

LIDSTONE & COMPANY

BARRISTERS AND SOLICITORS

MEMORANDUM

TO: BC Clients
FROM: Lidstone & Company
DATE: June 24, 2020
RE: COVID-19 Emergency Orders Validated
FILE: 99999 - 044

The provincial government has introduced legislation to validate and ultimately phase out the emergency orders made under the *Emergency Program Act*. Attorney General David Eby introduced Bill 19 - 2020, the *COVID-19 Related Measures Act*, for First Reading on June 22.

Two of the various orders validated by the legislation are the M098 which suspends limitation periods and allows local governments (and other statutory decision-making bodies) to alter mandatory time frames in relation to their powers and M139 which exempted local governments from requirements for meetings, hearings and bylaw adoption. M139 was replaced on June 17 by M192.

Although the provincial Ombudsperson reported on June 22 that these two orders M098 and M139 exceeded the authority of the Minister of Public Safety under the EPA, local governments may rely on the validating legislation which has retroactive effect to make it clear that the orders were always valid.

Accordingly, in our view the actions of municipalities and regional districts taken *in accordance with these orders* are valid and decisions made *in accordance with these orders* may not be attacked based solely on the validity of the orders.

In this regard, section 3(1) of the Bill provides that the orders are enacted as a provision of the Act and section 3(3) renders the orders in force and effect as of the date of the relevant provincial declaration of a state of emergency in the case of M139 and as of the date the order was made in the case of M098 and M192. Section 3(11) expressly provides that all of section 3 is retroactive to the extent necessary to give full force and effect to its provisions.

The Bill also provides for the extension of the legal effect of orders made under the EPA in case there is a resurgence of the pandemic in the province, and further provides for unwinding of the orders.

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