



ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 12 of 1985

An Act to amend the State Disaster Act, 1980.

[Assented to 14 March 1985]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "State Disaster Act Amendment Act, 1985". Short title.

(2) The State Disaster Act, 1980, is in this Act referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 3 of the principal Act is amended by inserting after the item: Amendment of s. 3—Arrangement of Act.

PART IV—COUNTER-DISASTER OPERATIONS

the following item:

PART IVA—POST-DISASTER OPERATIONS.

4. Section 4 of the principal Act is amended—

(a) by inserting in the definition of "disaster" after the word "eruption" the passage ", epidemic of human, animal or plant disease";

(b) by inserting in paragraph (a) of the definition of "disaster" after the word "persons" the passage "or animals";

Amendment of s. 4—Interpretation.

(c) by inserting in paragraph (b) of the definition of "disaster" after the word "protect" the passage "human or animal";

(d) by striking out from the definition of "disaster area" the passage "a part" and substituting the passage "the area";

(e) by inserting in the definition of "disaster area" after the passage "state of disaster" the passage "or a post-disaster period";

and

(f) by striking out the definition of "Minister" and substituting the following definitions:

"post-disaster operations" means any measures taken in pursuance of and in accordance with this Act during a post-disaster period:

"post-disaster period" means a period declared by the Governor under this Act to be a post-disaster period:.

Amendment of
s. 6—
The State
Disaster
Committee.

5. Section 6 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

(b) eight persons appointed by the Governor, of whom—

(i) three shall be appointed on the nomination of the Minister;

(ii) one shall be appointed on the nomination of the Minister, being selected by him from a panel of three persons submitted by the Director of the State Emergency Service;

(iii) one shall be appointed on the nomination of the Minister, being selected by him from a panel of three persons submitted by the Chief Officer of the South Australian Metropolitan Fire Service;

(iv) one shall be appointed on the nomination of the Minister, being selected by him from a panel of three persons submitted by the Country Fire Services Board;

(v) one shall be appointed on the nomination of the Minister, being selected by him from a panel of three persons submitted by the Local Government Association of South Australia;

and

(vi) one shall be appointed on the nomination of the Minister of Community Welfare.;

and

(b) by inserting after subsection (2) the following subsection:

(2a) The Minister may, by notice in writing, request a body referred to in subsection (2) to submit a panel of names for the purposes of this section and, where such a body fails to comply with the request within the time allowed in the notice, the Minister may select a person for appointment as a member of the Committee, and a person so selected may then be appointed to the Committee as if his name had been duly submitted by the body to whom the notice was addressed.

6. Section 8 of the principal Act is amended—

(a) by inserting after paragraph (d) the following paragraph:

(e) monitor the standard operating procedures of any body or organization that performs any function under the State Disaster Plan or that might participate in counter-disaster operations.;

and

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) The Committee may, for the purposes of implementing the State Disaster Plan, create such offices as it thinks fit and appoint persons to those offices.

Amendment of
s. 8—
Functions of the
Committee.

7. Section 13 of the principal Act is amended by striking out from paragraph (b) of subsection (2) the passage “four days” and substituting the passage “96 hours”.

Amendment of
s. 13—
Declaration of
state of disaster
by the Governor.

8. Section 15 of the principal Act is amended—

(a) by inserting in subsection (1) after the passage “into effect” the passage “and shall cause such counter-disaster operations to be carried out as he thinks appropriate”;

(b) by striking out subsections (2) and (3) and substituting the following subsection:

(2) Without limiting the generality of subsection (1), but subject to the regulations, the State Co-ordinator or an authorized officer may, if he is of the opinion that it is necessary to do so, do or cause to be done all or any of the following things:

(a) require the owner, or the person for the time being in charge, of any real or personal property in a disaster area to place it under the control or at

Amendment of
s. 15—
Powers of State
Co-ordinator and
authorized
officers during
state of disaster.

the disposition of a person nominated by the State Co-ordinator or the authorized officer;

- (b) direct the evacuation and removal of persons or animals from a disaster area, or part of a disaster area, and remove to such place as he thinks fit any person or animal found within the disaster area, or that part of the disaster area;
- (c) enter and, if necessary, break into any land, building, structure or vehicle within the disaster area;
- (d) take possession of any land, body of water, building, structure, vehicle or other thing within the disaster area;
- (e) remove, demolish or destroy any building, structure, vehicle, animal or vegetation within the disaster area;
- (f) shut off, or cut off, any supply of fuel, gas, electricity or water, or any drainage facility, within the disaster area;
- (g) direct or prohibit the movement of persons, animals or vehicles into or within the disaster area;
- (h) remove to such place as he thinks proper any person who obstructs or threatens to obstruct counter-disaster operations;
- (i) give directions to any persons whose responsibilities require him to engage in counter-disaster operations, or who is so engaged.;

and

- (c) by striking out from paragraph (a) of subsection (4) the passage "subsection (3) (f)" and substituting the passage "subsection (2) (h)".

Inscription of new Part IVA.

9. The following Part is inserted after Part IV of the principal Act:

PART IVA

POST-DISASTER OPERATIONS

16a. (1) If it appears to the Governor while a declaration of a state of disaster is in force that post-disaster operations will have to be carried out after the expiration or revocation of the declaration, he may declare that a post-disaster period will exist in respect of the disaster area upon that expiration or revocation.

Declaration of post-disaster period.

(2) A declaration under this section—

(a) shall be made in writing and published in a manner and form determined by the Minister;

(b) shall, subject to this section, be in force for such number of hours as is specified in the declaration, being not more than 168 hours after the expiration or revocation of the declaration of the state of disaster;

and

(c) shall not be renewed or extended.

(3) The Governor may, at any time, revoke a declaration under this section.

(4) During the continuance of a post-disaster period, the Minister may authorize the expenditure of such sums of money as are approved by the Governor to assist in post-disaster operations.

(5) This section shall, without further appropriation, be sufficient authority for the payment of moneys out of the General Revenue of the State in pursuance of an authorization given under subsection (4).

16b. (1) During the continuance of a post-disaster period, the State Co-ordinator may direct authorized officers to assist the owner of any property within the disaster area to do all or any of the following things within the disaster area:

(a) to remove, demolish or dispose of any damaged property;

(b) to destroy any injured animal or remove or dispose of any dead animal;

(c) to take measures for the purpose of preventing any further damage to property or injury to persons or animals.

(2) An authorized officer may be assisted by volunteers in carrying out post-disaster operations, and may give such directions to a volunteer as he thinks necessary for that purpose.

(3) No post-disaster operation may be carried out except at the request of the owner of the property in respect of which the operation is to be carried out.

10. Section 18 of the principal Act is amended by inserting in subsection (1) after the passage “counter-disaster operations” the passage “or, being an authorized officer, is absent from his employment on duties in connection with post-disaster operations,”.

Amendment of
s. 18—
Protection of
employment
rights.

11. Section 19 of the principal Act is amended by inserting after the passage “counter-disaster operations” the passage “or post-disaster operations”.

Amendment of
s. 19—
Workers
compensation.

Amendment of
s. 20—
Evidentiary
provision.

12. Section 20 of the principal Act is amended—

(a) by inserting in paragraph (a) after the passage “state of disaster” the passage “or a post-disaster period”;

and

(b) by inserting in paragraph (b) after the passage “counter-disaster operations” the passage “or post-disaster operations”.

Insertion of new
s. 22a.

13. The following section is inserted after section 22 of the principal Act:

The State
Disaster Relief
Fund.

22a. (1) The Minister shall establish a fund to be known as the “State Disaster Relief Fund”.

(2) Any moneys received by the Minister for the relief of persons who suffer injury, loss or damage as a result of a disaster in respect of which a declaration under this Act is made shall be paid into the fund established under this section.

(3) All moneys held in the account kept at Treasury entitled the “Premier’s Bushfire Relief Appeal Trust Fund” as at the commencement of the State Disaster Act Amendment Act, 1985, shall, upon the establishment of the fund referred to in subsection (1), be paid into that fund, and those moneys may be disbursed for the relief of persons who suffered injury, loss or damage as a result of the disaster in respect of which the moneys were received, or of persons who suffer injury, loss or damage in some future disaster.

(4) The Minister may appoint a committee of persons to administer the fund.

(5) A committee appointed for the purposes of this section shall administer the fund subject to the directions of the Governor.

(6) Subject to this section, no moneys received by the fund in respect of a particular disaster may be disbursed otherwise than to, or for the purpose of the relief of, persons who suffered injury, loss or damage as a result of that disaster.

(7) Where the committee is satisfied that it has made sufficient payment to all persons who suffered injury, loss or damage as a result of a particular disaster, the committee may, with the approval of the Governor, leave the balance of the moneys in the fund for the relief of persons who suffer injury, loss or damage in some future disaster.

(8) Where the committee is of the opinion that a person who suffered injury, loss or damage as a result of a disaster has been overcompensated for that injury, loss or damage by reason of being paid—

(a) moneys from the fund or, in the case of a payment made before the commencement of the State Disaster Act Amendment Act, 1985, from the fund entitled the “Premier’s Bushfire Relief Appeal Trust Fund”;

and

(b) damages or compensation from another source,

the committee may, by notice in writing given personally or by post to the person, require him to pay to the fund the amount of the overcompensation as determined by the committee and specified in the notice.

(9) A person who is given a notice under subsection (8) is liable to pay to the fund, as a debt due to the Crown, the amount specified in the notice within the time specified in the notice (being a period of not less than one month from the day on which the notice is given).

(10) Moneys paid to the fund pursuant to subsection (9) may be disbursed for the relief of persons who suffered injury, loss or damage as a result of the disaster in respect of which the moneys were first paid, or of any future disaster.

(11) No moneys in the fund may be used to defray the administrative costs of administering the fund.

(3). 14. Section 24 of the principal Act is amended by striking out subsection

Amendment of
s. 24—
Regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor