



New South Wales

State Emergency and Rescue Management Amendment Act 2009 No 38

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New South Wales

State Emergency and Rescue Management Amendment Act 2009 No 38

Act No 38, 2009

An Act to amend the *State Emergency and Rescue Management Act 1989* to provide for the appointment of a State Emergency Recovery Controller; and for other purposes. [Assented to 19 June 2009]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *State Emergency and Rescue Management Amendment Act 2009*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of State Emergency and Rescue Management Act 1989 No 165

[1] Section 3 Definitions

Insert in appropriate order in section 3 (1):

recovery agency means the agency identified in Displan as the agency primarily responsible for controlling the recovery from a particular emergency.

State Emergency Recovery Controller means the State Emergency Recovery Controller appointed under Part 2.

[2] Section 10 Minister

Insert after section 10 (3) (b):

(c) the State Emergency Recovery Controller.

[3] Section 10 (4)

Insert “, State Emergency Recovery Controller” after “Controller”.

[4] Section 11 State Disasters Council

Insert after section 11 (3) (b1):

(b2) the State Emergency Recovery Controller, and

[5] Section 12 State Disaster Plan

Omit section 12 (3) (d). Insert instead:

(d) specify the responsibilities of the Minister, the State, District or Local Emergency Operations Controller and the State Emergency Recovery Controller.

[6] Section 14 State Emergency Management Committee

Insert after section 14 (2) (a):

(a1) the State Emergency Recovery Controller, and

[7] Section 19 Responsibility and functions of State Emergency Operations Controller

Omit “or agreed to the Controller assuming” from section 19 (1B) (b).

Insert instead “that the Controller assume, or has agreed to the Controller assuming”.

[8] Part 2, Division 1, Subdivision 5

Insert after section 20:

Subdivision 5 The State Emergency Recovery Controller

20A State Emergency Recovery Controller

- (1) The Minister may appoint a State Emergency Recovery Controller and a Deputy State Emergency Recovery Controller.
- (2) The person appointed as the State Emergency Recovery Controller must be a senior executive officer and the person appointed as the Deputy State Emergency Recovery Controller must be a senior executive officer or a senior officer.
- (3) The persons so appointed must be persons who are, in the opinion of the Minister, experienced in emergency management.
- (4) During the absence or a vacancy in the office of the State Emergency Recovery Controller, the Deputy State Emergency Recovery Controller has all of the functions of the State Emergency Recovery Controller.
- (5) Schedule 1 contains provisions with respect to the State Emergency Recovery Controller and the Deputy State Emergency Recovery Controller.
- (6) In this section:
senior executive officer has the same meaning as in the *Public Sector Employment and Management Act 2002*.
senior officer means a person employed in a position in the Public Service for which the rate of salary or wages payable to the person exceed the maximum rate payable for Grade 12, Administrative and Clerical Division, of the Public Service.

20B Responsibility and functions of State Emergency Recovery Controller

- (1) The State Emergency Recovery Controller is, subject to this section, responsible for controlling in accordance with this Act the recovery from an emergency:
 - (a) that affects more than one district, or
 - (b) for which the State Emergency Recovery Controller assumes responsibility.
- (2) The State Emergency Recovery Controller is not responsible for controlling the recovery from an emergency if there is a single recovery agency primarily responsible under Displan for

controlling the recovery from the emergency, unless the Controller assumes that responsibility in accordance with subsection (3).

- (3) The State Emergency Recovery Controller may assume responsibility for controlling the recovery from an emergency from the recovery agency primarily so responsible under Displan if:
- (a) the Controller is satisfied that it is necessary to do so in the particular circumstances of the case, and
 - (b) the recovery agency has requested that the Controller assume, or has agreed to the Controller assuming, that responsibility or, in the case of any disagreement on the matter, the Minister has directed the Controller to do so.
- (4) The State Emergency Recovery Controller may, if responsible for controlling the recovery from an emergency:
- (a) issue directions to agencies who have functions in connection with recovery from an emergency, and
 - (b) appoint an officer of an agency to have overall control of particular activities in recovery from an emergency where a number of agencies are involved and those agencies do not agree on the matter.
- (5) The State Emergency Recovery Controller may assist a recovery agency that is primarily responsible for controlling the recovery from an emergency in carrying out that responsibility.
- (6) The functions of the State Emergency Recovery Controller may be exercised without the need for a declaration of a state of emergency.

[9] Schedule 1, heading

Omit the heading and the section reference following the heading.

Insert instead:

Schedule 1 Provisions relating to Controllers

(Sections 18 (4) and 20A (5))

[10] Schedule 1, clause 1

Omit the definition of *Controller*. Insert instead:

Controller means the State Emergency Operations Controller, Deputy State Emergency Operations Controller, State Emergency Recovery Controller or Deputy State Emergency Recovery Controller.

[11] Schedule 1, clause 5

Omit the clause. Insert instead:

5 Casual vacancies

- (1) The office of the Controller becomes vacant if the Controller:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office under this clause, or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor (or, in the case of the State Emergency Recovery Controller or Deputy State Emergency Recovery Controller, the Minister) may remove the Controller from office at any time.

[12] Schedule 1, clause 7

Omit the clause. Insert instead:

7 Chapter 1A of Public Sector Employment and Management Act 2002 not to apply

Chapter 1A of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of the Controller.

[13] Schedule 2 Provisions relating to members and procedure of emergency management organisations

Omit clause 5 (1). Insert instead:

- (1) Chapter 1A of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a member.

[14] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

State Emergency and Rescue Management Amendment Act 2009

Schedule 2 Amendment of State Emergency Service Act 1989 No 164

Section 8 Functions of Service

Omit “for, response to and recovery from” from section 8 (1) (f).

Insert instead “for and response to, and to assist the State Emergency Recovery Controller to carry out emergency management functions relating to the recovery from,”.

[Agreement in principle speech made in Legislative Assembly on 5 June 2009
Second reading speech made in Legislative Council on 17 June 2009]

BY AUTHORITY