergency management plan may be developed by a committee of a council, or a council may, with the necessary changes, adopt the emergency management plan of a neighbouring municipality with the consent of that municipality.

(4) An emergency management plan which is adopted by a council under subsection (3) shall be submitted for the approval of the director as required under this subsection as if it had been made by the council alone.

(5) An emergency management plan shall designate a person to supervise and control the management of the plan.

(6) Amendments to an emergency management plan shall be submitted to the director for approval before the amendments may be adopted by a council.

(7) An emergency management plan shall be reviewed by a council and a proposed change to the plan shall be submitted to the director for approval before it may be adopted by a council.

2008 cE-9.1 s5

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Municipality declared emergency

6. (1) Where an emergency is declared by a municipality, the emergency management plan adopted by the council of that municipality shall be activated.

(2) An emergency which has been declared by a municipality shall remain in force until it is rescinded by the municipality.

(3) Nothing in this section prevents the minister from declaring a municipal emergency, whether a municipal emergency has been declared by a council or not, and the minister may, following the declaration of the emergency,

(a) authorize the director to implement the municipality's emergency plan; or

(b) respond to the emergency in the manner the minister considers appropriate under section 9.

2008 cE-9.1 s6

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Regional emergency management plan

7. (1) Two or more councils may join together to form a regional emergency management committee for the purpose of developing a regional emergency management plan.

(2) A regional emergency management plan shall be approved by the director before a council adopts the plan and the requirements of section 5 apply as if the plan had been made by a council alone.

2008 cE-9.1 s7

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Declaration of regional emergency

8. (1) Where an emergency is declared by a regional emergency management committee, the chairperson of the committee shall declare the emergency for a region or a part of the region, and the regional emergency management plan adopted by the committee shall be activated for that region or part of the region as appropriate.

(2) An emergency which has been declared by a regional emergency management committee shall remain in force until it is rescinded by the committee.

(3) Nothing in this section prevents the minister from declaring a regional emergency in all or part of a region, whether a regional emergency has been declared by the regional emergency management committee or not, and the minister may, following the declaration of the emergency

(a) authorize the director to implement the regional emergency management plan; or

(b) respond to the emergency in the manner the minister considers appropriate under section 9.

2008 cE-9.1 s8

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Minister may declare emergency

9. (1) Notwithstanding sections 6 and 8, the minister may, in his or her discretion, declare an emergency in a municipality, a region or part of a region at any time the minister reasonably believes an emergency exists.

(2) The minister shall, as soon as practicable after declaring an emergency, inform the Lieutenant-Governor in Council of the declaration and report upon the actions taken to respond to the emergency.

(3) Where the minister declares an emergency under subsection (1), the minister may

(a) define the geographical area where the emergency exists;

(b) direct that the director take charge of emergency operations within the area, to assess the situation and to report immediately to the minister regarding necessary measures to be taken to deal with the emergency;

(c) authorize the director to co-ordinate the activities of all provincial and municipal services in the area and to engage personnel as required to assist in the provision of those services;

(d) authorize the director to acquire, by purchase or otherwise as prescribed by the minister, those supplies and equipment the director considers necessary to respond to the emergency or to protect the health and well-being of those persons, property and the environment impacted by the emergency;

(e) authorize the director or his or her delegate to enter a house, building or other private property for

(i) a purpose relating to the emergency,

(ii) the health, safety or well-being of persons, or

(iii) the purpose of exercising a power under this section;

(f) authorizing the director or his or her delegate to alter, construct, demolish or remove trees, buildings or other structures where that action is, in the opinion of the director, necessary in order to reach the scene of the emergency or in an effort to combat or inhibit the progress of an emergency; and

(g) order the evacuation of the area.

(4) Where the director is absent or unable to act, the minister may delegate to another person those duties and responsibilities under paragraphs (3)(b) to (f) and that person may take those actions he or she considers necessary for the carrying out of those duties and responsibilities.

2008 cE-9.1 s9; 2016 c45 s5

PART III

PROVINCIAL EMERGENCY

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Plans to be established

10. (1) The minister shall, within 3 years of the coming into force of this Act, establish the provincial emergency management plan and the business continuity plan.

(2) Where a provincial emergency is declared, the provincial emergency management plan and the business continuity plan shall, to the extent required by the scope of the emergency, be activated.

2008 cE-9.1 s10

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Declaration of provincial emergency

11. (1) In the event of an emergency, the Lieutenant-Governor in Council may declare a provincial emergency for all or part of the province.

(2) In addition to the powers and duties prescribed in the provincial emergency management plan and the business continuity plan, the Lieutenant-Governor in Council may do and

authorize those things necessary for the protection of persons, property and the environment from injury or loss arising from an emergency including:

- (a) controlling transportation by land or water;
- (b) controlling highways and vehicles and regulating travel in or out of the part of the province affected by the emergency;
- (c) acquiring and distributing essential or emergency supplies and providing, co-ordinating and maintaining medical services, emergency social services and other essential services in the province;
- (d) evacuating persons or removing personal property from an area of the province and arranging for the care and protection of those persons or property;
- (e) evacuating and caring for livestock, including domestic animals, in consultation with the provincial veterinarian;
- (f) in consultation with the provincial veterinarian, ordering the destruction of livestock where necessary in the emergency;
- (g) altering, constructing, demolishing or removing trees, buildings or other structures where that action is necessary in order to reach the scene of the emergency or in an effort to combat or inhibit the progress of the emergency;
- (h) entering a house, building or other private property
 - (i) for a purpose relating to the emergency,
 - (ii) for the health, safety or well-being of persons, or
 - (iii) for the purpose of exercising a power under this section;
- (i) acquiring by purchase, lease or otherwise goods, personal property or lands and the sale, lease, allocation or other disposition of those goods, personal property or lands;
- (j) retaining persons for the purpose of responding to the declared emergency whose training and qualifications appear to the Lieutenant-Governor in Council, in consultation with the appropriate minister, to be adequate to perform medical, dental, nursing, pharmaceutical, optometrical, engineering and other professional services; and
- (k) obtaining the resources necessary to respond to the declared emergency.

2008 cE-9.1 s11

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Termination of emergency

12. An emergency declared under section 11 shall continue in force until it has been ended by proclamation of the Lieutenant-Governor in Council or by an Act of the Legislature, and where an emergency has ended, a regulation or order made under this part shall cease to have effect.

2008 cE-9.1 s12

PART IV

NATIONAL EMERGENCY

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Emergencies Act (Canada)

13. Where the Governor in Council has declared an emergency under the Emergencies Act (Canada), the Lieutenant-Governor in Council shall, where requested by the Governor in Council, order that the provisions of this Act with respect to emergency response be activated to the extent that is appropriate and practicable.

2008 cE-9.1 s13

PART V

ADMINISTRATION

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Exemption from operation of provincial Acts

14. (1) Where a municipal, regional or provincial emergency has been declared, the minister may request that another minister exempt a person from operation of certain Acts of the province administered by that minister.

(2) Where a minister provides an exemption under subsection (1), the exemption shall be effective only until the emergency has expired or for a time prescribed by that minister.

2008 cE-9.1 s14; 2016 c45 s6

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Administration in provincial emergency

15. The business continuity plan shall, to the extent required by the scope of the emergency, be activated in a provincial emergency, and the Lieutenant-Governor in Council may make regulations respecting the administration of government and the duties of departments in a provincial emergency.

2008 cE-9.1 s15

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Assistance Agreements

16. (1) The Lieutenant-Governor in Council may by order authorize a minister to enter into an agreement on behalf of the Crown in right of the province with

- (a) the Crown in right of Canada or of another province;
- (b) a municipality;
- (c) a council;
- (d) a state of the United States of America ;
- (e) a country; or
- (f) a person

to carry out the purpose of this Act and to provide assistance where an emergency may be declared.

(2) The minister may, with the approval of the Lieutenant-Governor in Council, enter into an agreement with the Crown in right of Canada for the provision of compensation for injuries suffered by or the death of persons who

(a) are engaged in emergency response measures or in training for emergency response measures; or

(b) suffer injury or death by accident arising out of, and in the course of, those emergency response measures

and the minister may, with the approval of the Lieutenant-Governor in Council, enter into further agreements to amend, alter or revoke the agreement as required.

(3) Where compensation required to be paid under an agreement is made under this section, the compensation shall be paid from the Consolidated Revenue Fund.

2008 cE-9.1 s16

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Application of assistance agreement

17. (1) Where a party to an assistance agreement requests assistance made necessary by the declaration of an emergency or for another reason permitted by the agreement, the province shall, in accordance with the agreement, provide or accept the requested assistance and in doing so may

(a) recognize, within the province, the professional qualifications of a person from outside the province without requiring that the person be certified or licensed under the laws of the province; and

(b) lend and borrow equipment and personnel for the purpose of the requested assistance.

(2) For the purpose of implementing a request which may be made under the assistance agreement, the province may

(a) plan emergency exercises with another party to the assistance agreement including personnel training, equipment and procedures testing and simulated emergency activities; and

(b) inventory and agree upon procedures for inter-jurisdictional loans and delivery of human and material resources and the manner of payment, if any, for those resources.

2008 cE-9.1 s17

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Expenditures

18. (1) Expenditures made for the purpose of exercising powers conferred under this Act or discharging duties imposed under this Act which are within the scope of authority granted by this Act or the regulations shall, subject to the approval of the Lieutenant-Governor in Council, be paid from the Consolidated Revenue Fund.

(2) Where, expenditures made under this Act are made within or for the benefit of a municipality, the municipality shall, where required by order of the Lieutenant-Governor in Council, repay into the Consolidated Revenue Fund the amount or a portion of the amount specified in the order at the times and on the terms, including the charging of interest, that may be specified in the order.

2008 cE-9.1 s18

PART VI

GENERAL

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Exemption

19. Notwithstanding the Statutes and Subordinate Legislation Act , an order or regulations made under this Act in the time of a declared emergency or in anticipation of the declaration of an emergency shall

(a) come into force immediately when it is signed by

(i) the Lieutenant-Governor, or

(ii) the person having authority to make the order

unless some other time is stated as being the time when it shall come or be considered to have come into force; and

(b) be valid and have effect before it is published, and notwithstanding that a person has not had actual notice of the order.

2008 cE-9.1 s19

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Prohibition

20. (1) A person who, in good faith, is acting under or reasonably believes that he or she is acting under, a power or authority given by or delegated under this Act shall not in acting be restrained by or be subject to proceedings by way of injunction, mandamus, prohibition or certiorari.

(2) A person shall not interfere with or obstruct another person who is exercising a power or performing a duty conferred or imposed by this Act, the regulations, or an order made under the authority of this Act.

2008 cE-9.1 s20

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No liability

21. A person, including the minister, the director, an employee, a volunteer and a person appointed under the authority of this Act is not liable for a loss, cost, expense, damage or injury to person or property which results from

(a) the person, in good faith, doing or omitting to do an act that the person is appointed, authorized or required to do under this Act or the regulations, unless in doing or omitting to do the act, the person was grossly negligent; or

(b) an act done or omitted to be done by one or more of the persons who were, under this Act or the regulations, appointed, authorized or required by the person to do the act, unless the appointment or authorizing was not done in good faith.

2016 c45 s7

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Offence

22. A person who contravenes or who neglects, omits, fails or refuses to observe a provision of this Act, the regulations or an order made under this Act is guilty of an offence and is liable, on summary conviction, to a fine of not less than \$1,000 or to imprisonment for a term of not more than 6 months or to both a fine and imprisonment.

2008 cE-9.1 s22

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Offence and penalty re: pricing

23. (1) During a declared emergency, a person in the province shall not charge higher prices for food, clothing, fuel, equipment, including medical equipment, medical or essential supplies, or for the use of property, services, resources or equipment than the fair market value of the same thing immediately before the declaration of the emergency.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of up to \$5,000.

(3) This section shall not apply to cost increases which, in the opinion of the minister, are reasonable and have been necessitated by the declaration of the emergency.

2008 cE-9.1 s23

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Regulations

24. The Lieutenant-Governor in Council may make regulations

(a) for the health, safety and well-being of persons and the protection of property and the environment in the event of an emergency;

(b) respecting the administration of government and duties of departments in a provincial emergency; and

(c) generally, to give effect to the purpose of this Act.

2008 cE-9.1 s24

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Act prevails

25. (1) Where a provision of this Act or the regulations conflicts with a provision of another Act or regulation, the provisions of this Act, where an emergency has been declared, shall prevail.

(2) Notwithstanding subsection (1), this Act and the regulations made under this Act shall be read and applied in conjunction with the Labrador Inuit Land Claims Agreement Act and, where a provision of this Act or regulations made under this Act is inconsistent or conflicts with a provision, term or condition of the Labrador Inuit Lands Claims Agreement Act, the provision, term or condition of the Labrador Inuit Land Claims Agreement Act shall have precedence over the provision of this Act or a regulation made under this Act.

2008 cE-9.1 s25

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RSNL1990 cF-23 Amdt.

26. Section 106 of the Forestry Act is repealed and the following substituted:

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Provincial emergency

106. (1) In the event of an emergency declared as a result of a wild fire under the Emergency Services Act , the provisions of that Act shall prevail over the provisions of this Act.

(2) Where an emergency is declared under the Emergency Services Act as a consequence of a wild fire, measures taken by officials under that Act to fight the fire shall be taken in consultation with forestry officials.

2008 cE-9.1 s26

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RSNL1990 cP-26 Amdt.

27. Subsection 3(1) of the Proceedings Against the Crown Act is amended by deleting the reference "Emergency Measures Act" and substituting the reference "Emergency Services Act ".

2008 cE-9.1 s27

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SNL2002 cW-4.01 Amdt.

28. Subsection 35(2) of the Water Resources Act is repealed and the following substituted:

(2) Notwithstanding subsection (1), where, because of a flood or flood potential, an emergency is declared under the Emergency Services Act , the minister shall co-ordinate efforts with the CEO of Fire and Emergency Services - Newfoundland and Labrador.

2008 cE-9.1 s28

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RSNL1990 cW-11 Amdt.

29. Paragraph 40(1)(f) of the Workplace Health, Safety and Compensation Commission Act is amended by deleting the reference "Emergency Measures A ct" and substituting the reference "Emergency Services Act ".

2008 cE-9.1 s29

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Repeal

30. The Emergency Measures Act is repealed.

2008 cE-9.1 s30

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Commencement

31. This Act shall come into force on a day to be proclaimed by the Lieutenant-Governor in Council. (In force - May 1/09)

2008 cE-9.1 s31

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