

# **Municipal Government Act**

progressive powers for municipalities

## **Fire and Emergency Services Guide**

- Topic:** Provisions of the *Municipal Government Act* respecting fire departments and emergency service providers.
- Legislation:** The *Municipal Government Act*  
**Specific:** Part X (Sections 293 to 302)  
**Related:** 3(ac), 3(af), 3(ag), 3(ah), 65(b), 65(h), 71(1)(c), 71(1)(d), 503(3), 504, 505.
- Date Produced:** March 1999
- Produced By:** The Nova Scotia Department of Housing and Municipal Affairs

## **INTRODUCTION**

This guide is prepared for use by municipalities, villages, fire departments, fire district commissions, companies with their own fire brigades and others involved in the provision of fire or emergency services.

It is intended to provide these bodies with the background necessary to work with the *Municipal Government Act* (the "MGA") provisions respecting fire and emergency services. These provisions take effect April 1, 1999.

The *Municipal Government Act* recognizes the importance of the volunteer element in the provision of fire and emergency services. The Act has two principal objectives: to expand municipal authority to assist in the provision of emergency services, and to protect those providing emergency services from liability. Part X of the Act is entitled "Fire and Emergency Services" and most of the provisions described in this Guide are found there.

"Fire services" are services related to the prevention and suppression of fires. "Emergency services" include fire services, but also include search and rescue, water rescue, emergency medical services, and assistance and protection for people and property in the event of disasters such as floods, hurricanes, motor vehicle accidents and chemical spills. Refer to clauses 3 (ac) and 3 (ah) of the MGA for the formal definitions.

Not every department must provide all services. Many fire departments will provide only fire services. Others will provide some additional emergency services. Some emergency service providers will provide one or more of these services, but not fire services. The important point is that it is **always** the decision of the department as to which services will be provided. A department cannot be told what services to provide.

In this bulletin the term "department" is used to apply to all emergency services providers, not just fire departments.

Municipalities and villages continue to be able to provide fire protection themselves or by assisting others to do so. The *Rural Fire District Act* continues to exist and existing fire protection commissions are continued. Volunteer fire departments are encouraged to be bodies corporate--those that are not bodies corporate may want to consider incorporating as a society under the *Societies Act*. Additional information respecting incorporation is provided below, under "**Resources**".

An important change the Act makes is to provide for a municipal registration process for fire departments and other emergency service providers. This guide will provide information on how a registration system might be set up and what type of information a department should consider

in filing its registration. It includes a sample registration form (Addendum "A") and a document

from the office of the Fire Marshal explaining the terms used in the form (Addendum "B").

### **Municipal Role in Registration**

The objective of registration is to ensure the municipality knows who is providing emergency services and that the providers meet some minimum standards. It also lets the municipality know what emergency services are available in the municipality.

*The municipality should establish a registration system for those who provide fire and other emergency services in the municipality by April 1, 1999.* Fire departments and emergency service providers will probably want to take advantage of the benefits of registration (see below) as soon as possible. It may be a very simple registration system to begin with until the municipalities and the departments work together to develop a more complete system.

Since the municipality must be satisfied that the applicant is capable of providing the services it offers to provide, the municipality should adopt some criteria. The criteria could be as simple as a requirement that the department have basic equipment and, unless this is a new department, an established track record of providing the service. A council policy to establish the registry and adopt the criteria is required.

### **Fire Departments' Role in Registration**

Every fire department must register in every municipality in which it provides emergency services on a regular basis. This provision covers all volunteer fire departments as well as fire departments of municipalities, villages and fire commissions such as rural fire districts.

The requirement to register does not apply to departments that are extending mutual aid pursuant to a mutual aid agreement, however, in order to avoid any problem about whether a written mutual aid agreement exists, it is best for a fire department or emergency services provider to register in all municipalities in which it anticipates it will ever provide services--the registration might indicate that for a certain area, the department will respond, if called, and provide the service until the department for the area arrives, at which time, it will provide assistance, if required.

In the case of rural fire districts and separate fire commissions, and perhaps villages and some municipalities, there may be a distinction between the commission, village or municipality and the fire department--that is, the fire department may be a separate incorporated body. If so, it is important for the fire department to register with all relevant municipalities in order to benefit from being a registered fire department. As well, the municipality, village or fire commission should join in the registration to ensure that everyone has the benefit of the provisions in the MGA.

### **Registration Process**

In its simplest form, the municipality creates a record, such as a binder, of registered fire departments

and registered emergency services providers. The criteria for registration could be as simple as a requirement that the department have basic equipment and, unless this is a new department, an established track record of providing the service. A council policy to establish the registry and adopt the criteria is required. A fire department might choose to be registered to provide additional emergency services. Not all emergency services providers will be fire departments. Ground search and rescue is an example.

An **application** for registration must include:

- name of the applicant department
- incorporated status (how it was incorporated, for example *Societies Act*)
- a list of the emergency services the applicant will endeavour to provide and the area in which it will endeavour to provide them.
- a list of the equipment, training or experience that enables the department to provide the service.

When the fire department and the sponsoring municipality, village or commission apply jointly, the same application form would simply be signed by both, and both would be shown as the named applicants.

**One possibility for a more detailed application form is attached.** It was developed by the Office of the Fire Marshal and the Fire Marshal will be talking with the fire departments about it and providing them with information about the standards that it uses.

The municipality must register an applicant if:

- it is a body corporate: normally this is a society under the *Societies Act*, but it includes a body corporate under special legislation (some fire departments are specially incorporated under their own statutes) and the municipality itself; it also includes some companies that have their own fire departments, other municipalities, rural fire districts and villages
- the municipality is satisfied it is capable of providing the services it intends to provide
- it carries the level of public liability insurance prescribed by the municipality
- it does not provide fire services for profit (although it may be in business for other purposes; this provision permits the registration of corporate fire departments such as those maintained by some large industries)

- the municipality does not itself provide the same services in the same area.

Registration continues in effect until withdrawn by the municipality for cause or on the request of the department. That is, once a department is registered it does not have to register again. It is a one-time application. Of course, every time a department changes the services it provides it should update its registration to ensure continuing liability protection, and other information may change and have to be updated.

Registered fire departments and other emergency service providers are not agents of the municipality and are not required to borrow from the Municipal Finance Corporation.

### **Benefits of Registration**

Registration confers certain benefits on the fire department or other provider of emergency services. The municipality may, if it chooses to do so, grant money to, lend money to, or guarantee a loan for a registered department. A municipality may grant or lend assets to a registered department without charge. Thus, if a municipality owns a facility it could provide space for the fire department in it, and it could also buy fire fighting equipment and allow the department the use of it without charge. The same benefits apply to other emergency service providers.

In addition, registered fire departments and emergency service providers, and their members, are not liable for an act or omission in providing a service unless they are grossly negligent (S. 300). No one can sue any member of a registered fire department or emergency services provider for negligence in providing emergency services (S. 301). If there is any liability, it is up to the department to pay. *The individual members have no liability.* These protections extend to a municipality, village and fire protection district, as well.

Municipalities also have the discretionary power to grant an exemption from taxation for the property of a registered fire department that is used directly and solely for community purposes or fund raising activities of the fire department: 71 (1) (c). This benefit is available only to registered fire departments and registered emergency service providers (71 (1) (d)).

### **Municipal Policies**

Municipalities may establish policies for fire departments and emergency services providers within strict limits:

- requirements and procedures for registration, which may include whether it requires

- the department to carry liability insurance
- personnel policies (municipal employees only)
- the manner of accounting to the municipality for the use of funds provided by the municipality
- requiring every department to have an annual public meeting to report to the public respecting the services provided.

The council may require proof that the department has followed its policies before giving it any money. Only the registration process must be established by April 1. Other issues can be dealt with over time.

Municipalities have some expanded expenditure authority with respect to fire departments, including the power to pay for liability insurance for volunteer members of fire departments and other volunteers and training expenses for volunteers: 65 (b), (h). Municipalities may exercise the same powers to assist emergency service providers.

### **Emergency Procedures**

When a fire or other emergency occurs, the fire chief or other officer in charge, and those operating under that officer's direction, have the powers necessary to respond to the emergency. There does not have to be proof of a fire or other emergency if an alarm has been given or there is other reason to believe an emergency may exist.

Members of a fire department authorized by the fire chief may enter any premises for the purpose of determining if there are any unsafe conditions (S. 298). See Section 503 (3) for the general powers of inspectors, and 504 for limitations of liability in connection with inspections.

Interfering with any member of a department attempting to cope with an emergency, or with any emergency equipment, is an offence. Offences are punishable by fines of not less than \$100.00 nor more than \$10,000.00 (Ss. 299 and 505).

Mutual aid and similar cooperation agreements are authorized. When responding to a mutual aid call, pursuant to a mutual aid agreement, a fire department or other emergency services provider has the same protection against lawsuits as a registered department even if it is not registered in the municipality provided that the department it is coming to assist is registered. As noted, it would be prudent for a department to register with every municipality in which it is likely to provide services to save having to prove the existence of a mutual aid agreement.

### **Rural Fire District Commissions--Freedom of Information and Protection of Privacy**

As indicated above, rural fire district commissions continue to exist. As bodies that are supported, at least in part, by taxes, they have been treated as public bodies under the new freedom of information and protection of privacy provisions that are included in the MGA.

Part XX of the *Municipal Government Act*, concerning Freedom of Information and Protection of Privacy, applies to "municipalities". For the purposes of Part XX, municipalities include service commissions. Rural fire district commissions and other fire protection commissions with taxing powers fall within the definition of service commissions in Section 3. Accordingly, they are municipalities for the purposes of Part XX and accordingly must respond to applications for access to their records in the same way as other municipalities. Part XX provides comprehensive rules for both freedom of information and protection of individual privacy.

### **Resources**

Handbooks respecting Part XX of the MGA (freedom of information and protection of privacy) have been prepared. The handbooks will probably answer most common questions. Fire commissions are on the mailing lists for the handbooks. It is expected that municipal units will receive more information requests than fire commissions will, so for assistance with a particular request, a fire commission may wish to contact the local municipal unit; or the commission may contact the Director of Communications at the Department of Housing and Municipal Affairs. Her phone number is (902) 424-6336.

Questions respecting registration as a society under the *Societies Act* should be directed to:

Registrar of Joint Stock Companies

P. O. Box 1529

Halifax, Nova Scotia

B3J 2Y4

Tel: (902) 424-7770

Fax: (902) 424-4633

web site address is: <http://www.gov.ns.ca/bacs/rjsc>

### **Please Note**

The reader is cautioned that preparation of a guide containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act*, other relevant statutes and to legal advisors.

## **Application for Registration as a Fire Department or Emergency Services Provider under the Municipal Government Act**

Municipal Unit: \_\_\_\_\_  
Department Name: \_\_\_\_\_  
Contact/Address: \_\_\_\_\_  
Incorporated body under: \_\_\_\_\_  
Required Insurance Held: \_\_\_\_\_  
Communities or area protected by this registration: \_\_\_\_\_

Please indicate the service that the department will endeavour to provide and the level of service by placing an X in the appropriate box.

1.	<b>Fire and Fire Related Emergencies</b>	<b>Structural</b> <input type="checkbox"/>	<b>Defensive</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
2.	<b>Medical Emergencies</b>	<b>Registered First Responder</b> <input type="checkbox"/>	<b>Medical Assistance</b> <input type="checkbox"/>	<input type="checkbox"/>
3.	<b>Vehicle Rescue</b>	<b>Technician</b> <input type="checkbox"/>	<b>Operational</b> <input type="checkbox"/>	<b>Awareness</b> <input type="checkbox"/>
4.	<b>Water Rescue</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	<b>Ice Rescue</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	<b>Structural /Excavation Collapse</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	<b>High Angle Rescue</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. **Hazardous Materials**

**Provider**

**Assistance**

9. **Ground Search and Rescue**

10. **Other:** Man made and natural disasters for which the service has the training, equipment and command system to undertake.

**Please refer to the "Evaluation of Services Provided and Level of Service" Information attached, in answering the following questions:**

11. Are there limits on the level of service that will be provided in respect to any of the services checked above? If so, please indicate:

12. Does the department have the equipment to perform the services checked above?

13. Does the department have the training or experience necessary to perform the services checked above?

Date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Department Representative  
Signature of Related Body Representative  
(such as rural fire district, Town, village, if applicable)

\_\_\_\_\_  
Signature of Municipal Representative

**Please note:** Explanation of the terminology used in this registration form is provided in the attached message from the Fire Marshal (Addendum "B"). To register, a department must be incorporated and hold any valid liability insurance that is required by municipal policy. The department must operate on a not-for-profit basis. The registration does not make the department an agent of the municipality. This registration may be modified by notifying the municipality thirty days in advance. The municipality may revoke this registration for cause.

## Addendum "B"

### **Evaluation of Services Provided and Level of Service for Use with Application for Registration as a Fire Department or Emergency Services Provider under the Municipal Government Act**

#### **Information From the Office of the Fire Marshal**

The registration of a fire department or emergency services provider is a replacement for the fire wards system. The process recognizes that fire departments may carry on a wider variety of services than under the previous Act.

The following is a direct quote from National Fire Protection Association Standard 1500:  
**Spelling out the specific parameters of services to be provided allows the fire department to plan, staff, equip, train, and deploy members to perform these duties. It also gives the governing body an accounting of the costs of services and allows it to select those services they can afford to provide. Likewise, the governing body should identify services it cannot afford to provide and that it cannot register the department to deliver.**

There are a number of fire departments who have expressed concern that they could be prevented from attending at emergencies in their communities. The registration should not therefore be an all or nothing situation. The responding department may not have the training, equipment or command system to fully handle the situation. The department may, however, be able to provide assistance to the victims until more qualified help does arrive. This level of service can be indicated upon registering, in a letter form or on the registration form, by a note indicating a limit on the level of service to be provided, or by a note stating what, in the definitions provided below, will not be provided.

To assist the fire service and the municipal units, the Office of the Fire Marshal has developed a registration form that includes a check list for services and level of abilities. This check list was developed with the assistance of the Fire Officers Association directors. The use of this form is not compulsory. Each municipality may develop its own registration process in accordance with the *Municipal Government Act*, although it is noted that it is the desire of the fire service advisory group that there should be one common system rather than 55.

**The Office of the Fire Marshal will not be evaluating fire departments; the registration process is between the municipality and the fire department.**

The standards selected are from the National Fire Protection Association 1500 standard for Firefighter Occupational Health and Safety. The key to this standard is that, "no activity is undertaken unless the benefit outweighs the risk", for example, items such as a minimum four

person crew for interior attack should be followed except where a rescue of someone inside the building is possible. The NFPA 1500 document should be the corner stone upon which each fire department attempts to meet the highest standard of safety. There are sections such as physical fitness requirements and recruiting that may require a different approach by the fire department.

### **Definition of Terms Used in the Registration Form**

#### **1. Fire and Fire Related Emergencies:**

**Structural:** means the activities of rescue, fire suppression, and property conservation in buildings, enclosed structures, vehicles, vessels, or like properties that are involved in a fire or emergency situation. Departments should have firefighters trained to NFPA 1001, protective personal equipment, down alarms, accountability system, adequate water supply, pumping capacity and an incident command system. Departments should also have the proper training and protective clothing for wild land fires in accordance with the Department of Natural Resources' provincial standard. Shipboard firefighting, if provided, should be carried out following the NFPA standard 1405 1996 Edition Guide for Land-Based Fire Fighters Who Respond to Marine Vessel Fires. Protection of Aircraft at airports by volunteers, if provided, should be in accordance with Transport Canada guidelines.

**Defensive:** means actions that are intended to control a fire by limiting its spread to a defined area, avoiding the commitment of personnel and equipment to dangerous areas. Defensive operations are generally performed from the exterior of structures and are based on a determination that the risk to personnel exceeds the potential benefits of offensive actions. Fire departments without the ability to carry out structural firefighting may register as providing property protection through defensive strategies. Rescue may be undertaken if the benefit warrants the risk. Departments should have proper training and protective clothing for wild land fires in accordance with the Department of Natural Resources' provincial standard.

**N/A:** means the department does not respond to these calls.

#### **2. Medical Emergencies:** response to known medical emergencies.

**Registered First Responder:** means responders registered with the Department of Health through EHS first responder program and respond to medical calls or provide medical assistance at the scene of an incident.

**Medical Assistance:** means responders who have standard or emergency first aid and respond to medical emergencies or provide medical assistance at a response incident. Equipment includes a first aid kit.

#### **3. to 7. The following terminology is used in respect to vehicle rescue, water rescue, ice rescue, structural/excavation collapse and high angle rescue:**

These activities should be carried out in accordance with NFPA 1670 Standard for Rescue, 1999. Generally these terms mean:

**Technician:** First responders at the technicians level are those persons who respond, as either initial call out or as a mutual aid response to contain and control the incident. This level of service usually will provide a high degree of intervention

**Operations:** First responders at the operations level are those persons who respond as the initial response to an incident for the purpose of protecting nearby persons, the environment, or property from the effects of the incident. First responders at the operations level are expected to respond in a defensive fashion to control, prevent a worsening of the incident and provide services within their capabilities.

**Awareness:** First responders at the awareness level are those persons who, in the course of their normal duties, could be the first on the scene of an emergency. First responders at the awareness level are expected to recognize the situation, call for trained personnel, secure the area and provide minimum intervention.

Refer to Standard 1670, but, for example, these terms mean:

**3. Vehicle Rescue:** means removal of victims from a vehicle following an accident. This may require elaborate or simple tools and knowledge depending upon the incident. The first responder should be aware of the departments abilities and when it is necessary to request a higher level of service.

**Technician:** properly maintained complete set of heavy hydraulic extrication equipment and associated spreaders, cutters, rams, chains, cribbing etc. and trained as a team to use the equipment, recognize hazards and protect the victim.

**Operations:** properly maintained hand tools, manual hydraulic tools, air tools and trained as a team to use the equipment, recognize hazards and protect the victim.

**Awareness:** Does not have the equipment for extrication but does respond to motor vehicle accidents.

**4. Water Rescue:** means rescue of individuals from rivers, lakes, ponds, and may include body retrieval.

**Technician:** survival suits, water rescue kit, if diving is provided-- appropriate equipment for conditions, a boat including life jackets. Training to a level for the service provided, either surface rescue or diving. Ropes and other similar equipment should meet NFPA 1983 Standard on Fire Service Life Safety Rope and System Components 1995 Edition.

**Operations:** approved life jackets for each rescuer, throw ropes, life ring with rope, a boat. Training should include boating safety. Ropes and other similar equipment should meet NFPA 1983 Standard on Fire Service Life Safety Rope and System Components 1995

Edition.

**Awareness:** Responds but does not have the equipment or training.

**5. Ice Rescue:** Rescue of individuals from extremely cold water or ice

**Technician:** full ice rescue kit including floatation suit and ice board or equivalent. Training for cold water rescue. Ropes and other similar equipment should meet NFPA 1983 Standard on Fire Service Life Safety Rope and System Components 1995 Edition.

**Operations:** approved life jackets for each rescuer, throw ropes, life ring with rope. Trained respecting safety of rescuer and victim. Ropes and other similar equipment should meet NFPA 1983 Standard on Fire Service Life Safety Rope and System Components 1995 Edition.

**Awareness:** Responds but does not have the equipment or training.

**6. Structural/ Excavation Collapse:** rescue of persons for collapsed ditches, etc. or collapsed structures. There are five levels of service--each department should examine the document to determine their own level of ability.

**Technician:** providing this service should meet the full requirements of NFPA 1670.

**Operations:** provides a medium level of service in accordance to NFPA 1670.

**Awareness:** assists visible victims; prevents further collapse.

**7. High Angle Rescue:** Rescue of persons from building faces, cliffs trees or other locations where individuals must be lowered or raised by the rescuer.

**Technician:** equipment recommended by and training provided by a recognized high angle rescue organization.

**Operations:** Ropes and other similar equipment should meet the NFPA Standard, gloves, protective clothing required for the particular incident. Training on knot tying.

**Awareness:** secures the scene, stabilizes the incident.

**8. Hazardous Materials:** Response to chemical incidents.

All levels should be in accordance with NFPA 472 1997 Edition Standard on Professional Competence of Responders to Hazardous Materials Incidents. Fuel spills such as oil, gas and

diesel may be handled by all three levels if the spill is minor and stabilized. There is a wide range of service, from a domestic oil spill to an upset gasoline tanker. The important fact is knowing the departments limitations.

**Technician:** Hazardous materials technicians are those persons who respond to releases or potential releases of hazardous materials for the purpose of controlling the release. Hazardous materials technicians are expected to use specialized chemical protective clothing and specialized control equipment.

**Operations:** First responders at the operations level are expected to respond in a defensive fashion to control the release from a safe distance and keep it from spreading.

**Awareness:** First responders at the awareness level are those persons who, in the course of their normal duties, could be the first on the scene of an emergency involving hazardous materials. First responders at the awareness level are expected to recognize the presence of hazardous materials, protect themselves, call for trained personnel and secure the area.

**9. Ground Search and Rescue:** self explanatory.

**Provider:** meets the Nova Scotia Emergency Measures Organization's provincial standard for SAR teams.

**Assistance:** members are under the control of a SAR team.