

NORTHERN TERRITORY DISASTERS ORDINANCE

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NORTHERN TERRITORY DISASTERS ORDINANCE 1976

1249

No. 31 of 1977

An Ordinance to provide for the training of counter disaster and civil defence personnel, the adoption of counter disaster or civil defence measures during natural or other disasters and for other purposes

[Assented to 5 July 1977]

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

PART I—PRELIMINARY

1. This Ordinance may be cited as the *Northern Territory Disasters Ordinance 1976*. Short title
2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.* Commencement
3. In this Ordinance unless the contrary intention appears— Definitions
 - “Council” means the Northern Territory Counter Disaster Council established by section 6;
 - “counter disaster” includes civil defence;
 - “counter disaster plan” means a plan of action in relation to a locality, a region or the Territory to be taken in the event of a disaster in or affecting that locality or region or the Territory;
 - “Director” means the Director of Emergency Services appointed in pursuance of section 12;
 - “disaster” means—
 - (a) a flood, earthquake, sea wave, cyclone, storm, tornado, eruption of the earth or other natural happening;
 - (b) an explosion, fire, oil spill or other happening however caused;
 - (c) an infestation, plague or epidemic; or
 - (d) an attack directed against Australia by any means, whether or not a state of war has been declared,

* The date date fixed was 11 November 1977 (see *Northern Territory Government Gazette* No. 45 of 11 November 1977, page 9).

that causes or threatens to cause—

- (e) loss of life or property;
- (f) injury to persons or property; or
- (g) distress to persons,

in the Territory or any part of the Territory:

“Emergency Service” means the Northern Territory Emergency Service established under section 14;

“Local Co-ordinator” means the person appointed under section 18 to be the Local Counter Disaster Co-ordinator for a particular town, community or locality;

“region” means a region of the Territory created under section 15;

“Regional Co-ordinator” means a person appointed under section 16 to be the Regional Counter Disaster Co-ordinator for a particular region;

“state of disaster” means a state of disaster declared by the Administrator in Council under section 20;

“Territory Co-ordinator” means the Commissioner within the meaning of the *Police and Police Offences Ordinance*.

Application

4. Nothing in this Ordinance shall authorize the taking of action, or the preparation for the taking of action, for or in connexion with—

- (a) actual combat against an enemy of Australia;
- (b) the putting down of a riot or civil disturbance; or
- (c) the prosecution or the bringing to an end of a strike or lock out.

Crown to be bound

5. This Ordinance binds the Crown.

PART II—COUNTER DISASTER COUNCIL

Counter Disaster Council

6.(1) There is established by this Ordinance a body to be known as the Northern Territory Counter Disaster Council.

(2) Subject to sub-section (5), the Council shall consist of—

- (a) the Administrator, who shall be chairman of the Council;
- (b) the Director, who shall be the executive officer of the Council;
- (c) the permanent administrative head of the Commonwealth department for the time being having, in the opinion of the Administrator, the primary responsibility for the administration of the Commonwealth's activities in the Territory;
- (d) the Executive Member;
- (e) the Territory Co-ordinator;

- (f) the most senior resident officer for the time being of the Commonwealth department which, in the opinion of the Administrator, has the primary responsibility for the construction of Commonwealth buildings and works in the Territory;
- (g) the Chief Medical Officer;
- (h) the senior resident member of the Australian Defence Forces; and
- (i) such other members as the Administrator appoints pursuant to this section.

(3) The Administrator shall appoint the mayor of a municipality, or chairman of a local authority, whose municipality or area, as the case may be, is affected by a disaster, to be a member of the Council for as long as, in the Administrator's opinion, that municipality or local area is so affected.

(4) The Administrator may appoint such additional members of the Council, and for such periods, as he considers necessary.

(5) Where a member of the Council is a member by virtue of his position in a government department, instrumentality, authority or other body, or is appointed by the Administrator by virtue of that position, that member may authorize an officer or member of his government department, instrumentality, authority or other body, as the case may be, to attend a meeting of the Council in his stead, and while so attending, that person shall be a member of the Council.

7. The functions of the Council are—

Functions of Council

- (a) to lay down general guidelines, and where necessary give directions, to be followed by the Director in counter disaster planning;
- (b) to examine and approve local, regional and Territory counter disaster plans prepared by the Director, and amend such plans where it considers this necessary;
- (c) to determine the Territory's needs (financial or otherwise) in the event of a disaster, or impending disaster and advise the Minister accordingly; and
- (d) generally to advise and, where necessary, direct the Territory Co-ordinator on counter disaster and civil defence activities during a state of disaster.

8.(1) The Council shall meet as often as it considers necessary for the performance of its functions, and at such other times as the Administrator may require.

Meetings of Council

(2) Meetings of the Council shall be held at such places as the Administrator may determine.

Procedure at Meetings

9. The Council shall determine its own meeting procedure.

PART III—TERRITORY CO-ORDINATOR

Territory Co-ordinator

10. There shall be a Territory Co-ordinator of counter disaster activities in the Territory.

Functions of Territory Co-ordinator

11. The functions of the Territory Co-ordinator are—

- (a) to co-ordinate counter disaster activities during a state of disaster; and
- (b) to carry out such other functions as directed by the Council.

PART IV—DIRECTOR OF EMERGENCY SERVICES

Director

12.(1) There shall be a Director of Emergency Services.

(2) The Director shall be appointed and employed in accordance with and be subject to the provisions of the *Public Service Ordinance*.

Functions of Director

13. The functions of the Director are—

- (a) in consultation with the Territory Co-ordinator to prepare and, as necessary, revise counter disaster plans for the Territory for consideration and approval by the Council;
- (b) to receive and consider suggested counter disaster plans for regions and localities prepared by the Regional Co-ordinators and Local Co-ordinators for incorporation in the Territory counter disaster plan;
- (c) to advise the Council, Regional Co-ordinators and Local Co-ordinators on counter disaster planning generally;
- (d) to disseminate details of approved counter disaster plans;
- (e) to appoint, educate and train specialist persons or groups in counter disaster activities;
- (f) to raise and train units of, and appoint persons as voluntary members of, the Emergency Service;
- (g) to establish and maintain such counter disaster training facilities as he considers necessary or as directed by the Council;
- (h) to procure, maintain and distribute equipment and materials for use by counter disaster organizations in the Territory;
- (i) to advise and assist government departments, instrumentalities, statutory authorities, local government bodies, voluntary organizations and other bodies in counter disaster measures and procedures;

- (j) to inspect and review the operations and preparedness of units of the Emergency Service;
- (k) to seek the assistance of such other persons or bodies as he considers necessary for training and planning purposes;
- (l) to arrange and assist in conducting such exercises as he considers necessary, or as directed by the Council, to test counter disaster plans and the training and state of preparedness of organizations and individuals;
- (m) to co-ordinate within the Territory such programmes of governmental support for emergency services as may be available;
- (n) to prepare such reports on counter disaster activities in the Territory as may be required by the Administrator or the Council; and
- (o) to perform such other functions and duties as may be directed by the Council.

PART V—VOLUNTARY, REGIONAL AND LOCAL ORGANIZATION

14.(1) There shall be an organization to be known as the Northern Territory Emergency Service. Northern Territory
Emergency
Service

(2) The Emergency Service shall consist of—

(a) the persons appointed and employed in accordance with and subject to the provisions of the *Public Service Ordinance* in positions established under that Ordinance for that purpose; and

(b) such other voluntary members as are appointed by the Director.

(3) The Emergency Service shall be divided into such operational units as the Council, on the advice of the Director, considers necessary.

(4) Subject to sub-section (5), the Emergency Service shall be under the supervision and control of the Director.

(5) During a state of disaster the Emergency Service, or such units thereof as can be used for the purposes of counter disaster measures associated with that disaster, shall, for the duration of the state of disaster, be under the operational control of the Territory Co-ordinator.

15.(1) The Council may divide the Territory into regions for the purposes of this Ordinance. Regional
organization

(2) Notice of the creation of regions shall be published in the *Gazette*.

16. The Territory Co-ordinator shall appoint a member of the Police Force of the Northern Territory to be the Regional Counter Disaster Co-ordinator in respect of a particular region. Regional Counter
Disaster
Co-ordinator

Functions of
Regional
Co-ordinator

17. The functions of the Regional Co-ordinator are—

- (a) after consultation with the appropriate organisations and individuals in his region, to prepare suggested counter disaster plans for the region and submit them to the Director;
- (b) to recommend to the Director the appointment of particular persons to the Emergency Service and the establishment of particular units of that Service in his region;
- (c) to co-ordinate operations in his region in an emergency, other than a state of disaster, when the resources required are beyond the capacity of a single organization; and
- (d) during a state of disaster, and subject to the direction of the Territory Co-ordinator, to control and co-ordinate all counter disaster facilities at his disposal in his region.

Local
Co-ordinator

18. Where the Territory Co-ordinator considers that a Local Counter Disaster Co-ordinator should be appointed for a particular town, community or locality, he shall—

- (a) where there is a police station situated in that town, community or locality—appoint the officer in charge of that police station; or
- (b) where there is no police station so situated—appoint a resident of the town, community or locality,

to be the Local Counter Disaster Co-ordinator for that town, community or locality.

Functions of
Local
Co-ordinator

19. The Local Co-ordinator shall—

- (a) make recommendations to the Regional Co-ordinator regarding the regional counter disaster plan as it affects the local area;
- (b) maintain contact with the local representatives of government departments, instrumentalities and authorities, and community organizations and individual citizens, with a view to promoting co-operation in counter disaster planning and counter disaster activities;
- (c) subject to the directions of the Regional Co-ordinator, co-ordinate local counter disaster operations during a state of disaster; and
- (d) carry out such other functions as the Regional Co-ordinator or the Director may direct.

PART VI—STATE OF DISASTER

Duties upon
declaration of
a state of
disaster

20.(1) If at any time it appears to the Administrator in Council that the extent or degree of a disaster or impending disaster is, or is likely to be, so great that the counter disaster measures necessary to

combat its effects are beyond the resources of the existing governmental, statutory or municipal services in the area, he may declare that a state of disaster exists in respect of so much of the Territory as in his opinion is affected by the disaster or is likely to be affected by the impending disaster.

(2) A declaration of a state of disaster shall—

- (a) come into force immediately the declaration is made; and
- (b) continue in force for 7 days from the date of the declaration unless sooner revoked by the Administrator in Council.

(3) A state of disaster may be extended by the Administrator in Council for such periods, not exceeding 14 days in each case, as he considers necessary.

21.(1) Upon a declaration of a state of disaster—

Duties upon
declaration of a
state of disaster

- (a) the Territory Co-ordinator shall institute such counter disaster measures as are in accordance with the approved counter disaster plans;
- (b) the Director shall place at the disposal of the Territory Co-ordinator the resources, manpower and equipment of the Emergency Service;
- (c) the Regional Co-ordinator, subject to the direction of the Territory Co-ordinator and, where appropriate, the Local Co-ordinator on the directions of the Regional Co-ordinator, shall—
 - (i) take immediate action to use, direct and co-ordinate all available resources within his region or locality (as the case may be) to counter the effect of the disaster;
 - (ii) immediately they become available, use, direct and co-ordinate all additional resources that may be made available to him from any source; and
 - (iii) take such other measures as are provided for in respect of his region or locality in the approved plan for the region;
- (d) the officers in charge of governmental, statutory and municipal services, the local officer in charge of the Emergency Service, and officers in charge of units of government departments and voluntary organizations making themselves available for counter disaster operations, shall place themselves and their organizations at the disposal of the Territory Co-ordinator, Regional Co-ordinator and Local Co-ordinator; and

- (e) officers commanding units of the armed forces made available for counter disaster operations shall operate under the co-ordination of the Territory Co-ordinator, but remain under their own chain of command.

Special powers
during state of
disaster

22.(1) During a state of disaster, the Territory Co-ordinator, a Regional Co-ordinator, a Local Co-ordinator, a member of the Police Force of the Northern Territory or authorized person may, for the purposes of carrying out counter disaster activities or for the safety of the public generally—

- (a) require the owner or person in possession of any personal property to surrender it or place it under the control and direction of the person making the requisition;
- (b) require any person to assist in tasks to save life or property in immediate danger;
- (c) order the owner or person apparently in charge of any place of business, worship or entertainment to close to the public that place of business, worship or entertainment, as the case may be, for such period as ordered;
- (d) subject to sub-section (2), direct the evacuation and exclusion of any persons from any place, and in the exercise of that power may remove or cause to be removed a person who does not comply with a direction to evacuate, or a person who enters or is found in a place in respect of which a direction for the exclusion of persons has been given;
- (e) enter, by force if necessary, any place where he believes, on reasonable grounds, it is necessary to do so for the saving of human life or the prevention of injury to a person, or for the rescue of an injured or endangered person or for facilitating the carrying out of other urgent measures with respect to the relief of suffering and distress;
- (f) if in his opinion it is necessary to do so for the conduct of counter disaster operations, close to traffic any road within the meaning of the *Control of Roads Ordinance* or close any other place open to or used by the public; and
- (g) remove from any place, a vehicle that is impeding counter disaster operations, and to facilitate its removal may use such force as is reasonably necessary to break into that vehicle.

(2) A person shall not be evacuated from or denied entry to a municipality or town unless the Administrator in Council has declared that that municipality or town should be evacuated or entry to it should be denied.

(3) A person who suffers loss or damage to his property by reason of the exercise of the powers conferred by sub-section (1)(a), (e) and (g) shall be entitled to receive fair and reasonable compensation from the Commonwealth for such loss or damage.

(4) For the purposes of this section, "authorized person" means any person authorized to carry out counter disaster functions by the Council, the Territory Co-ordinator, the Director, a Regional Co-ordinator or a Local Co-ordinator.

23.(1) In addition to the powers specified in section 22(1), the Territory Co-ordinator, a Regional Co-ordinator, a Local Co-ordinator, a member of the Police Force of the Northern Territory or an authorized person may, during a state of disaster, direct the owner or person apparently in charge of a vehicle, aircraft, ship, boat or barge to remove that vehicle, aircraft, ship, boat or barge, as the case may be, from a place, or from a place to such other place as the person giving the direction may specify. Removal of
vehicle, aircraft,
&c.

(2) If a person so directed refuses to, or does not within the time specified by the person giving the direction for doing so remove the vehicle, aircraft, ship, boat or barge in accordance with the direction, the person giving the direction may remove it and, to facilitate its removal, may use such force as is reasonably necessary to break into that vehicle, aircraft, ship, boat or barge.

(3) When the owner of a vehicle, aircraft, ship, boat or barge cannot conveniently be found and there is no other person apparently in charge of that vehicle, aircraft, ship, boat or barge, the Territory Co-ordinator, a Regional Co-ordinator, a Local Co-ordinator, a member of the Police Force of the Northern Territory or an authorized person may exercise his powers under this section as if the owner or person apparently in charge had refused to comply with a direction given under sub-section (1).

PART VII—MISCELLANEOUS

24.(1) A person to whom any power is given, or upon whom any function is imposed by or under this Ordinance may, by writing under his hand, delegate all or any of his powers or functions to another person, except this power of delegation. Power of
delegation

(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the person delegating that power or function.

Certain proceedings not to be taken

25. No civil or criminal action or proceedings shall lie or be brought against the Crown or any person acting in the execution or intended execution of this Ordinance, the regulations or a delegation under this Ordinance, or in compliance or intended compliance with any direction given or purported to be given under this Ordinance or the regulations, in respect of anything done or omitted to be done in good faith by that person under or for the purposes of this Ordinance or the regulations.

Person exercising power, &c., not to be obstructed

26. No person shall assault, obstruct, threaten, abuse, insult or intimidate a person carrying out his powers or performing his functions under this Ordinance.

Offence and penalty

27. A person who contravenes or fails to comply with any provision of this Ordinance the regulations, or an order or direction lawfully given, or a requisition lawfully made under this Ordinance or the regulations, is guilty of an offence against this Ordinance.

Penalty: 500 dollars.

Offences by body corporate

28. Where a body corporate commits an offence against this Ordinance or the regulations—

- (a) the managing director, manager, or other governing officer, by whatever name called, and every member of the governing body thereof, by whatever name called; and
- (b) every person who in the Territory manages or acts or takes part in the management, administration, or government of the business in the Territory of the body corporate,

shall be deemed also to have committed the offence jointly with the body corporate.

Protection of employment rights

29.(1) A person who, during the period of a state of disaster, is absent from his usual employment on duties in connexion with counter disaster measures in any capacity whatsoever, shall not be liable for dismissal, loss of long service leave, sick leave, recreation leave, or other benefits to which he may be entitled under the industrial award or agreement applicable to his usual employment, by reason only of his absence on those duties, whether or not his usual employer has consented to his absence.

Compensation for personal injury

30. The Commonwealth shall be liable in respect of the loss of life of, or injury to, a person, that occurs while that person is—

- (a) engaged in counter disaster activities under the authority of the Territory Co-ordinator, Director, Regional Co-ordinator or Local Co-ordinator; or

(b) participating in counter disaster training under the control of—

- (i) the Director or a person acting under the authority of the Director;
- (ii) a Regional Co-ordinator or a person acting under the authority of the Regional Co-ordinator; or
- (iii) a Local Co-ordinator or a person acting under the authority of a Local Co-ordinator,

as if that person were a person to whom the *Compensation (Australian Government Employees) Act* 1971 applies.

31. 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, or giving effect to this Ordinance. Regulations
