



Province of Alberta

EMERGENCY MANAGEMENT ACT

DISASTER RECOVERY REGULATION

Alberta Regulation 51/1994

With amendments up to and including Alberta Regulation 196/2006

Office Consolidation

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Alberta Queen's Printer
7th Floor, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

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(Consolidated up to 196/2006)

ALBERTA REGULATION 51/94
Emergency Management Act
DISASTER RECOVERY REGULATION

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Definitions

1 In this Regulation,

- (a) "compensation" means
 - (i) compensation by payment or in another form for damage or loss caused by a widespread disaster or a localized disaster, or
 - (ii) a payment for costs incurred by a local authority or the Government of Alberta in conducting emergency operations;
- (b) "Director" means the Director of the Disaster Recovery Branch of the Alberta Public Safety Services Agency;
- (c) "disaster recovery program" means a program of the Government of Alberta intended to respond to the needs of a large number of people, businesses or municipalities affected by a disaster or to restore the operations of the Government of Alberta affected by a disaster;

- (d) “localized disaster” means a disaster
 - (i) that has threatened the economic viability of a small number of people, businesses or municipalities,
 - (ii) the cause of which was extraordinary, and
 - (iii) that has caused damage or loss for which insurance was not readily and reasonably available before the disaster occurred;
- (e) “widespread disaster” means a disaster for which a disaster recovery program has been approved under section 4.

Guidelines

2 The Minister may establish guidelines that

- (a) govern the assessment of damage or loss caused by a disaster,
- (b) govern what damage or loss caused by a disaster or costs incurred in emergency operations may be compensated, and
- (c) establish limits on the amount of compensation that may be provided to an applicant.

Limits on compensation

3 No compensation may be provided

- (a) for damage, loss or costs that are
 - (i) an ordinary or normal risk of a business, trade, calling or occupation,
 - (ii) loss of income,
 - (iii) interest charges on loans and overdue accounts, or
 - (iv) normal operating expenditures;
- (b) to restore property to a level that exceeds its condition before a disaster.

Widespread disaster

4(1) The Minister may approve a disaster recovery program in respect of a disaster if the Minister is satisfied that

- (a) the disaster has caused widespread damage to property, and
 - (b) the cause of the disaster was extraordinary.
- (2) A disaster recovery program may include
- (a) terms and conditions for providing compensation,
 - (b) the forms in which the compensation may be provided, and
 - (c) special provisions dealing with the assessment of damage and loss.
- (3) The Managing Director is responsible for the administration of a disaster recovery program in respect of a widespread disaster.

Compensation for localized disaster

- 5(1)** A person may apply to the Director for compensation for damage or loss caused by a localized disaster.
- (2) The Director may provide compensation to an applicant under this section if
- (a) the applicant
 - (i) has suffered damage or loss caused by a localized disaster, and
 - (ii) is eligible to receive the compensation under section 9,
- and
- (b) the provision of compensation is approved by the Managing Director.
- (3) If the Director is not satisfied that an applicant meets the requirements of subsection (2)(a), the Director must provide the applicant with a written notice that sets out the reasons for the decision.
- (4) If the Managing Director does not approve the provision of compensation under subsection (2)(b), the Managing Director must provide the applicant with a written notice that sets out the reasons for the decision.

Compensation for emergency operations costs

6(1) A local authority or the Government of Alberta may apply to the Director for compensation for costs incurred in conducting emergency operations.

(2) The Director may provide compensation to an applicant under this section if

(a) the applicant

(i) has incurred costs in conducting emergency operations, and

(ii) is eligible to receive the compensation under section 9,

and

(b) the provision of compensation is approved by the Managing Director.

(3) If the Director is not satisfied that an applicant meets the requirements of subsection (2)(a), the Director must provide the applicant with a written notice that sets out the reasons for the decision.

(4) If the Managing Director does not approve the provision of compensation under subsection (2)(b), the Managing Director must provide the applicant with a written notice that sets out the reasons for the decision.

Review of Director's decision

7(1) An applicant who receives the Director's notice referred to in section 5(3) or 6(3) may request the Managing Director to review the decision of the Director set out in the notice.

(2) The applicant must submit the request for the review within 21 days after the applicant receives the Director's notice.

(3) The Managing Director in conducting the review may consider recommendations from the Disaster Recovery Committee established under section 5 of the Act and may confirm the Director's decision or determine that the applicant has met the requirements of section 5(2)(a) or 6(2)(a).

(4) The Managing Director must provide the applicant with a written notice that sets out the reasons for the decision.

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Appeal of Managing Director's decisions

- 8(1)** An applicant who receives the Managing Director's notice referred to in section 5(4), 6(4) or 7(4) may appeal the decision of the Managing Director set out in the notice to the Minister.
- (2)** The applicant must submit the request for the appeal within 30 days after the applicant receives the Managing Director's notice.
- (3)** The Minister may confirm the Managing Director's decision or direct that compensation be provided to the applicant.
- (4)** The Minister must provide the applicant with a written notice that sets out the reasons for the decision.

Eligibility requirements

- 9** An applicant is ineligible to receive compensation for damage or loss caused by a widespread or localized disaster or for costs incurred in conducting emergency operations if
- (a) the damages, loss or costs could have been reasonably prevented,
 - (b) insurance for the damage, loss or costs was reasonably and readily available before the disaster or emergency occurred,
 - (c) there is a substantial likelihood that the damage, loss or costs could be recovered through legal action, or
 - (d) the full amount of the damage, loss or costs is available under other Government of Alberta programs.

Public interest exception

10 Notwithstanding any provision of this Regulation, the Minister may direct that compensation be provided to a person who suffered damage or loss caused by a disaster or to a local authority or the Government of Alberta that incurred costs in conducting emergency operations if, in the Minister's opinion, it is in the public interest to provide the compensation.

Subrogation

- 11(1)** In this section,
- (a) "Crown" means Her Majesty the Queen in right of Alberta;
 - (b) "payment" means a payment authorized by the Alberta Public Safety Services Agency or the Minister to

compensate for damage or loss caused by a disaster or for the purpose of sharing costs incurred by a local authority in conducting emergency operations;

- (c) “third party” includes a department, division or agent of the Government of Alberta other than the Alberta Public Safety Services Division.

(2) This section applies to payments made under the *Disaster Assistance Regulation* (Alta. Reg. 321/85) in 1992, 1993 and 1994 and to payments made under this Regulation.

(3) Where a payment is made to a person who suffered damage or loss or to a local authority that incurred emergency operation costs, the Crown is subrogated for the amount of the payment to all of the rights and causes of action that the person or local authority who received the payment has against a person who caused or contributed to the cause of the disaster or emergency.

(4) The Crown may maintain an action under subsection (3) in the name of the person or local authority who received the payment or in the name of the Crown.

(5) Where

- (a) a payment is made to a third party who has provided a service or benefit or to allow a third party to provide a service or benefit to a person who suffered damage or loss caused by a disaster,
- (b) the service or benefit has been provided to the person, and
- (c) the service or benefit compensates the person for some of the damage or loss,

the Crown is subrogated for the amount of the payment to all of the rights and causes of action that the person who suffered the damage or loss has against a person who caused or contributed to the cause of the disaster.

(6) The Crown may maintain an action under subsection (5) in the name of the person who suffered the damage or loss or in the name of the Crown.

(7) The Crown’s right of subrogation is not affected by the fact that

- (a) the person who suffered damage or loss has not been fully indemnified for the loss or damage, or
- (b) the local authority that incurred emergency operation costs has not been fully indemnified for those costs.

(8) Evidence by the Crown that a payment was made to a person to compensate the person for damage or loss caused by a disaster is prima facie proof that the person suffered damage or loss caused by a disaster at least in the amount of the payment.

(9) Evidence by the Crown that a payment was made to a local authority for the purpose of sharing costs incurred by the local authority in conducting emergency operations is prima facie proof that the local authority incurred those costs in conducting emergency operations.

(10) Evidence by the Crown that a payment was made to a third party who has provided a benefit or service or to allow the third party to provide a benefit or service to a person who suffered damage or loss caused by a disaster and that the service or benefit has been provided to the person is prima facie proof that

- (a) the third party has provided the service or benefit to the person,
- (b) the person suffered damage or loss caused by the disaster, and
- (c) the service or benefit compensates the person for some of the damage or loss in the amount of the payment.

Transitional

12 Notwithstanding section 13, section 2(2) of the *Disaster Assistance Regulation* (Alta. Reg. 321/85) applies and section 9 of this Regulation does not apply to applications for compensation

- (a) for damage or loss caused by a disaster that occurs before this Regulation comes into force, and
- (b) for the payment of costs incurred in conducting emergency operations that occur before this Regulation comes into force.

Repeal

13 The *Disaster Assistance Regulation* (Alta. Reg. 321/85) is repealed.



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