

CYCLONE DISASTER EMERGENCY ORDINANCE 1975

541

No. 1 of 1975

An Ordinance to provide for the Taking of
Emergency Measures in relation to the Disaster caused by
Cyclone "Tracy"

[Assented to 9 January 1975]

BE it ordained by the Legislative Assembly for the Northern Territory
of Australia as follows:

1. This Ordinance may be cited as the *Cyclone Disaster Emergency Ordinance 1975*. Short Title

2. The provisions of this Ordinance, other than sections 3 and 15, shall cease as a law of the Territory on such date as is fixed by the Administrator in Council by notice published in the *Gazette*, or 31 March 1975, whichever is the earlier, and those provisions shall, on that date, be regarded as having been repealed. Duration of Ordinance

3.(1) An officer or employee of the Australian Public Service or of the Public Service of the Northern Territory, a member of a Police Force or of the Defence Force, an officer of the Corporation of the City of Darwin or a person acting under instructions from any of those persons who acted in rendering assistance in relation to the cyclone disaster during the period that commenced on 25 December 1974 and ended on the date of commencement of this Ordinance shall not, by reason of anything done by him, be liable in any proceedings if the doing of that thing could validly have been done had this Ordinance been in force during that period and he had authority under this Ordinance. Action before Ordinance commenced

(2) A person referred to in sub-section (1) who had acted in rendering assistance in relation to the cyclone disaster during that period shall be deemed to have been an authorized person within the meaning of this Ordinance as if this Ordinance had been in force during that period.

(3) Where, during the period that commenced on 25 December 1974 and ended on the date of commencement of this Ordinance, a person referred to in sub-section (1) who had, in rendering assistance

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in relation to the cyclone disaster, done any act or thing that could have been validly done if this Ordinance had then been in force and he had authority to do so under this Ordinance, that act or thing shall be deemed to have been done as validly and effectually, and he shall be deemed to have been validly authorized to do so, as if this Ordinance had been in force.

Ordinance not
to derogate
from other
consistent
powers

4.(1) All powers given by or in pursuance of this Ordinance or the regulations are, subject to this section, in addition to and not in derogation of any other powers exercisable apart from this Ordinance or the regulations.

(2) Where a provision of this Ordinance or of a regulation under this Ordinance is inconsistent with another law of the Territory, the provision of this Ordinance or that regulation shall prevail.

Definitions

5. In this Ordinance, unless the contrary intention appears—
“authorized person” means a person authorized under section 9;

“cyclone disaster” means the loss of or damage to property, loss of life or injury to persons resulting from cyclone “Tracy” that struck Darwin and environs on 25 December 1974, and the danger to safety or further damage or loss as a consequence;

“Deputy Director” means a person to whom the Director has delegated a power or function under section 8;

“Director” means the person for the time being appointed under this Ordinance as the Director of Emergency Services;

“member of the Police Force” means a member of the Police Force of the Northern Territory, of another Territory or of a State or of the Commonwealth Police.

Director of
Emergency
Services

6.(1) There shall be a director of Emergency Services who shall be appointed by the Administrator in Council.

(2) The Director shall hold office during the pleasure of the Administrator in Council.

Director, Deputy
Director or
authorized
persons to be
subject to
direction of
Administrator in
Council

7. The Director, a Deputy Director or an authorized person shall, in respect of his powers and functions under this Ordinance, be subject to the direction of the Administrator in Council.

Director may
delegate, &c.

8.(1) The Director may, by instrument in writing, delegate to one or more persons all or any of his powers and functions under this Ordinance (except this power of delegation or a power under section 10(1))

(f) and (h), and in relation to such area of the Territory or elsewhere, or class of matters, as he determines in respect of that delegation.

(2) A power or function so delegated may be exercised or performed by the delegate accordingly.

(3) A delegation under this Ordinance is revocable at will and does not prevent the exercise of a power or function by the Director.

9.(1) The Director may authorize such persons or persons included in such class or classes of persons as he considers necessary to render assistance in relation to the cyclone disaster. Authorized persons

(2) An authorized person may give such directions to any person as are necessary for giving proper assistance in carrying out or giving effect to the powers of the Director under this Ordinance in connexion with the emergency created by the cyclone disaster.

10.(1) The Director may, for the purposes of dealing with the emergency created by the cyclone disaster— Powers of Director

- (a) give or cause to be given such directions to any person or body as are necessary for the purposes of the exercise of any of his powers under this section;
- (b) enter or authorize the entry into any land, building or structure within the cyclone disaster area;
- (c) cause any road, street, or public place to be closed to traffic or to any persons or class of persons;
- (d) cause to be pulled down, destroyed or removed any buildings or structures that are in a dangerous condition within the cyclone disaster area;
- (e) cause, in the interests of sanitation or safety, any animal not under the care and control of a person, or any living or dead vegetation, meat or fish within the cyclone disaster area to be destroyed or removed from the area;
- (f) requisition or authorize the requisition of any real or personal property, whether within or outside the cyclone disaster area;
- (g) control, including the shutting off of, the supply of water or electricity within the cyclone disaster area;
- (h) order and arrange for the closing of any building or place within the cyclone disaster area for such period as he determines and the removal of persons, animals and goods from the building or place;
- (i) cause to be set up first-aid posts and welfare centres for the relief of distressed persons, including accommodation

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for the homeless by billeting, quartering or otherwise and whether within or outside the Territory;

- (j) require persons to submit to vaccinations and inoculations as he thinks fit and cause any person who refuses so to submit to be forceably evacuated;
- (k) arrange for suppression of disease and pests and immunization against disease;
- (l) control the conservation and supply (including rationing and rent or price control) of food, petrol or other fuel, building material, bedding, clothing, first-aid and medical supplies and other necessities;
- (m) authorize the carrying out of works, clearing of streets and premises and disposal of dangerous structures and materials;
- (n) regulate, including prohibit, the movement of goods into or out of the cyclone disaster area;
- (o) control the entry of persons into, or the departure from, the cyclone disaster area;
- (p) take steps to prevent looting, including the searching of persons;
- (q) disseminate information and advice to the public in relation to action taken or to be taken in pursuance of this Ordinance; and
- (r) do anything incidental to those powers or necessary to prevent, minimize or overcome the effects of the cyclone disaster or to deal with the emergency conditions and promote public order and the safety of the public and property.

(2) No animal under the care and control of a person shall be destroyed or removed except on the request of that person.

(3) A person who, on the date of commencement of this Ordinance, resides in Darwin shall not, by action under this section, other than under sub-section (1)(j), be prohibited from returning to the cyclone disaster area or be compelled to leave the cyclone disaster area.

Evidence

11.(1) In any legal proceedings, a certificate purporting to be signed by the Director and certifying that—

- (a) a delegation to a specified person of the exercise or performance of a specified power or function was in force on a specified day or during a specified period while this Ordinance is in force;

- (b) a specified person who was an authorized person on a specified day or during a specified period while this Ordinance is in force;
- (c) a specified direction was given to a specified person on a specified day or during a specified period while this Ordinance is in force; or
- (d) a specified place was a place to which a particular order, direction, power, authorization or act related on a specified day or during a specified period while this Ordinance is in force,

is *prima facie* evidence that it is the certificate that it purports to be and of the matters certified.

(2) For the purposes of this section, an act or thing purporting to have been done during the period referred to in section 3 shall be deemed to have been done during a period when this Ordinance is in force.

12.(1) A person who contravenes or fails or refuses to comply with or to carry out a direction lawfully given to him under this Ordinance or the regulations shall be guilty of an offence against this Ordinance. Offence

(2) A person who, without lawful excuse (proof whereof shall lie upon him) trespasses on any premises shall be guilty of an offence against this Ordinance.

(3) An offence against this Ordinance shall be prosecuted summarily or upon indictment, but an offender shall not be liable to be punished more than once in respect of the same offence.

(4) Where proceedings for an offence against this Ordinance are brought in a court of summary jurisdiction, the court may commit the defendant for trial or, with the consent of the defendant, determine the proceedings.

(5) The penalty for an offence against this Ordinance, is—

- (a) if it is prosecuted summarily — a fine not exceeding 1,000 dollars, or imprisonment not exceeding 12 months, or both; or
- (b) if it is prosecuted upon indictment — a fine of any amount or imprisonment for any term, or both.

(6) In addition to any other punishment, a court may, if it thinks fit, order the forfeiture of any money or goods in respect of which an offence against this Ordinance has been committed.

13.(1) Where the Director, a Deputy Director or an authorized person has reasonable grounds for suspecting that a person has com- Arrest

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mitted, is committing, has attempted to commit, is attempting to commit or is about to commit an offence against this Ordinance, he may, without warrant, arrest that person.

(2) No action lies against the Director, a Deputy Director or an authorized person in respect of an arrest or detention in pursuance of this section.

Certain
proceedings
not to lie

14.(1) Subject to sub-section (2), no civil or criminal action or proceedings shall lie or be brought against the Crown, the Director, or a Deputy Director or authorized person acting in the execution of this Ordinance or a delegation or a person acting in compliance or intended compliance with a direction lawfully given under this Ordinance, in respect of anything done or omitted to be done in good faith under and for the purposes of this Ordinance.

(2) A person is entitled, in a court of competent jurisdiction, to fair and reasonable compensation in respect of any loss or damage suffered by him as a result of a requisition of his property under this Ordinance.

(3) A requisition of property under this Ordinance shall be regarded as an acquisition of that property.

Statute of
limitations

15.(1) In calculating the time fixed by any law in force in the Territory by which an action may be commenced or other remedy pursued within a certain period, account shall not be taken of the period that commenced on 25 December 1974 and ends on the date on which provisions of this Ordinance other than section 3 and this section cease to be a law of the Territory under section 2.

(2) This section shall continue to have effect notwithstanding the repeal effected by section 2.

Regulations

16. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters that are necessary or convenient to be prescribed for carrying out the powers of the Director or giving effect to this Ordinance.