

LOCAL STATES OF EMERGENCY – WHAT YOU NEED TO KNOW

CUPE

WHAT IS A MUNICIPAL STATE OF EMERGENCY?

The Emergency Management and *Civil Protection Act* (EMCPA) gives a head of council (i.e. mayor, reeve, or equivalent) the ability to declare a state of emergency “to protect property and the health, safety and welfare of the inhabitants of the emergency area.”

The powers given to mayors in a state of emergency are very broad, but cannot be illegal, and they do not automatically change the terms and conditions of employment or override a collective agreement, as that would violate the Labour Relations Act. It also does not override the minimum standards set out in the Employment Standards Act.

Local state of emergency can be declared by the heads of council for either lower-tier (e.g. a town or city) or upper-tier (e.g. a regional municipality) municipalities, or both. They can be enacted for a specific time period (e.g. 30 days, or last until either the head of council or the Premier of Ontario declares that they are over).

HOW DOES THIS AFFECT OUR COLLECTIVE AGREEMENT?

In the simplest terms, it does not affect your collective agreement. However, a head of council might bring in orders that could temporarily affect certain clauses. This would require them to make orders, for example allowing workers from one bargaining unit to do work normally done by another, changing hours of work, or altering shift patterns.

What should our local do if the employer violates or overrides our CA or the ESA during a state of emergency?

- Keep detailed accounts of how the employer is using any powers given to them by an emergency declaration if it results in violations to the collective agreement. This evidence will be vital in any future legal proceedings or in negotiations.
- Demand a written account of why the employer feels it necessary to override the collective agreement.
- Continue to file grievances as normal.
- Inform your CUPE National Staff Representative.

HOW DOES A LOCAL STATE OF EMERGENCY AFFECT EMPLOYMENT STANDARDS?

Broadly speaking, these states do not affect minimum standards as set out in the ESA. However, section 19 of the ESA says that an employer can require an employee to work more than the maximum hours allowed under section 17 of the act, or to work with fewer than the minimum hours free from work required under section 18.

The employer does not have free rein to override those requirements however they wish, though. Such an order can only be for what is necessary to avoid serious interference with the ordinary working of the employer's establishment or operation, and it must be to deal with an emergency, to ensure continued delivery of essential public services in unforeseen circumstances, to ensure continuous processes or seasonal operations in unforeseen circumstances, or to carry out urgent repair work on the employer's plant or equipment.