

FOURTH SESSION

THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 28

**An Act respecting the protection of persons and property
in the event of disaster**

First reading
Second reading
Third reading

M. MARC-ANDRÉ BÉDARD

Ministre de la justice



L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

This bill replaces the Civil Protection Act.

It provides for the creation of the Bureau de la protection civile du Québec, which will be in charge of working out a policy on disaster prevention and the emergency measures to be implemented in the event of a disaster. In cooperation with the departments, governmental agencies, municipal corporations and any other person, this Bureau will also be required to prepare local, regional and national plans of disaster prevention, and courses of action to be taken in the event of such disasters to save lives, to come to the assistance of persons in distress, to safeguard property, to abate the effects of the disaster or to remedy losses. The functions of the Bureau will also consist in providing assistance in the event of a disaster and administering, where necessary, financial assistance programmes to persons in distress.

Moreover, this bill provides that the Government may, for the period it may indicate but not exceeding thirty days, declare by decree a state of emergency in the event of a disaster in the whole territory of Québec or in any part of it, and also provides for the tabling of the decree before the Assemblée nationale. This bill also proposes the vesting of the same power in the Ministre de la justice but for not longer than two days, once only, and in mayors and municipal corporations for not longer than twenty-four hours, once only.

This bill also provides for certain effects resulting from the decree declaring the state of emergency, such as the powers of intervention of the Minister, of the director of the Bureau or of a mayor, the immunity granted to persons taking part in a programme of disaster prevention and emergency measures or providing help and assistance in the event of a disaster, and the manner of terminating a state of emergency.

This bill provides, further, for the creation of a relief fund for persons in distress, entrusted with collecting donations from

the public and distributing them to persons in Québec or elsewhere who have suffered losses as the result of a disaster.

Bill 28

An Act respecting the protection of persons and property
in the event of disaster

HER MAJESTY, with the advice and consent of the Assemblée
nationale du Québec, enacts as follows:

CHAPTER I

INTERPRETATION AND APPLICATION

- 1.** In this act, unless the context indicates otherwise,
- “interpretation: director”; (a) “director” means the director of the Bureau de la protection civile du Québec;
- “emergency measures”; (b) “emergency measures” means courses of action to be taken in the event of a disaster to save lives, to come to the assistance of persons in distress, to safeguard property, to abate the effects of the disaster or to remedy losses;
- “Minister”; (c) “Minister” means the Ministre de la justice;
- “disaster”. (d) “disaster” means a grievous event, real or apprehended, caused by fire or by an accident, explosion, natural phenomenon or technical failure, whether or not as the result of human intervention, on such a scale that it causes or is likely to cause the loss of human life, unsafe conditions or personal injury, or extensive damage to property.

CHAPTER II

BUREAU DE LA PROTECTION CIVILE

DIVISION I

ESTABLISHMENT OF THE BUREAU

Estab-
lishment.

2. An administrative body is established under the name of "Bureau de la protection civile du Québec".

Director.

3. The Government shall appoint the director of the Bureau for a term not exceeding five years, and fix his remuneration, social benefits and other conditions of employment.

Term
continued.

The director remains in office after the expiry of his term until he is reappointed or replaced.

Secretary
and staff.

||**4.** The secretary and the other members of the staff of the Bureau are appointed and remunerated according to the Civil Service Act (1978, chapter 15).||

Duties of
director.

5. The director is entrusted with the administration of the Bureau; he shall supervise and direct the staff thereof and, under the authority of the Minister, carry out the functions assigned to the Bureau by this act.

Authority.

The orders of the director must be carried out in the same manner as those of the Minister, and his official signature gives force and authority to every document within the jurisdiction of the Bureau.

Temporary
replace-
ment.

6. If the director is unable to act owing to absence or illness, the Government may appoint another person to replace him temporarily.

Incom-
patibility.

7. The director shall not perform any function incompatible with the performance of the functions vested in him by this act.

Conflict of
interest.

8. The director shall not, on pain of forfeiture of office, have a direct or indirect interest in any undertaking putting his personal interest in conflict with that of the Bureau.

Exception.

However, such forfeiture is not incurred if such an interest devolves to him by succession or gift, provided that he renounces or disposes of it with all possible dispatch.

Immunity.

9. Neither the director nor the members of the staff of the Bureau may be prosecuted for official acts done in good faith in the performance of their duties.

Authenticity and value of documents.

10. A copy of a document forming part of the records of the Bureau, when certified true by the Minister or the director, is authentic and has the same value as the original.

DIVISION II

FUNCTIONS OF THE BUREAU

Functions.

11. The functions of the Bureau are to devise and propose to the Government a policy on disaster prevention and the emergency measures to be taken in the event of a disaster, and to implement such policy and coordinate its carrying out.

Advice to departments, etc.

It shall also advise the departments, the governmental agencies, the municipal corporations and any other person on disaster prevention and emergency measures, and it shall assist them in the event of a disaster.

Activities.

12. For the purposes of section 11, the Bureau

(a) shall make inventories, inquiries and studies in respect of the risks of disaster and the means of preventing them, of resources available in the event of a disaster and of emergency measures;

(b) shall prepare, in collaboration with the departments, governmental agencies, municipal corporations or any other person, a national plan of disaster prevention and emergency measures, as well as regional or local plans and programmes of disaster prevention and emergency measures;

(c) shall inform the population on emergency measures;

(d) shall set up or organize training programmes in emergency measures or approve training programmes prepared and organized by a governmental agency or a municipal corporation;

(e) shall see to the recruitment of volunteers to assist the population in the event of a disaster; and

(f) shall acquire, build or operate on part of the territory of Québec, the equipment necessary for the implementation of the emergency measures in the event of a disaster.

Risks of disaster and plans of disaster prevention.

13. The Bureau may, within such time as it may fix, require that a department, governmental agency, municipal corporation or any other person identify the risks of disaster which may arise from their activities or that may occur in the territory subject to their jurisdiction, submit to it their plans and programmes of disaster prevention and emergency measures, and designate a person responsible for implementing such plans and programmes.

Approval
of plans
and pro-
grammes.

The Bureau, after examining such plans or programmes, may approve them, with such amendments as it considers advisable; it shall integrate them, wholly or partly, into the national emergency plan.

Coopera-
tion with
a govern-
ment,
depart-
ment, etc.

14. To carry out its functions, the Bureau may cooperate with a government, a department, a governmental agency, a municipal corporation or any other person, within or outside Québec, interested in emergency measures.

Agree-
ments.

It may conclude an agreement with them according to law.

Annual
report.

15. Not later than 30 June each year, the Bureau must file with the Minister a report of its activities for the preceding year.

Tabling.

Such report is tabled before the Assemblée nationale within thirty days if it is in session or, if it is not sitting, within thirty days after the opening of the next session or after resumption, as the case may be.

Informa-
tion.

The director must also furnish the Minister with any other information and report the latter may require regarding the activities of the Bureau.

CHAPTER III

STATE OF EMERGENCY

Decree of
Govern-
ment.

16. In the event of a disaster, the Government, if it considers it necessary, may decree a state of emergency throughout Québec or in any part of it for such period as it may indicate not exceeding thirty days. In such a case, the Minister also may exercise this power for a period not exceeding two days, once only.

Decree of
a municipal
council.

17. In the event of a disaster, the council of a municipal corporation or, if it is unable to act rapidly, the mayor may, if it or he considers it necessary, decree a state of emergency throughout the municipality or in any part of it for a period not exceeding twenty-four hours, once only.

Minister
notified.

In all cases, the mayor must inform the Minister as soon as possible of the state of emergency and send him a certified true copy of the decree.

Content of
decree.

18. A decree declaring a state of emergency must indicate the nature of the disaster, the territory that is declared a disaster area, the duration of the decree declaring the state of emergency

and, where such is the case, the main emergency measures envisaged for implementation.

Implement-
tation.

19. The Minister may, when the state of emergency is decreed, require that a department, governmental agency, municipal corporation or any other person implement its or his plan or programme of emergency measures.

Minister
taking
responsi-
bility.

Furthermore, if the state of emergency has been decreed pursuant to section 17, the Minister may, by decree, take the responsibility of implementing the emergency measures or order the Bureau to do so.

Authorized
measures.

20. As soon as the state of emergency has been decreed, the Minister, the director or the mayor shall make all the arrangements necessary for ordering, directing or coordinating the implementation of the emergency measures, and to ensure personal safety and the safeguard of property in the disaster area; for such purpose, he may, in particular, himself or through any person he specially authorizes,

(a) require or authorize the help and assistance of any person according to his means;

(b) authorize a person to enter any place so as to ensure the safety of a person in distress or to protect the property therein;

(c) order a person, within such time as he fixes for him, to evacuate a place that he indicates;

(d) demolish or remove a building or any other property or order a person to do so;

(e) direct or prohibit vehicular or pedestrian traffic;

(f) requisition the property necessary for saving lives or averting unsafe conditions or personal injury, and determine or coordinate the use of such property;

(g) fix the price of the property mentioned in subparagraph f;

(h) provide, where necessary, for the maintenance or restoration of the services he indicates.

Author-
ization.

For the application of subparagraph f, the mayor must obtain the prior authorization of the Minister.

Extension.

21. The Government may, by decree, prolong the state of emergency decreed by the council or the mayor of a municipal corporation, for such period as it may indicate not exceeding thirty days, if it considers that the protection of persons and property requires it. In such a case, the Minister also may decree the prolongation of the state of emergency for a period not exceeding two days, once only.

Tabling of
decree.

22. The Minister must table, before the Assemblée nationale, every decree of the Government declaring a state of emergency, not later than the third day during which the Assemblée sits after the decree is made.

Revocation
of decree.

The Assemblée nationale may, on the motion of a member, revoke a decree so tabled; such a motion shall be given urgent consideration.

Termination.

23. The Government, at any time, by decree, may terminate a state of emergency decreed pursuant to section 16 or 17.

Coming
into force
and
publica-
tion.

24. A decree made under this chapter comes into force upon its adoption and it must be published immediately in the *Gazette officielle du Québec*.

Publicity.

25. The Minister, the director or the mayor, or any person specially authorized by one of them for such purpose, shall publicize the decree, using the best means available to rapidly and effectively inform the population in the disaster area.

Effect.

26. This chapter has effect notwithstanding any incompatible provision of a general law or special act or of a regulation made under such a law or act.

CHAPTER IV

RELIEF FUND FOR PERSONS IN DISTRESS

Establish-
ment.

27. A relief fund for persons in distress is established, entrusted with collecting donations from the public and distributing them to persons who, in Québec or elsewhere, have suffered loss as the result of a disaster.

Corpora-
tion.

28. The fund is a corporation within the meaning of the Civil Code; it is vested with the general powers of such a corporation and with the special powers conferred on it by this act.

Head
office.

29. The head office of the fund is at the place determined by the Government; a notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

Sittings.

The fund may hold its sittings anywhere in Québec.

Adminis-
tration.

30. The fund is administered by three persons including the director; the two other administrators are appointed for a period not exceeding five years by the Government, which shall choose the chairman among them.

Salary and fees.

The Government shall, if necessary, fix the salary, additional salary or fees that may be paid to each of the administrators, as well as their allowances or indemnities.

Term continued.

The administrators remain in office after the expiry of their term until they are reappointed or replaced.

Temporary replacement.

31. If one of the administrators is unable to act owing to absence or illness, the Government may appoint a person to replace him temporarily.

Quorum.

32. Two members constitute a quorum of the fund. In the case of a tie-vote, the chairman has a casting vote.

Personal interest.

An administrator having a personal interest relating to an application for assistance must declare his interest and refrain from participating in the decision, under pain of forfeiture of his office.

Documents authentic.

33. The minutes of the sittings of the fund approved by the administrators, as well as copies or extracts certified true by the chairman or secretary, are authentic.

Fiscal period.

34. The fiscal period of the fund ends on 31 March each year.

Annual report.

35. Not later than 30 June each year, the fund must file with the Minister a report of its activities for the preceding fiscal period. This report is accompanied with a financial report audited by a chartered accountant and includes, in particular, the balance sheet and the statement of receipts and expenditures.

Tabling.

This report must be tabled before the Assemblée nationale within thirty days if it is in session or, if it is not sitting, within thirty days after the opening of the next session or after resumption, as the case may be.

CHAPTER V

FINANCIAL ASSISTANCE

Assistance to municipal corporations.

36. The Government, if it considers it advisable to grant financial assistance to municipal corporations, persons who have suffered loss as the result of a disaster, or to those who provided help and assistance during a disaster, may, with regard to a particular disaster, establish a programme of financial assistance and entrust the Bureau with the administration of that programme.

Workmen's
Compensation
Act
applicable.

37. The Workmen's Compensation Act (Revised Statutes, 1964, chapter 159) applies to a person who takes part in a training programme in emergency measures if that programme is set up, organized or approved by the Bureau. For the application of that act, the Government is presumed to be the employer of that person, unless another person is his employer at the time of the accident.

Compu-
tation of
indemnity.

Unless otherwise provided in that act, the indemnity paid to the person who suffers the accident is computed on the basis of the average weekly earnings derived from his principal employment, but if the indemnity cannot be determined on the basis of the average weekly earnings, the Commission des accidents du travail du Québec shall establish the indemnity in accordance with the method it believes most appropriate in the circumstances.

CHAPTER VI

REGULATIONS

Regula-
tions.

38. The Government, by regulation, may prescribe

(a) the standards regarding the preparation, content, updating or publication of plans and programmes of disaster prevention and emergency measures;

(b) the minimum necessary standards of equipment and service for the implementation of a plan or programme of disaster prevention and emergency measures;

(c) the criteria to be taken into account by the Bureau in setting up, organizing or approving training programmes in emergency measures;

(d) the administrative standards of the relief fund for persons in distress as well as the standards regarding the management and distribution of the collected donations; and

(e) any desirable measure for the application of this act.

Draft
regulation.

39. The Government shall publish a draft regulation in the *Gazette officielle du Québec* at least thirty days before adopting it.

Coming
into force.

The regulation comes into force on the day when the Government publishes a notice of its adoption in the *Gazette officielle du Québec* or on any later date indicated in the notice. If the Government has amended the draft regulation, the text of the amendments or the final text of the regulation must be attached to the notice.

CHAPTER VII

GENERAL AND MISCELLANEOUS PROVISIONS

Exoner-
ation.

40. No person taking part in the implementation of emergency measures or a plan or programme of disaster prevention and emergency measures may be held responsible for damage resulting from his participation, if caused in good faith, to another person.

Strike
prohibited.

41. The members of the staff of the Bureau are prohibited from striking.

Laying-off
prohibited

42. Employers are prohibited from dismissing, suspending or transferring an employee or changing his conditions of employment on the ground that he has taken part in the carrying out of emergency measures.

Recourse
under
Labour
Code.

Any infringement of this section is an offence against this act and, furthermore, authorizes the employee to vindicate his rights before a labour commissioner appointed under the Labour Code (Revised Statutes, 1964, chapter 141), on the same grounds as in the case of dismissal, suspension or transfer of an employee for the exercise of a right under the Labour Code. Sections 14 to 19, 103 to 114, 121, 122, 129a and 133 to 135 of the Labour Code then apply, *mutatis mutandis*.

Hindering.

43. No person may hinder a person contemplated in section 20 from carrying out his functions or neglect to obey an order that the Minister, director or mayor, or any person authorized by one of them may give under this act. A person so authorized shall, however, if he is so requested, exhibit a certificate attesting his capacity and bearing the signature of the person who authorized him.

Inquiries.

44. The Minister or the director may directly or through a person designated by him for such purpose, inquire into any matter contemplated in this act and in the regulations; furthermore, the director is bound to inquire into such matters at the request of the Minister and to the extent indicated by the latter.

Powers
and
immunity.

For the purposes of an inquiry, such persons are vested with the powers and immunity of a commissioner appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11), except for the power to impose imprisonment.

Offences
and
penalties.

45. Every person who contravenes any provision of this act or a regulation under this act, or incites a person to do so, is guilty of an offence and liable, in addition to the payment of the

costs, to a fine of not more than \$1 000 in the case of a natural person, or to a fine of not more than \$10 000 in the case of a corporation.

Summary
proceed-
ing.

46. Proceedings are instituted in accordance with the Summary Convictions Act (Revised Statutes, 1964, chapter 35) by the Attorney General or by a person generally on specially authorized by him for such purpose.

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

Staff in
office.

47. The staff of the civil protection service in office at the coming into force of this section become, without other formality, the staff of the Bureau, and the Civil Service Act (1978, chapter 15) applies to that staff without other formality.

R.S., c. 53,
replaced.

48. This act replaces the Civil Protection Act (Revised Statutes, 1964, chapter 53).

Moneys re-
quired.

||**49.** The sums required by the Government for the application of Chapters III and V are taken out of the consolidated revenue fund.

Payment of
expenses.

The other expenses required for the application of this act are paid, for the fiscal periods 1979/1980 and 1980/1981, out of the consolidated revenue fund and, for the subsequent fiscal periods, out of the sums granted every year for such purpose by the Legislature.||

Agreement
continued
in force.

50. Any agreement entered into under the Civil Protection Act remains in force until it is replaced by an agreement entered into under this act.

Minister
responsi-
ble.

51. The Ministre de la justice is entrusted with the administration of this act.

Coming
into force.

52. This act will come into force on a date to be fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force, in whole or in part, on any later date that may be fixed by proclamation of the Government.