



**Justice**  
PO Box 2703, Whitehorse, Yukon Y1A 2C6

March 8, 2021

Liz Hanson, Chair Special Committee on Civil Emergency Legislation

**Re: January 18, 2021 - Information Request**

---

In response to the letter of January 18, 2021, seeking information from the Department of Justice to support the work of the Special Committee on Civil Emergency Legislation, the department offers the response presented below.

**1. Have Ministerial Orders been used by the Department of Justice?**

The Department of Justice has drafted each of the 35 Ministerial Orders issued under the *Civil Emergency Measures Act*. This work required solicitor engagement, legislative drafting services and administrative support to advance the Orders in a timely manner during the state of emergency.

Of the 35 Ministerial Orders, four were developed under the leadership of the Department of Justice, specifically:

MO 2020/23 - Civil Emergency Measures Amendment of Government Contract Provisions Order;

MO 2020/24 - Civil Emergency Measures Leases, Approvals and Regulatory Timelines Order;

MO 2020/25 - Civil Emergency Measures Limitation Periods and legislated Time Periods Order; and,

MO 2020/39 – Civil Emergency Measures Virtual Commissioning, Signing and Witnessing Order.

Each of the Orders were designed to alleviate strain on Yukon businesses and individuals, as well as our partner agencies and stakeholders.

**2. How was the department hindered or helped in the *Civil Emergency Measures Act*: Are there any aspects of the current legislation that may have prevented the Department of Justice from reacting as it would have liked during an emergency? Are there any gaps in the legislation?**

At this time we are not able to fully respond to questions that seek to review the application of legislation, as it is too early to fully understand the impacts of using the *Civil Emergency Measures Act*.

A review of our collective response to the pandemic should be completed once the pandemic has ended and we may allocate the time and resources required.

A review should begin by delineating outcomes, issues and successes. The scope can then be fully delineated, researched and analyzed to develop informed solutions. If the analysis suggests that legislation should be amended or new legislation should be prepared, a legislative exercise can be undertaken. Part of this work should include research to consider the approaches taken in other jurisdictions (i.e. jurisdictional scans).

Jurisdictional scans will require engagement with other jurisdictions to gain insight into the scope of their legislation, regulations, policies, procedures, approval processes, and so forth. Not all jurisdictions have a similar legislative context, which makes the need for engagement essential in order to understand the mechanisms used by others to respond to an issue or problem, as well as whether those mechanisms were effective. In other words, relying solely on the laws as they are currently written could result in replicating issues or not addressing the original problem. Further, it should be noted that the state of responses to COVID-19 differs throughout the country. Only once the pandemic is over will we be able to reflect, scope and analyze the challenges in order to develop solutions.

In terms of specific considerations for a review, and in line with a review of legislation (should it be deemed an appropriate mitigation), the Department of Justice would provide three high-level observations at this time. Firstly, reviewing the *Civil Emergency Measures Act* should not be completed in isolation of the *Public Health and Safety Act* and potentially other pieces of legislation, such as the *Summary Convictions Act* and the *Public Service Act*. For example, if the review resulted in the identification of compliance with Orders as an issue, amendments to the *Summary Convictions Act* and/or regulations, and the development of new or alternative education techniques, may be deemed an appropriate mitigation.

Secondly, a review should consider how best to balance risk, with accountability and transparency. The timeline for response should always reflect upon the context of the emergency and provide the flexibility required to respond. This is especially true of emergencies that may impact human health and safety.

Thirdly, emergencies impact the public service and its operation. The mobility of staff during a pandemic is critical to the success of managing a pandemic and providing essential services. Ensuring that the government has the flexibility to act and respond is critical.

**3. Does the department of Justice have any suggestions for improvements to the Civil Emergency Measures Act?**

As stated above, a review of the response to the pandemic through a structured policy process is required in order to identify improvements in a meaningful manner.

In closing, I would like to note that the public service has worked incredibly hard to ensure programs and services are available, in a safe manner, while continuing to advance the government's mandate, and this work is not over. Through all of this work and thanks to the efforts of all Yukoners we have navigated a difficult situation in a controlled manner.

There will be many lessons learned once the pandemic is over and we are provided an opportunity to reflect in a thoughtful and systemic manner.

I trust that this response is of assistance to the work of the Special Committee.

Yours truly,



John Phelps  
Deputy Minister and Deputy Attorney General