

EMERGENCY SERVICES AMENDMENT ACT 1985

No. 111 of 1985

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EMERGENCY SERVICES AMENDMENT ACT 1985

No. 111 of 1985

AN ACT to amend the Emergency Services Act 1976 and the
Tasmanian State Service (Miscellaneous Amendments) Act 1984.
[Royal Assent 14 November 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and
with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Emergency Services Amendment Act* 1985. Short title.

2—In this Act, the *Emergency Services Act 1976** is referred to Principal Act.
as the Principal Act.

* No. 29 of 1976.

Amendment of
section 2 of
Principal Act
(Interpre-
tation).

3—Section 2 of the Principal Act is amended—

(a) by omitting the definition of “ counter-disaster ” and substituting the following definition:—

“ counter-disaster measures ” means the planning, organization, co-ordination, and implementation of measures that are necessary or desirable to prevent, minimize, or overcome the effects of a disaster upon members of the public or any property in Tasmania and includes the conduct of, or participation in, training for those purposes and civil defence measures necessary to combat the effects of any enemy attack or hostilities;

(b) by omitting “ appointed under section 20 ” from the definition of “ Director ”;

(c) by omitting the definitions of “ disaster ” and “ emergency ” and substituting the following definitions:—

“ disaster ” means any occurrence, including an attack directed against Tasmania, that—

(a) causes or threatens to cause—

(i) loss of life or property; or

(ii) injury to persons or property or distress to persons; or

(b) in any other way endangers the safety of the public,

protection against which—

(c) necessitates the augmenting of the normal resources of a statutory service; or

(d) is beyond the resources of the statutory services;

“ emergency ” means any situation in which an occurrence or impending occurrence appears likely to become or give rise to a disaster;

(d) by omitting the definition of “ Group ”;

(e) by inserting the following definitions after the definition of “ State Emergency Service ”:—

“ state of disaster ” means a state of disaster declared under section 26;

“state of emergency” means a state of emergency declared under section 25;

(f) by omitting the definition of “statutory service” and substituting the following definition:—

“statutory service” means a body constituted under an Act or a Commonwealth Act—

(a) whose role usually includes counter-disaster operations; or

(b) which is, or may be, in a particular emergency or disaster, required to participate in counter-disaster operations.

4—Section 6 of the Principal Act is amended as follows:—

Amendment of section 6 of Principal Act (State Disaster Committee).

(a) by omitting subsection (2) and substituting the following subsection:—

(2) The members of the Committee shall consist of the following persons:—

(a) the Director, who shall be the chairman of the Committee;

(b) the Chairman of the Public Service Board;

(c) the Secretary of the Department of the Premier and Cabinet;

(d) the Ministerial Liaison Officer, Emergency Services.

(b) by omitting subsection (4) and substituting the following subsections:—

(4) A member of the Committee may authorize any other person who is employed, or holds office, in the same department, instrumentality, statutory corporation, or other body, as the member to attend a meeting of the Committee in his absence and act on his behalf.

(5) A person authorized under subsection (4) to attend a meeting of the Committee shall, while so attending, be deemed for all purposes to be a member of the Committee.

Repeal of section 7 of Principal Act and substitution of new section.

5—Section 7 of the Principal Act is repealed and the following section is substituted:—

Functions of the Committee.

7—The Committee shall perform the following functions:—

- (a) assist and advise the Director in the preparation of counter-disaster measures;
- (b) examine and comment on other counter-disaster measures prepared under this Act;
- (c) report to and advise the Minister on matters relating to the administration of this Act and, in particular, on problems relating to the preparation or implementation of counter-disaster measures.

Repeal of section 9 of Principal Act and substitution of new section.

6—Section 9 of the Principal Act is repealed and the following section is substituted:—

State Disaster Executive.

9—(1) For the purpose of carrying out counter-disaster measures in a state of emergency or disaster, there shall be a State Disaster Executive, which shall consist of—

- (a) the Director, who shall be the Chairman of the Executive;
- (b) the Chairman of the Public Service Board;
- (c) the Secretary of the Department of the Premier and Cabinet; and
- (d) the Ministerial Liaison Officer, Emergency Services.

(2) A member of the Executive may authorize any other person who is employed, or holds office in, the same department, instrumentality, statutory corporation, or other body, as the member to attend a meeting of the Executive in his absence and act on his behalf.

(3) A person authorized under subsection (2) to attend a meeting of the Executive shall, while so doing, have all the powers, authorities, functions, duties, and immunities of a member of the Executive.

7—Section 11 of the Principal Act is repealed and the following section is substituted:—

Repeal of section 11 of Principal Act and substitution of new section.

11—The Executive shall institute and co-ordinate counter-disaster operations during a state of emergency or disaster.

Functions of Executive.

8—Section 12 of the Principal Act is amended by omitting all words up to and including “ shall—” and substituting “ The Director shall—”.

Amendment of section 12 of Principal Act (Duties of Director).

9—Section 18 of the Principal Act is amended as follows:—

Amendment of section 18 of Principal Act (Power to delegate).

(a) by omitting from subsection (1) “, Chairman, or Director ” and substituting “ or Director, or a Region Disaster Controller ”;

(b) by omitting from subsection (3) “, Chairman, or Director ” and substituting “ or Director, or a Region Disaster Controller ”;

(c) by omitting from subsection (4) “, Chairman, or Director ” and substituting “ or Director, or a Region Disaster Controller ”;

(d) by omitting from subsection (5) “, Chairman, or Director ” (first occurring) and substituting “ or Director, or a Region Disaster Controller ”;

(e) by omitting from subsection (5) “, Chairman, or Director ” (second occurring) and substituting “, Director, or a Region Disaster Controller ”;

(f) by omitting subsection (6).

10—(1) Section 20 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

Amendment of section 20 of Principal Act (Director of Emergency Services and other officers).

(1) The Commissioner of Police shall be the Director of Emergency Services.

(2) Section 20 of the Principal Act is further amended by omitting subsection (2).

Amendment of section 21 of Principal Act (Functions of State Emergency Service).

- 11**—Section 21 of the Principal Act is amended as follows:—
- (a) by omitting “ emergency ” from paragraph (g) and substituting “ counter-disaster ”;
 - (b) by omitting “ evaluation; and ” from paragraph (g) and substituting “ evaluation;”;
 - (c) by omitting “ funds;” from paragraph (b) and substituting “ funds; and ”;
 - (d) by inserting the following paragraph after paragraph (b):—
 - (i) the provision of executive and secretarial services to the Executive and Committee.

Repeal of sections 25 and 26 of Principal Act and substitution of new sections.

- 12**—Sections 25 and 26 of the Principal Act are repealed and the following sections are substituted:—

Declaration of state of emergency.

25—(1) Where, on the recommendation of the Executive, it appears to the Minister that an emergency exists, he may declare a state of emergency.

(2) A declaration of a state of emergency shall come into force immediately the declaration is made and, unless sooner revoked, shall continue in force for a period specified in the declaration not exceeding 2 days.

(3) The duration of a state of emergency may be extended by declaration under subsection (1) for further periods not exceeding 2 days in each case.

Declaration of state of disaster.

26—(1) Where, on the recommendation of the Minister, it appears to the Governor that a disaster has occurred, he may, by order-in-council, declare a state of disaster.

(2) A declaration of a state of disaster shall come into force immediately the declaration is made and, unless sooner revoked, shall continue in force for a period specified in the declaration not exceeding 14 days.

(3) The duration of a state of disaster may be extended by declaration under subsection (1) for further periods not exceeding 14 days in each case.

Area that may be covered by declaration.

26A—A state of emergency or disaster may be declared in respect of any region or regions or the whole of Tasmania.

26B—(1) Upon a declaration of a state of emergency or disaster, the chairman of the Executive shall institute whatever counter-disaster measures he considers are appropriate to deal with the emergency or disaster. Duties upon declaration of state of disaster or emergency.

(2) Upon a declaration of a state of emergency or disaster, the Region Disaster Controller of any region or regions to which the declaration applies shall, subject to the directions of the chairman of the Executive—

- (a) take such action as is required by the counter-disaster plans and operational orders for the region, and as he considers appropriate;
- (b) take immediate action to use, direct, and co-ordinate all available resources within his region so as to counter the effects or the likely effects of the occurrence or impending occurrence that led to the declaration; and
- (c) immediately they become available, use, direct, and co-ordinate all additional resources that have been allocated by the chairman of the Executive.

13—Section 27 of the Principal Act is amended by inserting “ emergency or ” before “ disaster ” (wherever occurring). Amendment of section 27 of Principal Act (Powers upon declaration of a state of emergency or disaster).

14—Section 28 of the Principal Act is amended as follows:— Amendment of section 28 of Principal Act (Special powers with respect to the public).

- (a) by omitting from subsection (1) “ the chairman of the Executive or a Region Disaster Controller ” and substituting “ or emergency, the chairman of the Executive or a Region Disaster Controller of any region to which that declaration applies ”;
- (b) by inserting “, but subject to the directions of the chairman of the Executive ” in subsection (2) after “ provision ”;
- (c) by omitting “ subsection (1) (a) and subsection (2) (c) ” from subsection (4) and substituting “ this section ”.

15—Section 29 of the Principal Act is repealed. Repeal of section 29 of Principal Act.

Repeal of section 30 of Principal Act and substitution of new section.

16—Section 30 of the Principal Act is repealed and the following section is substituted:—

Duties and powers of municipalities with respect to counter-disaster measures.

30—(1) Subject to subsections (2) and (3), each municipality shall—

- (a) nominate a person to be the volunteer Local Co-ordinator of the State Emergency Service and furnish that nomination to the Director for approval and appointment by the Minister;
- (b) prepare a counter-disaster plan to institute counter-disaster measures within its area; and
- (c) in a state of disaster or emergency, use in accordance with its counter-disaster plan or, so far as the plan is not applicable, directions of the Region Disaster Controller, its resources and resources made available to it for that purpose.

(2) Two or more municipalities may, by agreement and with the approval of the Minister, unite for the purpose of preparing a counter-disaster plan and instituting counter-disaster measures in their combined areas.

(3) Where 2 or more municipalities have united by agreement under subsection (2), they may nominate jointly a person to be the volunteer Local Co-ordinator of the State Emergency Service and furnish that nomination to the Director for approval and appointment by the Minister.

(4) Where 2 or more municipalities have united under subsection (2), they shall—

- (a) prepare a joint counter-disaster plan to institute counter-disaster measures within the combined areas; and
- (b) in a state of disaster or emergency, use in accordance with their counter-disaster plan or, so far as the plan is not applicable, directions of the Region Disaster Controller, their resources and resources made available to them for that purpose.

(5) In a state of disaster or emergency, the volunteer Local Co-ordinator shall be the officer responsible for using in accordance with subsection (1) (c) or (4) (b), as the case may be, those resources available to the municipality or combined municipalities.

17—Section 33 of the Principal Act is amended by inserting in subsection (1) “, in respect of each municipality for which he is appointed” after “ shall ”.

Amendment of section 33 of Principal Act (Duties and powers of Local Co-ordinator).

18—Section 34 of the Principal Act is repealed and the following section is substituted:—

Repeal of section 34 of Principal Act and substitution of new section.

34—(1) Where 2 or more municipalities have united under section 30 (2), one or more of those municipalities may enter into a contract with some other person or between themselves to enable or facilitate the carrying out of counter-disaster measures.

Power to bind in contracts.

(2) A municipality or municipalities may enter into a contract referred to in subsection (1) to enable or facilitate the carrying out of counter-disaster measures—

(a) within its area or, as the case may be, their areas;
and

(b) with the consent of any other of the united municipalities, the area of that other municipality.

(3) A contract to which this section applies shall be binding on any municipality to which subsection (2) refers.

19—Section 36 of the Principal Act is amended by omitting “ or other officer thereof,”.

Amendment of section 36 of Principal Act (Protection from liability).

20—Section 37 of the Principal Act is amended by omitting “, an officer,”.

Amendment of section 37 of Principal Act (Offences with respect to Director and other persons).

21—Section 41 of the Principal Act is amended by omitting all words up to and including “ of this Act ” and substituting “ In any action or proceeding ”.

Amendment of section 41 of Principal Act (Evidentiary provisions).

Repeal of section 43 of Principal Act and substitution of new section.

22—Section 43 of the Principal Act is repealed and the following section is substituted:—

Workers' compensation payable to or in respect of certain persons.

43—(1) For the purposes of the *Workers' Compensation Act 1927*, a person who, otherwise than under a contract of service or apprenticeship with the Director, engages in counter-disaster operations or training for counter-disaster operations, with the consent of, or under the authority of, or in co-operation with the Director or an authorized officer, shall be deemed to be a worker employed by the Director.

(2) For the purpose of assessing the compensation payable to, or in respect of, a person to whom subsection (1) applies, his average weekly earnings shall—

(a) if he was working under a contract of service immediately before engaging in counter-disaster operations or training for counter-disaster operations, be calculated according to his earnings under that contract; and

(b) if he was not working under a contract of service at that time, be calculated as prescribed.

(3) Without in any way restricting the operation of subsection (1), any meeting, competition, demonstration, or display held in relation to counter-disaster operations shall be deemed to be training for counter-disaster operations.

(4) For the purposes of this section, "authorized officer" means any of the following persons:—

(a) a Region Disaster Controller, or a person acting under his authority;

(b) the Director, or a person acting under his authority;

(c) a Local Co-ordinator, or a person acting under his authority.

Amendment of Schedule 1 to *Tasmanian State Service (Miscellaneous Amendments) Act 1984*.

23—Schedule 1 to the *Tasmanian State Service (Miscellaneous Amendments) Act 1984* is amended by omitting the amendments of the Principal Act and substituting the following amendments:—

1—Section 2 is amended by omitting "officer of the Public Service of the State" from the definition of "Ministerial Liaison Officer, Emergency Services" and substituting "employee, within the meaning of the *Tasmanian State Service Act 1984*,".

2—Section 6 is amended by omitting subsection (2) (b) and substituting the following paragraph:—

(b) the Secretary of the Department of Public Administration;

3—Section 9 is amended by omitting subsection (1) (b) and substituting the following paragraph:—

(b) the Secretary of the Department of Public Administration;

4—Section 15 is amended by omitting from paragraph (e) “ officer of the Public Service of Tasmania ” and substituting “ employee, within the meaning of the *Tasmanian State Service Act 1984* ”.

5—Section 20 is amended by inserting “ administering the *Tasmanian State Service Act 1984* ” in subsection (3) after “ Minister ”.

