

**STATE EMERGENCY SERVICES AND CIVIL
DEFENCE ACT.**

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 11, 1972.

An Act to provide for the civil defence of the State and the co-ordination of relief operations in the event of certain emergencies; to confer and impose certain powers, authorities, duties and functions upon the Director of State Emergency Services and Civil Defence and certain other persons; to amend the Height of Buildings (Metropolitan Police District) Act, 1912, and the Bush Fires Act, 1949, in certain respects; and for purposes connected therewith. [Assented to, 16th March, 1972.]

BE

State Emergency Services and Civil Defence.

BE it enacted by the Queen's Most Excellent Majesty, by No. 11 1972
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "State Emergency Services and Civil Defence Act, 1972". Short title
and com-
mencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—*ss.* 1–6.

PART II.—GENERAL POWERS OF DIRECTOR—*ss.* 7–12.

PART III.—STATES OF EMERGENCY AND SPECIAL EMERGENCIES—*ss.* 13–19.

DIVISION 1.—*General*—*ss.* 13–16.

DIVISION 2.—*Powers exercisable during state of emergency or special emergency*—*s.* 17.

DIVISION 3.—*Powers exercisable during state of emergency*—*ss.* 18, 19.

PART IV.—MISCELLANEOUS—*ss.* 20–28.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

"body" means a body, whether corporate or unincorporate, and includes a government department, instrumentality or agency, public authority or council;

"civil

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“civil defence of the State” means, in relation to an emergency in respect of which a state of emergency exists, the preparation for and the carrying out of operations intended—

- (a) to prevent, minimise and overcome, as far as practicable, the effects, upon the public or any part of the public, or any property, in the State, of the occurrence due to which the emergency exists;
- (b) to deal with, as far as practicable, the emergency conditions existing by reason of the occurrence; and
- (c) to promote the safety of the public or any part of the public, or any property, in the State, in so far as that safety is threatened by reason of the occurrence;

“council” has the meaning ascribed thereto by the Local Government Act, 1919;

“Director” means the person for the time being holding office under the Public Service Act, 1902, whether appointed as such before or after the commencement of this Act, as the Director of State Emergency Services and Civil Defence, and includes any person for the time being acting in that office;

“emergency” means an emergency due to an actual or imminent occurrence that causes or threatens to cause loss of life or injury or distress to persons, or danger to the safety of the public or any part of the public, or destruction of or damage to property, in the State;

“local controller” means local controller referred to in subsection two of section eight of this Act;

“local government area” has the meaning ascribed thereto by the Local Government Act, 1919;

“occurrence”

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“occurrence” means—

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- (a) a fire, flood, earthquake, seismic sea wave, storm or tornado;
- (b) an explosion or accident;
- (c) a plague or epidemic;
- (d) an attack directed against the State or any part of the State, whether or not made by an enemy, and whether by means of bombs or missiles or by atomic, thermonuclear, radiological, chemical, bacteriological, biological or other means; or
- (e) a warlike act, whether or not directed against the State or any part of the State,

and includes any other event or happening whether of the same or a different nature;

“officer” means any officer or employee of the Public Service employed in the State Emergency Services and Civil Defence Organisation and any person appointed under subsection one of section eight of this Act;

“regulations” means regulations under this Act;

“special emergency” means an emergency declared to be a special emergency under section fourteen of this Act;

“state of emergency” means a state of emergency declared under section thirteen of this Act.

4. This Act binds the Crown.

Crown bound.

5. Nothing in this Act authorises the taking of measures amounting to, or making preparations for—

Limitation on operation of this Act.

(a) actual combat against an enemy;

(b)

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- No. 11, 1972 (b) the putting down of a riot or other civil disturbance;
or
(c) the bringing of a strike or lock-out to an end.

Director to be subject to Minister's control and direction. **6.** The Director shall, in respect of the powers, authorities, duties and functions conferred and imposed upon him by or under this Act, be subject to the control and direction of the Minister.

PART II.

GENERAL POWERS OF DIRECTOR.

Division of State into regions, etc. **7.** The Director may, by order published in the Gazette, declare the State to be divided, for the purposes of this Act, into such regions, sub-regions or other divisions as may be specified in the order.

Appointment of personnel by Director. **8.** (1) The Director may—
(a) establish such offices as he considers to be necessary for the purpose of carrying out or giving effect to this Act;
(b) appoint persons to those offices; and
(c) arrange for the training of persons so appointed.

(2) Without affecting the generality of subsection one of this section, the Director may, under that subsection, appoint a person to be the local controller for any local government area or to be the controller for any region, sub-region or other division referred to in section seven of this Act.

(3)

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(3) A local controller shall not be appointed under this section for a local government area except upon the recommendation of the council of the area, unless the council fails to make a recommendation that is acceptable to the Director within sixty days after the council has been requested in writing by the Director to do so. No. 11, 1972

(4) The council of a local government area shall, within a reasonable time after the appointment of a local controller for the area, afford, without fee or reward, such facilities and office and storage accommodation to the local controller as are reasonable for the proper exercise and discharge of the controller's powers, authorities, duties and functions conferred or imposed upon him by or under this Act.

9. (1) The Director may authorise officers to render assistance in relation to emergencies in such case or class of cases and subject to such conditions as the Director may determine. Relief assistance.

(2) Subsection one of this section applies in relation to an emergency whether or not a declaration under section thirteen or fourteen of this Act is in force in respect of the emergency.

10. The Director may—

- (a) undertake such planning and make such preparations as the Director may consider to be necessary for the purpose of enabling any powers, authorities, duties or functions conferred or imposed by or under this Act upon the Director or any other person or body to be exercised or performed in the most effective manner;

Miscellaneous powers of Director.

(b)

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- (b) constitute and abolish committees for the purpose of—
 - (i) collating and assessing information; or
 - (ii) giving advice or assistance to the Director or any other person or body, as may be determined by the Director;
 - (c) arrange for the collation, assessment and public dissemination of information relating to the imminence or continuance of flooding;
 - (d) co-operate with any person or body, including any authority of the Commonwealth, in relation to any matter referred to in paragraph (b) or (c) of this section;
 - (e) for the purpose of carrying out or giving effect to this Act—
 - (i) arrange, with the approval of the Minister administering any government department and of the Public Service Board, for the use of the services of any officer or employee of the department; or
 - (ii) arrange, with the approval of the Minister administering any government instrumentality or agency, for the use of the services of any officer or employee of the instrumentality or agency, whether or not the provisions of the Public Service Act, 1902, apply to the appointment of the officer or employee;
 - (f) for the purpose of carrying out or giving effect to this Act and on such terms as may be arranged with the approval of the Treasurer—
 - (i) arrange with any person, firm, council or corporation for the use of the services of any employee of the person, firm, council or corporation; or

(ii)

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- (ii) arrange for the use or supply of any property, undertaking, equipment, goods, vehicles, articles or things of any kind or for the supply of any services;
- (g) authorise officers to render assistance and provide facilities and services to members of the Police Force, and other persons or bodies, in such case or class of cases and subject to such conditions as the Director may determine;
- (h) furnish reports and recommendations upon any matter to the Minister; and
- (i) carry out such functions of an advisory or educational character as the Director thinks fit for purposes connected with this Act.

11. (1) The Director may, in such manner as he thinks fit, delegate to any officer the exercise or performance of such of the powers, authorities, duties and functions conferred or imposed upon him by or under this Act as he thinks fit (other than this power of delegation) and may, in such manner as he thinks fit, revoke wholly or in part any such delegation.

*Delegation
by Director,
and exercise
of Director's
powers, etc.*

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under subsection one of this section may, while the delegation remains unrevoked, be exercised or performed by the delegate in accordance with the terms of the delegation.

(3) A delegation under subsection one of this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the delegated powers, authorities, duties or functions or as to time, place or circumstances as may be determined by the Director.

(4)

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(4) Notwithstanding any delegation under subsection one of this section, the Director may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by the delegate when acting in the exercise of a delegation under subsection one of this section shall have the like force or effect as if the act or thing had been done or suffered by the Director.

(6) Notwithstanding anything in the foregoing provisions of this section, the regulations may make provision for or with respect to conferring or imposing upon any officer specified or described therein any of the powers, authorities, duties and functions conferred or imposed upon the Director by or under this Act.

(7) The conferring or imposing under subsection six of this section of any power, authority, duty or function may be made subject to such conditions or such limitations as to the exercise or performance of the power, authority, duty or function or as to time, place or circumstances as may be specified or described in the regulations.

(8) Notwithstanding the conferring or imposing under subsection six of this section of any power, authority, duty or function, the Director may continue to exercise or perform the power, authority, duty or function.

Powers, etc.,
under this
Part to be
additional.

12. Nothing in this Part shall be construed as limiting the powers, authorities, duties or functions of the Director, or any other person or body, under any other Part of this Act.

PART

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PART III.

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STATES OF EMERGENCY AND SPECIAL EMERGENCIES.

DIVISION 1.—*General.*

13. (1) Where the Governor is, during the currency of an emergency, satisfied that, having regard to the magnitude or threatened magnitude of the emergency and the facilities that appear to him to be available to deal with the emergency, the making of a declaration under this section is warranted, he may, during the currency of the emergency, by order in writing, declare that a state of emergency shall exist, either in the whole State, or any part of the State specified or described in the declaration, in respect of the emergency.

Declaration
of state of
emergency.

(2) An order under this section shall take effect from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

(3) An order under this section shall be published in the Gazette as soon as practicable.

(4) A declaration may be made under this section in respect of an emergency whether or not a declaration under section fourteen of this Act is in force in respect of the emergency.

14. (1) Where the Minister is, during the currency of an emergency, satisfied that, having regard to the magnitude or threatened magnitude of the emergency and the facilities that appear to him to be available to deal with the emergency, the making of a declaration under this section is warranted,

Declaration
of special
emergency.

he

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No. 11, 1972 he may, during the currency of the emergency, by order in writing, declare that the emergency shall be a special emergency for the purposes of this Act.

(2) An order under this section shall take effect from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

Prepara-
tion of
plans.

15. (1) The Director, with the approval of the Minister, may, after such consultation with the persons or bodies concerned as the Director thinks fit, prepare plans setting out the procedure which the Director considers ought, in the event of a state of emergency or a special emergency, to be followed by any person or body, and may from time to time vary or revoke any such plan.

(2) A plan under this section may be communicated in such manner as the Director thinks fit to any person or body to whom or to which the plan relates.

(3) A plan under this section communicated to a person or body to whom or to which the plan relates shall be adopted by the person or body and shall, as far as practicable, be carried into effect by the person or body in the circumstances indicated by the plan during the currency of a state of emergency or a special emergency.

This Part
to prevail
over other
Acts, etc.

16. Where the provisions of this Part of this Act are inconsistent with any of the provisions of any other Act, or of any regulation, ordinance or by-law made under any other Act, the provisions of this Part shall prevail.

DIVISION

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DIVISION 2.—*Powers exercisable during state of emergency No. 11, 1972*
or special emergency.

17. Where the Director is, during the currency of an emergency in respect of which a state of emergency exists or during the currency of a special emergency, of the opinion that any operations being or to be carried out in relation to the emergency by a person or body—

Powers exercisable during state of emergency or special emergency.

- (a) whose responsibilities require him or it to undertake any such operations; or
- (b) who or which may be undertaking any such operations,

should, in the public interest, be co-ordinated, the Director may, during the currency of the emergency, give such directions to any such person or body as he may consider necessary for the purposes of securing the co-ordination of the operations.

DIVISION 3.—*Powers exercisable during state of emergency.*

18. The Director may, during the currency of an emergency in respect of which a state of emergency exists, for purposes connected with the civil defence of the State—

Powers exercisable during state of emergency.

- (a) give such directions to any person or body as may be necessary for the civil defence of the State;
- (b) enter any land, building or structure;
- (c) cause any road or public place to be closed to traffic or to any persons;
- (d) pull down, cut or remove or cause to be pulled down, cut or removed fences on any land;
- (e) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;

(f)

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- (f) destroy or remove or cause to be destroyed or removed any living or dead vegetation or any dead animal;
- (g) burn, plough or clear or cause to be burnt, ploughed or cleared fire breaks on any land;
- (h) bring or cause to be brought onto or into any land, building or structure, and there use or cause to be used, any equipment, goods, vehicles, articles or things of any kind;
- (i) take possession or control of or use any property, undertaking, equipment, goods, vehicles, articles or things of any kind;
- (j) use free of charge any water from any source whatsoever on any land;
- (k) use free of charge any gas or electricity;
- (l) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body whatsoever;
- (m) cause to be shut off or disconnected the supply of water, gas or electricity;
- (n) give a direction to the person or body apparently in charge of any premises or place, being licensed premises (within the meaning of the Liquor Act, 1912), a factory, shop, cinema, theatre, public hall, school, college, university or any other premises or place, that the premises or place be closed and kept closed during the currency of the state of emergency or for such shorter period as may be specified or described in the direction; and

(o)

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- (o) do or cause to be done any other act, matter or thing which is necessary for or incidental to the civil defence of the State. **No. 11, 1972**

19. The powers and authorities conferred by this Division shall not be exercisable—

- (a) except in a part of the State in which a state of emergency exists; and
- (b) except in relation to an emergency in respect of which a state of emergency exists.

PART IV.

MISCELLANEOUS.

20. Any person appointed under subsection one of section eight of this Act or any person upon whom any power, authority, duty or function is conferred or imposed by or under this Act shall not, by reason only of that appointment or conferring or imposing, be deemed to be a servant of the Crown, the government of the State, the Minister, the Director, a council or any other person or body.

21. No proceedings whatsoever shall lie or be made or allowed by or in favour of any person against the Crown, the Minister, the Director or any other officer, a council, or any other person or body, acting in the execution or intended execution of this Act, or in accordance with any delegation under this Act, or in compliance or intended compliance with any direction given or purported to be given under this Act, in respect of anything bona fide done or omitted to be done under and for the purposes of this Act.

22.

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No. 11, 1972 **22.** (1) Where any direction is given under section seventeen or eighteen of this Act to any person or body, that person or body shall comply with the direction.

Directions
to be
complied
with.

(2) It is a sufficient defence to a prosecution for an offence under subsection one of this section in respect of a failure to comply with a direction if the defendant satisfies the court that he so failed with reasonable excuse.

Assaulting
officers,
etc.

23. A person shall not assault, resist, obstruct, use abusive language to or incite or encourage any other person to assault, resist, obstruct or use abusive language to the Director or any other officer in the exercise or performance of any of the powers, authorities, duties or functions conferred or imposed upon him by or under this Act.

Offences
and
penalties.

24. (1) A person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(2) A person who is guilty of an offence against this Act is liable to a penalty not exceeding eight hundred dollars or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment.

(3) Where a company is convicted of an offence against this Act, every director and every officer concerned in the management of the company shall be guilty of the like offence if he knowingly and wilfully authorised or permitted the commission of the offence.

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(4) Proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone. No. 11, 1972

25. (1) In any legal proceedings, a certificate purporting to be signed by the Director and to certify that— Evidence,
etc.

- (a) a state of emergency was in existence, either in the whole State or a part of the State as specified therein, on a day or during a period specified therein, in respect of an emergency specified therein;
- (b) a declaration under section fourteen of this Act was in force on a day or during a period specified therein in respect of an emergency specified therein;
- (c) a delegation by the Director to a person specified therein of the exercise or performance of any power, authority, duty or function specified therein was in force on a day or during a period specified therein;
- (d) a delegation by the Director to a person specified therein was subject to the conditions or limitations specified therein or was not subject to any conditions or limitations other than those specified therein or was not subject to any conditions or limitations at all; or
- (e) a person specified therein was an officer on a day or during a period specified therein,

shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

(2)

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(2) In any legal proceedings, a certificate purporting to be signed by the Minister and to certify that a person specified therein was the Director on a day or during a period specified therein shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

(3) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of a declaration under section thirteen or fourteen of this Act have been complied with and performed.

Annual
report.

26. The Director shall, as soon as practicable after the thirtieth day of June in each year, cause a report giving information as to the operation of the State Emergency Services and Civil Defence Organisation during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament.

Regulations.

27. (1) The Governor may make regulations for or with respect to—

- (a) the issue to officers of certificates of identification and the surrender of those certificates;
- (b) the powers, authorities, duties and functions of persons appointed under subsection one of section eight of this Act; and
- (c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding four hundred dollars for any breach thereof.

(3) A regulation may be made so as to differ according to time, place or circumstances.

(4)

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(4) A regulation may authorise any matter or thing No. 11, 1972 to be from time to time determined by any person or body specified or described therein.

28. (1) The Height of Buildings (Metropolitan Police District) Act, 1912, is amended by omitting from paragraph (f) of subsection two of section 4B the words "Civil Defence" and by inserting in lieu thereof the words "State Emergency Services and Civil Defence".

Amendment
of Act No.
58, 1912.
Sec. 4B.
(Height of
Buildings
Advisory
Committee.)

(2) The Bush Fires Act, 1949, is amended by omitting from paragraph (h) of subsection two of section thirty-nine the words "Civil Defence" and by inserting in lieu thereof the words "State Emergency Services and Civil Defence".

Amendment
of Act No.
31, 1949.
Sec. 39.
(Constitu-
tion of Bush
Fire
Council.)

AUCTIONEERS