



STATE DISASTER (MAJOR EMERGENCIES AND RECOVERY) AMENDMENT ACT 1994

No. 73 of 1994

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ANNO QUADRAGESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1994

No. 73 of 1994

An Act to amend the State Disaster Act 1980 and to make consequential amendments to the Local Government Act 1934, the State Emergency Service Act 1987 and the Summary Offences Act 1953.

[Assented to 1 December 1994]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *State Disaster (Major Emergencies and Recovery) Amendment Act 1994*.

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

Commencement

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

Long title

3. The long title to the principal Act is repealed and the following long title is substituted:

An Act to make provision for the protection of life and property in the event of disaster or major emergency and for recovery following the event; and for related purposes.

Amendment of s. 4—Interpretation

4. Section 4 of the principal Act is amended—

- (a) by striking out the definition of "counter-disaster operations";
- (b) by inserting in the definition of "disaster" ", hostilities directed by an enemy against Australia" after "disease";
- (c) by striking out from the definition of "disaster area" "or a post disaster-period";
- (d) by striking out the definitions of "post-disaster operations" and "post-disaster period" and substituting the following definitions:

"emergency area" means the area of the State to which a declaration of a state of emergency under this Act applies;

"major emergency" means any occurrence (including fire, flood, storm, tempest, earthquake, eruption, epidemic of human, animal or plant disease, hostilities directed by an enemy against Australia and accident)—

- (a) that causes, or threatens to cause, loss of life or injury to persons or animals or damage to property; and
- (b) that whilst not constituting a disaster should, in the opinion of the State Co-ordinator, be dealt with under this Act because of the diverse resources required to be used in response to the emergency, the likelihood of the emergency escalating into a disaster or for any other reason;

"recovery" means recovery of the normal pattern of life of individuals, families and communities affected by a disaster or major emergency and includes—

- (a) the restoration of essential facilities and services;
- (b) the restoration of other facilities and services necessary for the normal functioning of a community;
- (c) the provision of material and personal needs;
- (d) the provision of means of emotional support;

"recovery operations" means any measures taken in pursuance of this Act during or following a declared state of disaster or emergency to aid recovery;

"response operations" means any measures taken in pursuance of this Act during the continuance of a declared state of disaster or emergency to protect life or property;;

- (e) by striking out the definitions of **"the State Co-ordinator"** and **"the State Disaster Plan"** and substituting the following definition:

"State Disaster Plan" means a plan (or a series of plans applying in different parts of the State) prepared by the State Disaster Committee comprising the measures to be taken to monitor and respond to circumstances that may give rise to a disaster or major emergency and the measures (including response and recovery operations) to be taken in the event of a disaster or major emergency;.

Amendment of s. 5—Application of Act

5. Section 5 of the principal Act is amended by striking out from subsection (4) **"state of disaster"** and substituting **"declared state of disaster or emergency"**.

Amendment of s. 6—State Disaster Committee

6. Section 6 of the principal Act is amended—

- (a) by striking out from subsection (2)(b) **"eight"** and substituting **"nine"**;

(b) by inserting after subparagraph (i) of subsection (2)(b) the following subparagraph:

- (ia) one is to be appointed on the nomination of the Minister, being selected from a panel of three persons submitted by the Commissioner of Police;

Substitution of s. 7

7. Section 7 of the principal Act is repealed and the following section is substituted:

Proceedings of Committee

7. (1) Six members constitute a quorum for a meeting of the Committee.

(2) A decision carried by a majority of the votes cast by the members present at a meeting is a decision of the Committee.

(3) Each member present at a meeting of the Committee has one vote on a matter arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.

(4) Subject to this Act, the Committee may determine its own procedures.

Amendment of s. 8—Functions of Committee

8. Section 8 of the principal Act is amended—

(a) by inserting in subsection (1)(b) "and major emergencies and of recovery following disasters and major emergencies" after "disasters";

(b) by striking out paragraph (d) of subsection (1) and substituting the following paragraph:

- (d) maintain contact with organisations that might usefully participate in response or recovery operations and keep them informed of what would be expected of them in the event of a disaster or major emergency;;

(c) by striking out from subsection (1)(e) "counter-disaster" and substituting "response or recovery";

(d) by inserting after paragraph (e) of subsection (1) the following paragraph:

- (f) monitor and evaluate the implementation of the State Disaster Plan and the response and recovery operations taken during or following any declared state of disaster or emergency.;

(e) by striking out subsection (2) and substituting the following subsection:

(2) The Committee may, for the purposes of preparing and implementing the State Disaster Plan—

- (a) create such offices as it thinks fit and appoint persons to those offices; and
- (b) assign additional functions to the State Co-ordinator and, with the approval of the State Co-ordinator, assign functions to Divisional Co-ordinators.

Insertion of ss. 8A and 8B

9. The following sections are inserted after section 8 of the principal Act:

Recovery Committee

8A. (1) The State Disaster Committee must appoint a special committee (the Recovery Committee) in accordance with this section.

(2) The Recovery Committee—

- (a) must consist of not less than three persons;
- (b) may include members of the State Disaster Committee or persons who are not members of that Committee but who have appropriate expertise or experience;
- (c) must include a person appointed to represent the interests of local government in recovery operations.

(3) The State Disaster Committee may appoint a suitable person to be a deputy of a member of the Recovery Committee and a deputy may act as a member in the absence of the member of whom he or she is a deputy.

(4) A member of the Recovery Committee will be appointed for such term and on such conditions as the State Disaster Committee may determine.

(5) The Recovery Committee may, subject to this Act, determine its own procedures.

(6) The Recovery Committee is subject to control and direction by the State Disaster Committee.

Functions of Recovery Committee

8B. The functions of the Recovery Committee are—

- (a) to prepare for consideration by the State Disaster Committee that part of the State Disaster Plan that relates to recovery in the event of a disaster or major emergency;
- (b) to keep that part of the State Disaster Plan under review and recommend to the State Disaster Committee such amendments to it as from time to time appear necessary or expedient;
- (c) to advise the State Disaster Committee on matters relating to recovery in the event of a disaster or major emergency;
- (d) to oversee and evaluate recovery operations during and following a declared state of disaster or emergency;
- (e) to carry out such other functions as are assigned to it by the State Disaster Committee.

Insertion of s. 9A

10. The following section is inserted after section 9 of the principal Act:

Divisional Co-ordinators

9A. (1) The State Co-ordinator may appoint Divisional Co-ordinators to exercise functions and powers under this Act in relation to specified parts of the State.

(2) A Divisional Co-ordinator will be appointed for such term and on such conditions as the State Co-ordinator may determine.

(3) A Divisional Co-ordinator has the functions and powers delegated to the Co-ordinator by the State Co-ordinator or assigned to the Co-ordinator by the State Disaster Committee with the approval of the State Co-ordinator.

Amendment of s. 10—Delegation

11. Section 10 of the principal Act is amended by inserting in subsection (1) "to a Divisional Co-ordinator or to any other person" after "delegate".

Substitution of s. 11

12. Section 11 of the principal Act is repealed and the following section is substituted:

Authorised officers

11. (1) The State Co-ordinator may appoint, individually or by class, such persons to be authorised officers for the purposes of this Act as the State Co-ordinator thinks fit.

(2) An authorised officer, other than a member of the police force, must be issued with an identity card in a form approved by the State Co-ordinator—

- (a) containing the person's name and a photograph of the person; and
- (b) stating that the person is an authorised officer for the purposes of this Act.

(3) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for the inspection of the person—

- (a) in the case of an authorised officer who is a member of the police force and is not in uniform—his or her certificate of authority;
- (b) in the case of an authorised officer who is not a member of the police force—his or her identity card.

(4) An authorised officer must, on ceasing to be an authorised officer for any reason, surrender his or her identity card and any insignia or special apparel or equipment issued to the authorised officer for the purposes of this Act to the State Co-ordinator or a person nominated by the State Co-ordinator.

Penalty: Division 8 fine.

Substitution of heading to Part 4

13. The heading to Part 4 of the principal Act is repealed and the following heading is substituted:

**PART 4
RESPONSE AND RECOVERY OPERATIONS.**

Insertion of s. 13A

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

Declaration of state of emergency by State Co-ordinator

13A. (1) If it appears to the State Co-ordinator that a major emergency has occurred, is occurring, or is about to occur, the State Co-ordinator may declare that a state of emergency exists in respect of so much of the State as is, in his or her opinion, affected, or likely to be affected, by the emergency.

(2) A declaration under this section—

- (a) must be in writing and published in a manner and form determined by the Minister; and
- (b) remains in force for 48 hours; and
- (c) may, with the approval of the Governor, be renewed or extended.

Amendment of s. 14—Powers of Minister on declaration of state of disaster or emergency

15. Section 14 of the principal Act is amended—

- (a) by inserting in subsection (1) "or emergency" after "state of disaster";
- (b) by striking out from subsection (1) "counter-disaster" and substituting "response or recovery".

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

16. Section 15 of the principal Act is amended—

- (a) by striking out subsection (1) and substituting the following subsection:

(1) On the declaration of a state of disaster or emergency and while that declaration remains in force the State Co-ordinator must take any necessary action to carry the State Disaster Plan into effect and cause such response and recovery operations to be carried out as he or she thinks appropriate.;

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

- (a) by notice in writing in a form approved by the State Co-ordinator, require the owner, or a person for the time being in charge, of any real or personal property in a disaster or emergency area to place it under the control or at the disposition of a person nominated by the State Co-ordinator or the authorised officer;;

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

(b) direct the evacuation and removal of persons or animals from a disaster or emergency area, or part of a disaster or emergency area, and remove to such place as he or she thinks fit any person or animal found within such an area;;

(d) by inserting in subsection (2)(c) to (g) (inclusive) "or emergency" after "disaster" wherever occurring;

(e) by striking out from subsection (2)(h) and (i) "counter-disaster" wherever occurring and substituting, in each case, "response or recovery";

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

(3) An authorised officer may direct a person who the authorised officer reasonably suspects has committed, is committing or is about to commit, an offence against this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity.;

(g) by inserting in subsection 4(b) "or major emergency" after "disaster".

Insertion of s. 15A

17. The following section is inserted after section 15 of the principal Act:

Recovery operations following state of disaster or emergency

15A. (1) Following the expiry or revocation of a declaration of a state of disaster or emergency, the State Co-ordinator may direct authorised officers to take specified action for the purposes of carrying out recovery operations in accordance with the State Disaster Plan.

(2) An authorised officer may be assisted by volunteers in carrying out recovery operations under this section and may give such directions to a volunteer as the officer thinks necessary for that purpose.

(3) A recovery operation under this section cannot be carried out on private land without the consent of the owner of that land.

Amendment of s. 16—Offences

18. Section 16 of the principal Act is amended—

(a) by striking out from subsection (1) "state of disaster, within a part of the State to which the declaration of a state of disaster applies" and substituting "declared state of disaster or emergency";

(b) by striking out the penalty at the foot of subsection (1) and substituting the following:

Penalty: Division 5 fine.;

(c) by striking out from subsection (2) "counter-disaster" and substituting "response or recovery";

(d) by striking out the penalty at the foot of subsection (2) and substituting the following:

Penalty: Division 5 fine.;

(e) by inserting after subsection (2) the following subsections:

(3) A person must not falsely represent that he or she is an authorised officer.

Penalty: Division 6 fine.

(4) A person must not, without lawful authority—

(a) wear any insignia or special apparel issued to an authorised officer for the purposes of this Act; or

(b) use any special equipment issued to an authorised officer for the purposes of this Act,

in circumstances where to do so would lead to a reasonable belief that he or she was an authorised officer.

Penalty: Division 6 fine.

Repeal of Part 4A

19. Part 4A of the principal Act is repealed.

Amendment of s. 18—Protection of employment rights

20. Section 18 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A person who is absent from employment on official duties in connection with response or recovery operations is not liable to be dismissed or prejudiced in employment by reason of that absence, and the person's actual and accruing rights in respect of employment must be determined as if the person had not been absent from employment.

Repeal of s. 19

21. Section 19 of the principal Act is repealed.

Amendment of s. 20—Evidentiary provision

22. Section 20 of the principal Act is amended—

(a) by striking out from paragraph (a) "a post-disaster period" and substituting "emergency";

(b) by striking out from paragraph (b) "counter-disaster" and "post-disaster" and substituting respectively "response" and "recovery".

Amendment of s. 22A—State Disaster Relief Fund

23. Section 22A of the principal Act is amended—

(a) by inserting in subsection (2) "or major emergency" after "disaster";

(b) by inserting in subsection (6) "or major emergency" after "disaster" (twice occurring);

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- (c) by inserting in subsection (7) "or major emergency" after "disaster" (twice occurring);
 - (d) by inserting in subsection (8) "or major emergency" after "disaster";
 - (e) by inserting in subsection (10) "or major emergency" after "disaster" (twice occurring).

Amendment of s. 24—Regulations

24. Section 24 of the principal Act is amended—

- (a) by inserting in subsection (1) "or major emergency" after "disaster";
- (b) by striking out from subsection (2)(c) "five hundred dollars" and substituting "a Division 6 fine".

SCHEDULE 1

Further Amendments of Principal Act

Provision Amended	How Amended
Section 2	Strike out this section.
Section 3	Strike out this section.
Section 4	
Definition of "authorised officer"	Strike out "the provisions of".
Section 5(1)	Strike out this subsection.
Section 5(2)	Strike out "shall".
Section 5(3)	Strike out "that he" and substitute "the person".
Part II heading	Strike out "THE".
Section 6(1)	Strike out this subsection and substitute: <p>(1) The <i>State Disaster Committee</i> is established.</p>
Section 6(2)	Strike out "shall consist" and substitute "consists".
Section 6(2)(b)	Strike out "shall" (first occurring) and substitute "are to". <p>Strike out "shall" (wherever else occurring) and substitute, in each case, "is to".</p> <p>Strike out "by him" (wherever occurring).</p>
Section 6(2)(b)(iv)	Strike out "Services" and substitute "Service".
Section 6(2)(b)(vi)	Strike out "Minister of Community Welfare" and substitute "Minister responsible for the administration of the <i>Family and Community Services Act 1972</i> ".
Section 6(2a)	After "his" insert "or her".
Section 6(3)	Strike out "shall" and substitute "will". <p>Strike out "upon" and substitute "on".</p>
Section 6(4)	Strike out "Chairman" and substitute "the presiding member". <p>Strike out "Deputy Chairman" and substitute "the deputy presiding member".</p>
Section 6(5)	After "he" insert "or she".
Section 8(1)	Strike out "shall" and substitute "must".
Section 9(1)	Strike out "shall be" and substitute "is".
Section 9(2)	Strike out "shall" and substitute "may". <p>Strike out "his" and substitute "official".</p>
Section 10(1)	After "his" insert "or her".

Section 10(2)	Strike out "shall be" and substitute "is".
	Strike out "shall" and substitute "does".
Section 11(2)	Strike out "shall be" and substitute "is".
Section 12(1)	Strike out "he" and substitute ", the Minister".
	Strike out ", in his opinion, is affected, or is" and substitute "is in his or her opinion affected, or".
Section 12(2)(a)	Strike out "shall" and substitute "must".
Section 12(2)(b)	Strike out "shall remain" and substitute "remains".
Section 12(2)(c)	Strike out "shall not" and substitute "cannot".
Section 13(1)	Strike out "he" and substitute "the Governor".
	Strike out ", in his opinion, is affected" and substitute "is in his or her opinion affected".
Section 13(2)(a)	Strike out "shall" and substitute "must".
Section 13(2)(b)	Strike out "shall,".
	Strike out "remain" and substitute "remains".
Section 13(3)	Strike out "shall not" and substitute "cannot".
Section 14(1)	Strike out "Upon" and substitute "On".
Section 14(2)	Strike out "shall" and substitute "is".
	Strike out "be".
	Strike out "moneys" and substitute "money".
	Strike out "General Revenue of the State" and substitute "Consolidated Account".
Section 15(2)	Strike out "he is".
Section 15(2)(h)	After "he" insert "or she".
Section 15(2)(i)	Strike out "persons" and substitute "person".
	After "him" insert "or her".
Section 15(4)	Strike out "him" and substitute "the person".
Section 15(5)	Strike out "shall" and substitute "must".
Section 16(1)	Strike out "shall" and substitute "must".
Section 16(2)	Strike out "shall" and substitute "must".
Section 17(1)	Strike out this subsection and substitute: (1) A person does not incur any civil liability for an honest act or omission in the exercise or discharge of powers or functions under this Act.
Section 17(2)	Strike out "shall lie" and substitute "lies instead".

Section 18(2)	Strike out "to him".
Section 18(3)	Strike out "shall" and substitute "will".
	Strike out "upon" and substitute "on".
Section 20	Strike out "that" (first occurring).
	Insert "that" in paragraph (a) before "a declaration".
	Strike out "shall" and substitute "is".
	Strike out "be".
Section 21(1)	Strike out this subsection.
Section 21(2)	Strike out "shall not" and substitute "cannot".
Section 21(3)	Strike out "shall" and substitute "is".
	Strike out "be".
Section 22	Strike out "shall also be" and substitute "is also".
	Strike out "he proves" and substitute "it is proved".
	After "he" insert "or she".
Section 22a	Strike out "moneys" (wherever occurring) and substitute, in each case, "money".
Section 22a(1)	Strike out this subsection and substitute: (1) The <i>State Disaster Relief Fund</i> is established.
Section 22a(2)	Strike out "shall be paid into the fund established under this section" and substitute "must be paid into the fund."
Section 22a(3)	Strike out this subsection.
Section 22a(5)	Strike out "shall" and substitute "will".
Section 22a(8)	Strike out from paragraph (a) "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".
	Strike out "him" and substitute "the person".
Section 22a(10)	Strike out "were" and substitute "was".
Section 23	Strike out "moneys" (twice occurring) and substitute "money".
	Strike out "shall" and substitute "will".
Section 24(2)	Strike out "the foregoing" and substitute "subsection (1)".

SCHEDULE 2
Consequential Amendments

Provision Amended	How Amended
<i>Local Government Act 1934</i>	
Section 641(5)	Strike out "of a state of disaster".
<i>State Emergency Service Act 1987</i>	
Section 8(b)	Strike out "counter-disaster operations or post-disaster operations" and substitute "response or recovery operations".
Section 15(2)	Strike out "counter-disaster operations or post-disaster operations" and substitute "response or recovery operations".
<i>Summary Offences Act 1953</i>	
Section 83B(11)(a)	Strike out "of a state of disaster".

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

ROMA MITCHELL Governor