

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 94

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

1 9 7 8

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, municipalities and any other person, this Office 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 Office 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 a state of emergency in the event of a disaster in the whole territory of Québec or in any part of it. This bill also proposes the vesting of the same power in the Ministre de la justice but for not longer than two days, and in mayors and municipal corporations for not longer than one or three days, as the case may be.

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 Office or of a mayor and the immunity granted to persons providing help and assistance, as well as the manner of terminating a state of emergency.

This bill also provides for the creation of a Fonds d'aide aux personnes sinistrées, entrusted with collecting donations from the public and distributing them to the persons in Québec or elsewhere who have suffered losses as the result of a disaster.

Bill 94

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

Interpre-
tation:
"director";

1. In this act, unless the context indicates otherwise,
(a) "director" means the director of the Bureau de la protection civile du Québec;

"emer-
gency
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, either real or apprehended, that causes or is likely to cause the loss of human life, unsafe conditions or personal injury, or damage to property.

Strike or
lock-out.

2. For the purposes of this act, a strike or lock-out is not deemed to be a disaster.

CHAPTER II

BUREAU DE LA PROTECTION CIVILE

DIVISION I

ESTABLISHMENT OF THE OFFICE

Establishment. **3.** An administrative body is established under the name of “Bureau de la protection civile du Québec”.

Director. **4.** The Government appoints the director of the Office for a term not exceeding five years; it fixes 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. **5.** The secretary and the other members of the staff of the Office are appointed and remunerated according to the Civil Service Act (1965, 1st session, chapter 14).||

Duties of director. **6.** The director is entrusted with the administration of the Office; he supervises and directs the staff thereof and, under the authority of the Minister, carries out the functions assigned to the Office 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 Office.

Temporary replacement. **7.** If the director is unable to act owing to absence or illness, the Government may appoint another person to replace him temporarily.

Incompatibility. **8.** The director shall not perform any function incompatible with the performance of the functions vested in him by this act.

Conflict of interest. **9.** 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 Office.

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

Immunity. **10.** The director and the members of the staff of the Office shall not be prosecuted for official acts done in good faith in the performance of their duties.

Authenticity and value of documents. **11.** A copy of a document forming part of the records of the Office, when certified true by the Minister or the director, is authentic and has the same value as the original.

DIVISION II

FUNCTIONS OF THE OFFICE

Functions. **12.** The functions of the Office are to elaborate 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 municipalities and any other person on disaster prevention and emergency measures, and it shall assist them in the event of a disaster.

Activities. **13.** For the purposes of section 12, the Office

- (a) shall make inventories, inquiries and studies on the risks of and the means of preventing disasters, on resources available in the event of a disaster and on emergency measures;
- (b) shall prepare, in collaboration with the departments, governmental agencies, municipalities 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 see to the setting up of training programmes regarding emergency measures;
- (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. **14.** The Office may, within such time as it may fix, require that a department, governmental agency, municipality 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 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 programmes. The Office, after examining such plans or programmes, may approve them, with such modifications as it considers advisable;

it shall integrate them, wholly or partly, into the national emergency plan.

15. To carry out its functions, the Office may cooperate with a government, a department, a governmental agency, a municipality or any other person, from Québec or elsewhere, interested in emergency measures.

It may conclude an agreement with them according to law.

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

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.

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

CHAPTER III

STATE OF EMERGENCY

17. In the event of a disaster, the Government, if it deems it necessary, may decree a state of emergency in the whole territory of Québec or in any part or it for such period as it may indicate but which may not be in excess of thirty days. However, the Minister himself may decree a state of emergency for a period not exceeding two days.

18. In the event of a disaster, the council of a municipality may, if it considers it necessary, decree a state of emergency in the whole territory of the municipality or in any part thereof for a period not exceeding three days. However, if the council is unable to act rapidly, the mayor acting alone may decree a state of emergency for a period not exceeding twenty-four hours.

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.

19. A decree declaring a state of emergency must indicate the nature of the disaster, the main emergency measures applicable, the part of the territory of Québec, or of the municipality in the case contemplated in section 18, that is declared a disaster area, and the expected duration of the state of emergency.

Implementa-
tion.

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

Minister
taking
responsi-
bility.

Furthermore, if the state of emergency has been decreed pursuant to section 18, the Minister may, by decree, take the responsibility of applying the emergency measures or order the Office to do so.

Authorized
measures.

21. 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 or confiscate the property necessary for saving lives or averting unsafe conditions or personal injury, determine or coordinate the use of such property and, if need be, fix the price thereof;

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

Extension.

22. The Government may, by decree, prolong the state of emergency decreed pursuant to section 18 if it considers that, at the expiry of the time provided for in the decree, the protection of persons and property requires it.

Termina-
tion.

23. The Government may, by decree and at any time, terminate the state of emergency decreed pursuant to section 17 or 18.

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

FUND FOR PERSONS IN DISTRESS

Establishment. **27.** A Fonds de secours aux personnes sinistrées 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.

Corporation. **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.

Administration. **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 chooses, among them, the president.

Salary, etc. The Government fixes, as the case may be, 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
year.

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

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.

CHAPTER V

FINANCIAL ASSISTANCE

Assistance
to municipi-
palities,
etc.

36. The Government, if it considers it advisable to grant financial assistance to municipalities, 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 office with the administration of such programme.

CHAPTER VI

REGULATIONS

Regula-
tions.

37. The Government may make regulations

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

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

(c) determining the training programmes that may be attended by a person interested in emergency measures;

(d) determining the administrative standards of the Fonds de secours aux personnes sinistrées as well as the standards regarding the management and distribution of the collected donations;

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

Draft
regulation.

38. 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 in the *Gazette officielle du Québec* a notice of its adoption or on any later date indicated in the notice. If the Government has amended the draft regulation, the text of such amendments or the final text of the regulation is attached to the notice.

CHAPTER VII

GENERAL AND MISCELLANEOUS PROVISIONS

Exonera-
tion.

39. Every person taking part in a training programme respecting emergency measures, the implementation of emergency measures or a national, regional or local plan or programme of disaster prevention and emergency measures shall not be held responsible for any damage resulting from his participation, if caused in good faith, to another person.

Strike
prohibited.

40. Strikes are prohibited for the staff members of the Office.

Laying-off,
etc.,
prohibited.

41. An employer is forbidden to dismiss, suspend or transfer an employee or modify his conditions of employment owing to the participation of the latter in the implementation of emergency measures.

Recourse
under
Labour
Code.

Any infringement of this section is an offence against this act and, furthermore, authorizes an 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 a dismissal for union activities. Sections 14 to 19, 103 to 114, 121, 122 and 133 to 135 of the said Code then apply, *mutatis mutandis*.

Hindering,
etc.

42. No person may hinder a person contemplated in section 21 from carrying out his functions or neglect to obey an order that the Minister, director, mayor, or any person they authorize, 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. **43.** The Minister or director may themselves or through a person they designate 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. **44.** Every person who contravenes any provision of this act or a regulation hereunder, 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, and to a fine of not more than \$10 000 in the case of a corporation.

Summary proceeding. **45.** Proceedings are instituted in accordance with the Summary Convictions Act (Revised Statutes, 1964, chapter 35) by the Procureur général or by a person generally on specially authorized by him for such purpose.

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

Staff in office. **46.** 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 Office, and the Civil Service Act (1965, 1st session, chapter 14) applies to such staff without other formality.

R.S., c. 53, replaced. **47.** This act replaces the Civil Protection Act (Revised Statutes, 1964, chapter 53).

Moneys required. **48.** The sums required 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 years 1978/1979 and 1979/1980, out of the consolidated revenue fund and, for the subsequent fiscal years, out of the sums granted every year for such purpose by the Legislature.||

Agreement continued in force. **49.** 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
responsible.

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

Coming
into force.

51. 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, wholly or partly, on any later date that may be fixed by proclamation of the Government.