

Office of the Fire Commissioner



Building and Fire Safety Section

Local Assistants and Section 23(3) Delegation of Authority- Identification

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OFC 16-002

What is the purpose of this bulletin?

The purpose of this bulletin is to inform local authorities, local assistants and individuals delegated authority by the local assistant under section 23(3) of *The Fires Prevention and Emergency Response Act* (FPERA), that the appointment of any person to the position of local assistant, or those delegated authority by the local assistant, and operating within the provisions of the FPERA, is under the direction and supervision of the local authority.

In accordance with section 23(2) of the FPERA, local authorities must notify the OFC, as soon as is practicable, the name of each person who is appointed to the role of local assistant (see Appendix A), or those delegated any part of that role (see Appendix B). It is the responsibility of the local authority to then issue official identification to those persons so designated.

Definitions:

The FPERA provides the following definitions that apply to this bulletin:

"designate" means a deputy fire commissioner, an assistant fire commissioner, a designated inspector and a local assistant, and includes a person exercising a delegated power, duty or function under subsection 23(3).

"local authority" means

- (a) a municipality;
- (b) an incorporated community established or continued under *The Northern Affairs Act*;
- (c) in the part of Northern Manitoba — as defined in section 1 of *The Northern Affairs Act*— that is not within the boundaries of an incorporated community, the minister appointed to administer *The Northern Affairs Act*; and
- (d) a local government district.

Identification

8 The fire commissioner or designate entering on land or premises under section 6 or 7 must produce identification when requested to do so.

Local assistants23(1) The following persons are local assistants under this Act:

- (a) the chief of the fire department of a local authority, or for a local authority that does not have a fire department,
 - (i) the chief administrative officer, in the case of a municipality,
 - (ii) the community administrative officer, in the case of an incorporated community established or continued under *The Northern Affairs Act*,
 - (iii) the person designated by the minister responsible for the administration of *The Northern Affairs Act*, in the case of an area in Northern Manitoba that is not within the boundaries of an incorporated community,
 - (iv) the resident administrator, in the case of a local government district;
- (b) a person designated in writing as a local assistant by the fire commissioner.

Reporting by local authority

23(2) A local authority must report the following to the fire commissioner's office as soon as practicable after it occurs:

- (a) a change in its local assistant;
- (b) a delegation of the role of local assistant under subsection (3), and the name of each person who is delegated the role of local assistant or any part of that role.

Local assistants may delegate to other employees

23(3) A local assistant described in clause (1)(a) may delegate his or her powers, duties and functions under this Act to another employee of the local authority.

Limitations

23(4) The delegation must be made in writing and is subject to the limitations and conditions that are prescribed or set out in the delegation.

Why is identification of a “designate” important?

There are two ways in which a person becomes a “designate” authorized to perform these duties. The first is by way of being appointed as the local assistant by virtue of their position. The second is by having the local assistant delegate that role or any part of that role to another employee of the local authority. In both cases these individuals report to the local authority who is responsible for their performance and the supervision of their duties.

Section 8 of the FPERA requires any “designate” entering on land or premises for the purpose of investigating the cause, origin and circumstances of a fire that has occurred, or to conduct a fire safety inspection of a dwelling, to produce identification when requested to do so.

Under the FPERA, both local assistants and those with delegated powers by the local assistant, meet the definition of “designate” and therefore they are both required to have appropriate and proper identification.

Section 8 of the FPERA does not require that identification be issued by the Office of the Fire Commissioner. Since those individuals are employees of the local authority, it is the local authority who bears the responsibility for their local assistant and anybody delegated that role or any part of that role by the local assistant. Therefore, it is appropriate for the local authority to issue the required identification as it more accurately reflects the relationship between the local authority and their local assistant and their section 23(3) delegate.

If we have any questions regarding this process, who should we contact?

Questions regarding official identification may be directed to the Building and Fire Safety Section of the Office of the Fire Commissioner by email at firecomm@gov.mb.ca or by phone at (204) 945-3322.

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