

# State Emergency and Rescue Management Act 1989 No 165

[1989-165]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[State Emergency and Rescue Management Amendment Bill 2024](#)

### Responsible Minister

- Minister for Emergency Services

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# State Emergency and Rescue Management Act 1989 No 165



New South Wales

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# State Emergency and Rescue Management Act 1989 No 165



New South Wales

An Act relating to the management of State emergencies and rescues.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *State Emergency and Rescue Management Act 1989*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act—

**accredited rescue unit** means a rescue unit accredited by the Minister under Division 4 of Part 3.

**agency** means a government agency or a non-government agency.

**combat agency** means the agency identified in the State Emergency Management Plan as the agency primarily responsible for controlling the response to a particular emergency.

**control** means the overall direction of the activities, agencies or individuals concerned.

**co-ordination** means the bringing together of agencies and individuals to ensure effective emergency or rescue management, but does not include the control of agencies and individuals by direction.

**emergency** has the meaning given by section 4.

**emergency operations centre** means a centre established under this Act at a State, regional or local level as a centre of communication, and as a centre for the co-ordination of operations and support, during an emergency.

**emergency services organisation** means the following—

- (a) Ambulance Service of NSW,
- (b) Fire and Rescue NSW,
- (c) a fire brigade within the meaning of the *Fire and Rescue NSW Act 1989*,
- (d) NSW Police Force,
- (e) NSW Rural Fire Service,
- (f) State Emergency Service,
- (g) Surf Life Saving New South Wales,
- (h) New South Wales Volunteer Rescue Association Inc,
- (i) Volunteer Marine Rescue NSW,
- (j) an agency that manages or controls an accredited rescue unit,
- (k) a non-government agency that is prescribed by the regulations for the purposes of this definition.

**functional area** means the following categories of services involved in the prevention of, preparation for, responses to or recovery from an emergency—

- (a) agricultural and animal services,
- (b) telecommunications services,
- (b1) energy and utility services,
- (c) engineering services,
- (d) environmental services,
- (e) health services,
- (f) public information services,
- (g) transport services,
- (h) welfare services,
- (i) another category of services described as a functional area in the State Emergency Management Plan.

**government agency** means—

- (a) a Public Service agency,



- (b) a public authority, being a body (whether incorporated or not) established by or under an Act for a public purpose, other than—
  - (i) the Legislative Council or Legislative Assembly or a committee of either or both of those bodies, or
  - (ii) a court or other judicial tribunal,
- (c) the NSW Police Force,
- (d) a local government council or other local authority, or
- (e) a member or officer of an agency referred to in paragraphs (a)–(d) or any other person in the service of the Crown who has statutory functions, other than—
  - (i) the Governor, the Lieutenant-Governor or the Administrator of the State,
  - (ii) a Minister of the Crown,
  - (iii) a member of the Legislative Council or Legislative Assembly or an officer of that Council or Assembly, or
  - (iv) a judicial officer.

**Local Emergency Management Committee** means a Local Emergency Management Committee constituted under Part 2.

**local government area** means an **area** within the meaning of the [Local Government Act 1993](#) and includes a combined local government area as referred to in section 27.

**New South Wales Volunteer Rescue Association Inc** means NSW Volunteer Rescue Association Inc (ABN 68 767 393 968).

**non-government agency** means a voluntary organisation or any other private individual or body, other than a government agency.

**recovery agency** means the agency identified in the State Emergency Management Plan as the agency primarily responsible for controlling the recovery from a particular emergency.

**region** means a region established under section 21.

**Regional Emergency Management Committee** means a Regional Emergency Management Committee constituted under Part 2.

**rescue** means the safe removal of persons or domestic animals from actual or threatened danger of physical harm.

**Secretary** means the Secretary of the Department of Justice.

**State Emergency Management Committee** means the State Emergency Management Committee constituted under Part 2.

**State Emergency Management Plan** means the State Emergency Management Plan referred to in section 12.

**State Emergency Operations Controller**—see section 18.

**State Emergency Recovery Controller**—see section 20A.

**State Emergency Service** means the NSW State Emergency Service constituted under the [State Emergency Service Act 1989](#).

**state of emergency** means a state of emergency declared under Division 4 of Part 2 and for the time being in force.

**State Rescue Board** means the State Rescue Board of New South Wales constituted under Part 3.

**Surf Life Saving New South Wales** means Surf Life Saving New South Wales (ACN 138 025 573).

**Volunteer Marine Rescue NSW** means Volunteer Marine Rescue NSW (ABN 98 138 078 092).

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

#### 4 Definition of “emergency”

(1) In this Act—

**emergency** means an emergency due to an actual or imminent occurrence (such as fire, flood, storm, earthquake, explosion, terrorist act, accident, epidemic or warlike action) which—

- (a) endangers, or threatens to endanger, the safety or health of persons or animals in the State, or
- (b) destroys or damages, or threatens to destroy or damage, property in the State, or
- (c) causes a failure of, or a significant disruption to, an essential service or infrastructure,

being an emergency which requires a significant and co-ordinated response.

- (2) For the purposes of the definition of **emergency**, property in the State includes any part of the environment of the State. Accordingly, a reference in this Act to—
- (a) threats or danger to property includes a reference to threats or danger to the environment, and
  - (b) the protection of property includes a reference to the protection of the environment.

## 5 Stages of emergency

For the purposes of this Act—

- (a) **prevention** in relation to an emergency includes the identification of hazards, the assessment of threats to life and property and the taking of measures to reduce potential loss to life or property, and
- (b) **preparation** in relation to an emergency includes arrangements or plans to deal with an emergency or the effects of an emergency, and
- (c) **response** in relation to an emergency includes the process of combating an emergency and of providing immediate relief for persons affected by an emergency, and
- (d) **recovery** in relation to an emergency includes the process of returning an affected community to its proper level of functioning after an emergency.

## 6 Relationship between Part 2 (State emergency management) and Part 3 (State rescue management)

- (1) Part 3 applies to a rescue operation whether it relates to a single incident or an emergency.
- (2) However, if a rescue operation relates to an emergency Part 2 prevails.
- (3) A dispute as to whether a rescue operation relates to a single incident or an emergency may be determined by the Minister or (subject to any determination of the Minister) by the State Emergency Operations Controller.

## 7 Limitation on operation of Act—industrial disputes and civil disturbances

This Act does not authorise the taking of measures directed at—

- (a) bringing an industrial dispute to an end, or
- (b) controlling a riot or other civil disturbance (other than a riot or civil disturbance resulting from and occurring during a state of emergency).

## **8 Operation of Act in relation to civil defence**

This Act authorises the taking of civil defence measures, not being actual military combat or preparations for military combat.

## **9 Act binds the Crown**

This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

# **Part 2 State emergency management**

## **Division 1 Emergency management at State level**

### **Subdivision 1 The Minister**

#### **10 Minister**

- (1) The Minister is responsible for—
  - (a) ensuring that adequate measures are taken by government agencies to prevent, prepare for, respond to and assist recovery from emergencies, and
  - (b) co-ordinating the activities of government agencies in taking those measures, and
  - (c) approving the State Emergency Management Plan or any alterations to the State Emergency Management Plan.
- (2) (Repealed)
- (3) The following are, in the exercise of their functions under this Act, subject to the control and direction of the Minister—
  - (a) the State Emergency Management Committee,
  - (b) the State Emergency Operations Controller,
  - (c) the State Emergency Recovery Controller.
- (4) The Minister may delegate to the State Emergency Operations Controller, State Emergency Recovery Controller or other person the Minister's functions under this Act, other than—
  - (a) the Minister's functions under this section, and
  - (b) this power of delegation.

#### **11 (Repealed)**

### **Subdivision 2 The State Emergency Management Plan**

## **12 State Emergency Management Plan**

- (1) There is to be a State Emergency Management Plan.
- (2) The object of the State Emergency Management Plan is to ensure the co-ordinated response to emergencies by all agencies having responsibilities and functions in emergencies.
- (3) The State Emergency Management Plan is to—
  - (a) identify, in relation to each different form of emergency, the combat agency primarily responsible for controlling the response to the emergency, and
  - (b) provide for the co-ordination of the activities of other agencies in support of a combat agency in the event of an emergency, and
  - (c) specify the tasks to be performed by all agencies in the event of an emergency, and
  - (d) specify the responsibilities of the Minister, the State, Regional or Local Emergency Operations Controller and the State Emergency Recovery Controller.
- (4) As soon as practicable after the Minister approves the State Emergency Management Plan or any alterations to the State Emergency Management Plan, the Secretary must—
  - (a) publish (in such manner as the Secretary determines) a copy of the State Emergency Management Plan or the alterations to the State Emergency Management Plan, and
  - (b) forward a copy of the State Emergency Management Plan or the alterations to the State Emergency Management Plan to each agency to which the State Emergency Management Plan relates.

## **13 Operation of State Emergency Management Plan**

- (1) The relevant provisions of the State Emergency Management Plan have effect in the event of an emergency.
- (2) The State Emergency Management Plan has effect in the event of an emergency whether or not a state of emergency has been declared.
- (3) Agencies are authorised to undertake their responsibilities and functions under the State Emergency Management Plan in the event of an emergency. Government agencies may be required to do so by the Minister.
- (4) Any question concerning the application or operation of the State Emergency Management Plan may be referred to and determined by the Minister.

- (5) This section does not authorise or require any act or omission that is inconsistent with this or any other Act.

### **Subdivision 3 The State Emergency Management Committee**

#### **14 State Emergency Management Committee**

- (1) There is established by this Act a State Emergency Management Committee.
- (2) The Committee is to consist of—
- (a) the State Emergency Operations Controller, and
  - (a1) the State Emergency Recovery Controller, and
  - (a2) the chief executive of the Ambulance Service of NSW, and
  - (a3) the Commissioner of Fire and Rescue NSW, and
  - (a4) the Commissioner of Police, and
  - (a5) the Commissioner of the NSW Rural Fire Service, and
  - (a6) the Commissioner of the State Emergency Service, and
  - (b) representatives of such relevant government and non-government agencies as the Minister may from time to time determine, and
  - (c) such other persons as may be nominated by the Minister from time to time.
- (2A) One of the members of the Committee is to be appointed by the Minister as the Chairperson of the Committee.
- (3) The representative of a non-government agency is to be nominated by the Minister and the representative of a government agency is to be nominated by the Minister responsible for the agency.
- (4) The persons so nominated are to be persons who have authority to plan and commit their agencies' resources in relation to the response and recovery stages of an emergency.
- (5) Schedule 2 has effect with respect to the members and procedure of the State Emergency Management Committee.

#### **15 Functions of State Emergency Management Committee**

The State Emergency Management Committee has the following functions—

- (a1) to advise the Minister on all matters relating to the prevention of, preparation for, response to and recovery from emergencies (including the co-ordination of the

activities of government and non-government agencies in connection with those matters),

- (a) to review, monitor and advise the Minister on the adequacy of the provisions of this Act relating to emergency management,
- (b) to provide strategic policy advice to the Minister in relation to emergency management,
- (c) to review, monitor and develop emergency management policy and practice at a State level and to disseminate information in relation to any such policy and practice,
- (c1) to promote the continuous improvement of emergency management policy and practice at a State level, including through consideration of reviews and inquiries into emergency operations, exercises and training evaluations,
- (d) to review the State Emergency Management Plan and to recommend alterations to it,
- (e) to endorse any subplans or supporting plans established under the State Emergency Management Plan,
- (f) to facilitate strategic State level emergency management capability through inter-agency co-ordination, co-operation and information sharing arrangements,
- (g) such other functions as are conferred or imposed on the Committee by or under this Act or as are related to this Act and assigned to the Committee from time to time by the Minister.

#### **16 Functional area sub-committees of State Emergency Management Committee**

- (1) The State Emergency Management Committee is required to establish such sub-committees as the Minister directs in connection with functional areas.
- (2) A sub-committee established for a functional area is to co-ordinate the provision of functional area support for activities carried out to prevent, prepare for, respond to or recover from an emergency.

#### **17 Annual report by State Emergency Management Committee**

- (1) As soon as practicable after 30 June, but on or before 31 December in each year, the Secretary is to provide the Minister with a report approved by the State Emergency Management Committee on the work and activities of the Committee for the 12 months ending on 30 June in that year.
- (2) The Minister is to lay any such report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

## **Subdivision 4 The State Emergency Operations Controller**

### **18 State Emergency Operations Controller and Deputy**

- (1) There is to be a State Emergency Operations Controller and a Deputy State Emergency Operations Controller.
- (2) The office of the State Emergency Operations Controller is to be held by—
  - (a) the Commissioner of Police, or
  - (b) if the Governor, on the recommendation of the Minister, designates a position in the NSW Police Force Senior Executive Service as the position of State Emergency Operations Controller—the person for the time being holding or acting in that position.
- (3) The office of the Deputy State Emergency Operations Controller is to be held by the person for the time being holding or acting in a position in the NSW Police Force Senior Executive Service that is designated by the Governor, on the recommendation of the Minister, as the position of Deputy State Emergency Operations Controller.
- (4) The Minister is to consult with the Minister for Police before making a recommendation under subsection (2) or (3).
- (5) During the absence or a vacancy in the office of the State Emergency Operations Controller, the Deputy State Emergency Operations Controller has all the functions of the State Emergency Operations Controller.

### **19 Responsibility and functions of State Emergency Operations Controller**

- (1) The State Emergency Operations Controller is, subject to this section, responsible for controlling in accordance with this Act the response to an emergency—
  - (a) that affects more than one region, or
  - (b) for which the State Emergency Operations Controller assumes responsibility.
- (1A) The State Emergency Operations Controller is not responsible for controlling the response to an emergency if there is a single combat agency primarily responsible under the State Emergency Management Plan for controlling the response to the emergency, unless the Controller assumes that responsibility in accordance with subsection (1B).
- (1B) The State Emergency Operations Controller may assume responsibility for controlling the response to an emergency from the combat agency primarily so responsible under the State Emergency Management Plan if—
  - (a) the Controller is satisfied that it is necessary to do so in the particular circumstances of the case, and



- (b) the combat 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.
- (2) The State Emergency Operations Controller may, if responsible for controlling the response to an emergency—
  - (a) issue directions to agencies who have functions in connection with responses to the emergency, and
  - (b) appoint an officer of an agency to have overall control of particular activities in response to the emergency where a number of agencies are involved and those agencies do not agree on the matter.
- (2A) The State Emergency Operations Controller may, at the request of the combat agency that is primarily responsible for controlling the response to an emergency, carry out such functions as may be specified by the agency for the purposes of controlling the response to the emergency.
- (3) The functions of the State Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.

## **20 State emergency operations centre**

- (1) The State Emergency Operations Controller is to establish and control a State emergency operations centre.
- (2) The State emergency operations centre is to have—
  - (a) communication facilities for independent control and co-ordination of regions, and
  - (b) discrete communication facilities with heads of emergency services organisations and functional areas, and
  - (c) independent communications with the public broadcasting media network, and
  - (d) independent media information facilities.
- (3) (Repealed)

## **Subdivision 5 The State Emergency Recovery Controller**

### **20A State Emergency Recovery Controller and Deputy**

- (1) There is to be a State Emergency Recovery Controller and a Deputy State Emergency Recovery Controller.
- (2) The office of the State Emergency Recovery Controller is to be held by—

- (a) the chief executive officer of the NSW Reconstruction Authority, unless a person is designated under paragraph (b), or
- (b) either of the following designated by the chief executive officer of the NSW Reconstruction Authority—
  - (i) a senior executive employed in the NSW Reconstruction Authority,
  - (ii) a NSW Police Force senior executive.
- (3) The office of the Deputy State Emergency Recovery Controller is to be held by an employee of the NSW Reconstruction Authority designated by the chief executive officer of the NSW Reconstruction Authority.
- (4) If the State Emergency Recovery Controller is unavailable for any reason, the Deputy State Emergency Recovery Controller has, during the period of unavailability, all the functions of the State Emergency Recovery Controller.
- (5) In this section and section 20B—

**chief executive officer**, of the NSW Reconstruction Authority, has the same meaning as in the [NSW Reconstruction Authority Act 2022](#).

**NSW Reconstruction Authority** has the same meaning as in the [NSW Reconstruction Authority Act 2022](#).

## **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 region, 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 the State Emergency Management Plan 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 the State Emergency Management Plan 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.
- (4A) To the extent of any inconsistency between a direction given by the State Emergency Recovery Controller in the exercise of functions under this Act, and the NSW Reconstruction Authority or chief executive officer in the exercise of functions under the *NSW Reconstruction Authority Act 2022*, the direction given by the State Emergency Recovery Controller under this Act prevails.
- (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.

## **Division 2 Emergency management at region level**

### **21 Establishment of regions**

- (1) For the purposes of this Act, the State is divided into such regions as the Minister may determine by order published in the Gazette.
- (2) Any such order may describe the boundaries of a region by reference to local government areas, maps or otherwise.

### **22 Regional Emergency Management Committees**

- (1) There is established by this Act a Regional Emergency Management Committee for each region.
- (2) Each such Committee is to consist of—
  - (a) the Regional Emergency Operations Controller for the relevant region, who is to be the Chairperson of the Committee, and
  - (b) the Chairperson of the Local Emergency Management Committee for each local government area within the relevant region, and

- (c) a senior representative of each emergency services organisation operating in the relevant region, and
- (d) a representative of each organisation that—
  - (i) provides services in a functional area or areas in the relevant region, and
  - (ii) the Minister determines from time to time is to be represented on the Committee.
- (3) The representative of an emergency services organisation is to be nominated by the organisation. The representative of an organisation providing services in a functional area is to be nominated in accordance with arrangements determined by the Minister.
- (4) (Repealed)
- (5) Schedule 2 has effect with respect to the members and procedure of a Regional Emergency Management Committee.

### **23 Functions of Regional Emergency Management Committees**

- (1) A Regional Emergency Management Committee is responsible for preparing and reviewing plans in relation to the prevention of, preparation for, response to and recovery from emergencies in the region for which it is constituted.
  - (1A) Without limiting subsection (1), any such Committee may—
    - (a) review and monitor emergency management policy and practice across the region, and
- Note—**
- The State Emergency Management Committee is responsible for reviewing, monitoring and developing emergency management policy and practice at a State level and for disseminating information about that policy and practice, including to Regional and Local Emergency Management Committees.
- (b) review and prepare plans in respect of the region that are, or are proposed to be, subplans or supporting plans established under the State Emergency Management Plan, and
  - (c) make recommendations about and assist in the co-ordination of training in relation to emergency management across the region, and
  - (d) develop, conduct and evaluate regional emergency management training exercises, and
  - (e) facilitate regional level emergency management capability through inter-agency co-ordination, co-operation and information sharing arrangements, and
  - (f) assist the Regional Emergency Operations Controller for the relevant region in the Controller's role under section 25, and

- (g) carry out such other functions as are—
  - (i) related to this Act, and
  - (ii) assigned to the Committee (or to Regional Emergency Management Committees generally) from time to time by the State Emergency Management Committee.

(2) In the exercise of its functions, any such Committee is responsible to the State Emergency Management Committee.

#### **24 Regional Emergency Operations Controller**

- (1) The Commissioner of Police is to appoint a Regional Emergency Operations Controller for each region who is to be a police officer holding the position of Region Commander.
- (2) A Regional Emergency Operations Controller may appoint as his or her deputy a person who is—
  - (a) a police officer of or above the rank of Superintendent, and
  - (b) in the opinion of the Regional Emergency Operations Controller, experienced in emergency management.
- (3) During the absence, or a vacancy in the office, of a Regional Emergency Operations Controller, the Regional Emergency Operations Controller's deputy has all the functions of the Regional Emergency Operations Controller under this Act.

#### **25 Functions of Regional Emergency Operations Controller**

- (1) The Regional Emergency Operations Controller for a region is, subject to this section, responsible for controlling in accordance with this Act the response to an emergency—
  - (a) that affects more than one local government area in the region, or
  - (b) for which the Regional Emergency Operations Controller assumes responsibility.
- (1A) The Regional Emergency Operations Controller is not responsible for controlling the response to an emergency if there is a single combat agency primarily responsible under the State Emergency Management Plan for controlling the response to the emergency, unless the Controller assumes that responsibility in accordance with subsection (1B).
- (1B) The Regional Emergency Operations Controller may assume responsibility for controlling the response to an emergency from the combat agency primarily so responsible under the State Emergency Management Plan if—
  - (a) the State Emergency Operations Controller is satisfied that it is necessary to do so in the particular circumstances of the case, and

(b) the combat agency has requested or agreed to the Regional Emergency Operations Controller assuming that responsibility.

(1C) The Regional Emergency Operations Controller is not responsible for controlling the response to an emergency for which the State Emergency Operations Controller has assumed responsibility.

(2) The Regional Emergency Operations Controller may, if responsible for controlling the response to an emergency, issue directions to agencies who have functions in connection with responses to the emergency.

(2A) The Regional Emergency Operations Controller may, at the request of the combat agency that is primarily responsible for controlling the response to an emergency, carry out such functions as may be specified by the agency for the purposes of controlling the response to the emergency.

(3) The functions of the Regional Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.

(4) The Regional Emergency Operations Controller is to establish and control a regional emergency operations centre.

(5) The Regional Emergency Operations Controller is subject to the direction of the State Emergency Operations Controller.

## **26 NSW Police Force to provide executive support for Regional Emergency Management Committee and Operations Controller**

(1) The NSW Police Force is to provide executive support facilities for each Regional Emergency Management Committee and Regional Emergency Operations Controller in the region concerned.

(2) (Repealed)

## **Division 3 Emergency management at local level**

### **27 Combination of local government areas**

If the councils of 2 or more local government areas agree (with the approval of the Minister) to combine their emergency management arrangements under this Part, a reference in this Part—

(a) to a local government area is a reference to the combined local government areas concerned, and

(b) to the council of that combined local government area is a reference to the principal council nominated in the agreement.

## **28 Local Emergency Management Committees**

- (1) There is established by this Act a Local Emergency Management Committee for each local government area.
- (2) Each such Committee is to consist of—
  - (a) the General Manager of the council of the relevant local government area, who is to be the Chairperson of the Committee, and
  - (b) a senior representative of each emergency services organisation operating in the relevant local government area, and
  - (c) a representative of each organisation that—
    - (i) provides services in a functional area or areas in the relevant local government area, and
    - (ii) the council of that area determines from time to time is to be represented on the Committee, and
  - (d) the Local Emergency Operations Controller for the relevant local government area, and
  - (e) a representative of each organisation that the Minister determines, from time to time, is to be represented on the Committee.
- (3), (4) (Repealed)
- (5) The representative of an organisation is to be nominated by the organisation.
- (6) (Repealed)
- (7) Schedule 2 has effect with respect to the members and procedure of a Local Emergency Management Committee.

## **29 Functions of Local Emergency Management Committees**

- (1) A Local Emergency Management Committee is responsible for the preparation and review of plans in relation to the prevention of, preparation for, response to and recovery from emergencies in the local government area for which it is constituted.
- (1A) Without limiting subsection (1), any such Committee may—
  - (a) give effect to and carry out emergency management policy and practice, consistent with information on that policy and practice disseminated by the State Emergency Management Committee, and
  - (b) review and prepare plans in respect of the relevant local government area that are, or are proposed to be, subplans or supporting plans established under the

State Emergency Management Plan, and

- (c) make recommendations about and assist in the co-ordination of training in relation to emergency management in the relevant local government area, and
  - (d) develop, conduct and evaluate local emergency management training exercises, and
  - (e) facilitate local level emergency management capability through inter-agency co-ordination, co-operation and information sharing arrangements, and
  - (f) assist the Local Emergency Operations Controller for the relevant local government area in the Controller's role under section 31, and
  - (g) such other functions as are—
    - (i) related to this Act, and
    - (ii) assigned to the Committee (or to Local Emergency Management Committees generally) from time to time by the relevant Regional Emergency Management Committee or by the State Emergency Management Committee.
- (2) In the exercise of its functions, any such Committee is responsible to the relevant Regional Emergency Management Committee.

**30 Local Emergency Operations Controller**

- (1) The Regional Emergency Operations Controller is to appoint a Local Emergency Operations Controller for each local government area.
- (2) The person appointed—
  - (a) must be a police officer stationed within the region (established under section 21) in which the local government area is located, or, if that is not reasonably practicable, within a region that is, in the opinion of the Regional Emergency Operations Controller, nearby, and
  - (b) must be a person who, in the opinion of the Regional Emergency Operations Controller, has experience in emergency management.
- (3) (Repealed)

**31 Functions of Local Emergency Operations Controller**

- (1) The Local Emergency Operations Controller for an area is, subject to this section, responsible for controlling in accordance with this Act the response to an emergency that affects only that area.
- (1A) The Local Emergency Operations Controller is not responsible for controlling the



response to an emergency if there is a single combat agency primarily responsible under the State Emergency Management Plan for controlling the response to the emergency, unless the Controller assumes that responsibility in accordance with subsection (1B).

- (1B) The Local Emergency Operations Controller may assume responsibility for controlling the response to an emergency from the combat agency primarily so responsible under the State Emergency Management Plan if—
- (a) the State Emergency Operations Controller is satisfied that it is necessary to do so in the particular circumstances of the case, and
  - (b) the combat agency has requested or agreed to the Local Emergency Operations Controller assuming that responsibility.
- (1C) The Local Emergency Operations Controller is not responsible for controlling the response to an emergency for which the State or Regional Emergency Operations Controller has assumed responsibility.
- (2) The Local Emergency Operations Controller may, if responsible for controlling the response to an emergency, issue directions to agencies who have functions in connection with responses to the emergency.
- (2A) The Local Emergency Operations Controller may, at the request of the combat agency that is primarily responsible for controlling the response to an emergency, carry out such functions as may be specified by the agency for the purposes of controlling the response to the emergency.
- (3) The functions of the Local Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.
- (4) The Local Emergency Operations Controller is to establish and control a local emergency operations centre.
- (5) The Local Emergency Operations Controller is subject to the direction of the relevant Regional Emergency Operations Controller.

### **32 Councils to provide executive support for Local Emergency Management Committee and Operations Controller**

- (1) A council is to provide executive support facilities for the Local Emergency Management Committee and the Local Emergency Operations Controller in its area.
- (2) (Repealed)

## **Division 4 State of emergency**

### **32A Definitions**

In this Division—

**emergency area** means the area in which a state of emergency is declared to exist.

**emergency services officer** means any of the following—

- (a) a police officer,
- (b) an officer of Fire and Rescue NSW of or above the position of station commander,
- (c) an officer of the State Emergency Service of or above the position of unit commander,
- (d) a member of a rural fire brigade of or above the position of deputy captain,
- (e) a Regional Emergency Management Officer,
- (f) a member of the Ambulance Service of NSW of or above the rank of station officer.

**premises** includes land, place, building, vehicle, vessel or aircraft, or any part of premises.

### **33 Declaration of state of emergency**

- (1) If the Premier is satisfied that an emergency constitutes a significant and widespread danger to life or property in New South Wales, the Premier may, by order in writing, declare that a state of emergency exists in the whole, or in any specified part or parts, of New South Wales in relation to that emergency.
- (2) The Premier may, by order in writing, revoke a declaration of a state of emergency at any time.

### **34 Publication of declaration**

- (1) As soon as practicable after making or revoking a declaration of a state of emergency, the Premier must—
  - (a) cause notice of the declaration or revocation to be broadcast by a television or radio station in the State, and
  - (b) cause a copy of the relevant order to be published in the Gazette or on the NSW legislation website.
- (2) The Premier may cause a copy of the relevant order to be published on the internet or any other electronic communications service.

### **35 Duration of state of emergency**

- (1) An order declaring a state of emergency has effect immediately on its being made.
- (2) Unless it is sooner revoked, the declaration of a state of emergency remains in force for such period (not exceeding 30 days) as is specified in the declaration.
- (3) The declaration of a state of emergency does not prevent the declaration of further states of emergencies in relation to the same or a different emergency.

### **36 Power to direct government agencies etc during state of emergency**

- (1) In a state of emergency, the Minister is responsible for controlling and co-ordinating the activities of such government agencies, and the allocation of such available resources of the Government, as the Minister considers necessary or desirable for responding to the emergency.
- (2) For that purpose, the Minister may direct any government agency to do or refrain from doing any act, or to exercise or refrain from exercising any function.
- (3) If a direction is given to a government agency under this section—
  - (a) the government agency must comply with the direction, and
  - (b) the direction prevails over anything to the contrary in any Act or law, except the *Essential Services Act 1988*.

### **37 Power to evacuate or to take other steps concerning persons**

- (1) The Minister may, if satisfied that it is necessary or convenient to do so for the purpose of responding to an emergency, direct, or authorise an emergency services officer to direct, a person to do any or all of the following—
  - (a) to leave any particular premises and to move out of an emergency area or any part of an emergency area,
  - (b) to take any children or adults present in any particular premises who are in the person's care and to move them outside the emergency area or any part of the emergency area,
  - (c) not to enter the emergency area or any part of the emergency area.
- (2) If the person does not comply with the direction, an emergency services officer may do all such things as are reasonably necessary to ensure compliance with it, using such force as is reasonably necessary in the circumstances.
- (3) The regulations may limit the circumstances, and regulate the manner, in which the powers conferred by this section may be exercised.

(4) (Repealed)

**37A Powers to take other safety measures**

- (1) The Minister may, if satisfied that there are reasonable grounds for so doing for the purpose of protecting persons or animals from injury or death or protecting property in a state of emergency, direct, or authorise an emergency services officer to direct, the doing of any one or more of the following—
  - (a) the closure to traffic of any street, road, lane, thoroughfare or footpath or place open to or used by the public, in an emergency area or any part of an emergency area,
  - (b) the closure of any other public or private place in an emergency area or any part of an emergency area,
  - (c) the pulling down, destruction or shoring up of any wall or premises that have been damaged or rendered insecure in an emergency area or any part of an emergency area,
  - (d) the shutting off or disconnecting of the supply of any water, gas, liquid, solid, grain, powder or other substance in or from any main, pipeline, container or storage facility in an emergency area or any part of an emergency area,
  - (e) the shutting off or disconnecting of the supply of gas or electricity to any premises in an emergency area or any part of an emergency area,
  - (f) the taking possession of, and removal or destruction of any material or thing in an emergency area or any part of an emergency area that may be dangerous to life or property or that may interfere with the response of emergency services to the emergency.
- (2) The cost of taking action under subsection (1) (c) is to be borne by the owner of the wall or premises and is to be paid to, and may be recovered in a court of competent jurisdiction by, the Minister for reimbursement of the costs of the emergency services organisation of pulling down, destroying or shoring up the wall or premises concerned.
- (3) For the purposes of the exercise of a function under subsection (1) (d), the Minister or an emergency services officer may require the person who controls or supplies the substance concerned to immediately send some competent person to the scene for the purpose of shutting it off or disconnecting it in accordance with the reasonable directions of the Minister or emergency services officer.
- (4) A person must comply with a requirement, or directions, under subsection (3).  
Maximum penalty—50 penalty units.
- (5) A person who supplies a substance referred to in subsection (1) (d) or (e) is not liable

for any damages because of any interruption of that supply under this section if the supply is shut off or disconnected in accordance with the directions of the Minister or emergency services officer.

- (6) The regulations may limit the circumstances, and regulate the manner, in which the powers conferred by this section may be exercised.

### **37B Power to enter premises**

A person may enter any premises for the purposes of complying with a direction under section 37A (1).

### **37C Notice of entry**

- (1) A person authorised to enter premises may enter the premises without giving notice—
- (a) if entry to the premises is made with the consent of the owner or occupier, or
  - (b) if the entry is made to a part of the premises that is open to the public, or
  - (c) if entry is required urgently and the case is one in which the Minister or the emergency services officer giving the direction has authorised in writing (either generally or in a particular case) entry without notice.
- (2) In any other case, the person must give the owner or occupier of the premises reasonable written notice of the intention to enter the premises.

### **37D Care to be taken**

In the exercise of a function under section 37A, a person authorised to enter premises must do as little damage as possible.

### **37E Use of force**

- (1) Reasonable force may be used for the purpose of gaining entry to premises to comply with a direction under section 37A but only if the Minister—
- (a) has authorised in writing the use of force in the particular case, or
  - (b) has specified in writing the circumstances that are required to exist before force may be used and the particular case falls within those circumstances.
- (2) If a person authorised to enter premises uses force to do so, the person must, as soon as practicable, inform the person who directed him or her to exercise the function under section 37A.
- (3) The person so informed of the use of force must give notice of the use of force to such persons or authorities as appear to the person to be appropriate in the circumstances.
- (4) If a person's property is damaged by the exercise of a right of entry, the person is to

receive such compensation as may be determined by the Minister or, if the damage arose as the result of the exercise of a right of entry by a police officer, the Minister for Police, but is not entitled to receive compensation.

- (5) A person may apply to the Premier for a review of a determination as to compensation made by the Minister or the Minister for Police under this section.

### **37F Authority to enter premises**

- (1) A power conferred to enter premises, or to take action on premises, may not be exercised unless the person proposing to exercise the power is in possession of an authority and produces the authority if required to do so by the owner or occupier of the premises.
- (2) The authority must be a written authority that—
- (a) states that it is issued under this Act, and
  - (b) gives the name of the person to whom it is issued, and
  - (c) describes the nature of the powers conferred and the source of the powers, and
  - (d) states the date (if any) on which it expires, and
  - (e) describes the kind of premises to which the power extends, and
  - (f) bears the signature of the Minister or the emergency services officer who issued the direction under section 37A.
- (3) However, a police officer exercising a power to enter premises, or to take action on premises, must produce his or her warrant card if required to do so by the owner or occupier of the premises in lieu of an authority (unless the police officer is in uniform).

### **38 Power to take possession of property**

- (1) In a state of emergency, the Minister may, for the purposes of responding to the emergency, take possession and make use of any person's property.
- (2) If the property of a person is taken or used under this section that person is to receive such compensation as may be determined by the Minister, but is not entitled to receive compensation.
- (3) Any such person may apply to the Premier for a review of any determination as to compensation made by the Minister under this section.

### **39 Limitation on operation of this Division**

The functions of the Minister under this Division are only exercisable in relation to—

- (a) a part of the State in which a state of emergency exists, and

(b) an emergency in respect of which a state of emergency exists.

#### **40 Offence to obstruct Minister or emergency personnel**

A person must not obstruct or hinder the Minister, or any other person acting with the authority of the Minister, in the exercise of a function under this Division.

Maximum penalty—50 penalty units or imprisonment for 2 years, or both.

#### **41 Exculpation from liability during state of emergency**

A person may not bring proceedings against the Crown, a Minister or any body or person acting in the execution of this Division for any damage, loss, death or injury sustained because of anything done or omitted to be done in good faith under this Division during a state of emergency.

### **Part 3 State rescue management**

#### **Division 1 State Rescue Board**

##### **42 State Rescue Board**

- (1) There is established by this Act a State Rescue Board of New South Wales.
- (2) The Board has the functions conferred or imposed on it by or under this or any other Act.

##### **43 Composition of Board**

- (1) The State Rescue Board is to consist of not less than 8 members, being—
  - (a) the State Emergency Operations Controller,
  - (b) the Commissioner of the State Emergency Service,
  - (c) a member of the NSW Police Force Senior Executive Service nominated by the Commissioner of Police,
  - (d) the Commissioner of Fire and Rescue NSW,
  - (e) the Commissioner of the NSW Rural Fire Service,
  - (f) the chief executive of the Ambulance Service of NSW,
  - (g) the Commissioner of the New South Wales Volunteer Rescue Association Inc,
  - (g1) the Commissioner of Volunteer Marine Rescue NSW,
  - (h) the heads of any other volunteer rescue agencies approved for the time being by the Minister.

- (2) One of the members of the Board is to be appointed as the Chairperson of the Board by the Minister.

#### **44 Provisions relating to members and procedure of Board**

Schedule 3 has effect.

#### **45 Board subject to Ministerial control**

The State Rescue Board is, in the exercise of its functions, subject to the control and direction of the Minister.

#### **46 (Repealed)**

### **Division 2 Functions of State Rescue Board**

#### **47 Principal function of Board**

The principal function of the State Rescue Board is to ensure the maintenance of efficient and effective rescue services throughout the State.

#### **48 Particular duties of Board**

- (1) The State Rescue Board is required to—
- (a) develop policies to promote the provision of comprehensive, balanced and co-ordinated rescue services throughout the State, and
  - (b) make recommendations to the Minister on policy matters relating to the provision of rescue services within the State, and
  - (c) review planning for single incident rescues within the State, and
  - (d) (Repealed)
  - (e) review and disseminate to relevant agencies technical information relating to rescue operations, and
  - (f) ensure proper liaison and co-ordination with Federal and other State organisations in connection with rescue services, and
  - (g) provide advice and recommendations on the compatibility of rescue equipment, including communications equipment, and
  - (h) make recommendations to the Minister about the accreditation of rescue units for participation in rescue operations, regardless of whether the rescue units are permanent, volunteer or a combination of permanent and volunteer, and
  - (i) make recommendations to the Minister on levels of Government support (including financial assistance under section 60) to volunteer organisations providing rescue



services, and

- (j) assist in the conduct of training exercises in rescue operations involving the various agencies concerned, and
- (k) (Repealed)
- (l) monitor the training standards of the permanent and volunteer services in rescue, and
- (m) review proposals for amendment of legislation relating to rescue and make recommendations to the Minister, and
- (n) make reports or recommendations to the Minister on any matter referred to the Board by the Minister.

(2) (Repealed)

#### **48A Regional and local rescue committees**

- (1) Rescue committees are to be established for each region and for each local government area.
- (2) The rescue committee for a region is to be chaired by the Regional Emergency Operations Controller for the region and is to comprise senior representatives of emergency services organisations operating in the region nominated by those organisations.
- (3) The rescue committee for a local government area is to be chaired by the Local Emergency Operations Controller for the area and is to comprise senior representatives of emergency services organisations operating in the area nominated by those organisations.
- (4) Rescue committees are to assist the State Rescue Board in the exercise of its functions within the region or local government area concerned. In particular, a rescue committee is to assist the State Rescue Board in determining whether the accreditation of a rescue unit to operate in the region or area should be recommended to the Minister.
- (5) Rescue committees are subject to the control and direction of the State Rescue Board.
- (6) The State Rescue Board may approve of a single rescue committee for 2 or more local government areas. In that case, a reference in this section—
  - (a) to a local government area is a reference to the combined local government areas concerned, and
  - (b) to the Local Emergency Operations Controller for the area is a reference to the

principal Controller designated in the approval.

#### **49 Board's decisions to be implemented by rescue agencies**

- (1) The agency which manages or controls any accredited rescue unit is required to implement (in accordance with law) the decisions of the State Rescue Board under this Part in connection with rescue operations carried out by that rescue unit.
- (1A) For subsection (1), if the accredited rescue unit is comprised of persons from one or more emergency services organisations or other agencies, each of the agencies is required to implement, in accordance with law, the decisions of the State Rescue Board under this Part in connection with rescue operations carried out by the rescue unit.
- (2) Except as provided by subsection (1), nothing in this Part affects the exercise by such an agency of its functions or the exercise of the management functions of the chief executive of the agency.

#### **49A Annual report by Board**

- (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the State Rescue Board is to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year.
- (2) The Minister is to lay any such report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

### **Division 3 Co-ordination of rescue operations etc**

#### **50 Police to co-ordinate rescue operation**

- (1) The NSW Police Force is responsible for co-ordinating rescue operations and for determining the priorities of action to be taken in rescue operations.
- (2) (Repealed)
- (3) This section does not apply to a rescue operation if the control of the rescue operation is vested by law in another agency, such as—
  - (a) a rescue operation in which the person or property is endangered by fire and at which a member of a Fire Brigade is in charge, or
  - (b) a rescue operation which results from an emergency and which is subject to the control of another agency in accordance with Part 2.
- (4) This section applies despite anything to the contrary in any other Act.

## **51 Emergency services organisations to notify police of rescue incidents**

- (1) An emergency services organisation other than the NSW Police Force must, immediately after the organisation becomes aware of an incident that requires or is likely to require the rescue of any person, notify a member of the NSW Police Force of all relevant information concerning the incident.
- (2) This section does not apply—
  - (a) if the organisation is aware that the incident has already been notified to a member of the NSW Police Force, or
  - (b) to Surf Life Saving New South Wales in relation to an incident that only requires, or is likely to only require, surf life-saving.

## **Division 4 Accreditation of rescue units**

### **52 Definitions**

- (1) In this Division—

**rescue unit** means a unit (comprising a group of persons) which carries out rescue operations for the protection of the public or a section of the public.

**rescue vehicle** means a vehicle that is designed, adapted or equipped for use in rescue work and—

- (a) is clearly marked with the word “Rescue”, or
  - (b) is fitted with warning devices, such as flashing lights or a siren,  
or both.
- (2) An organisation, such as the Royal Society for the Prevention of Cruelty to Animals, New South Wales or the Wildlife Information and Rescue Service, that specialises in animal welfare or animal rescue operations or both does not constitute a rescue unit for the purposes of this Division.

### **53 Offence to operate rescue unit or rescue vehicle without accreditation**

- (1) A person who establishes, manages or controls a rescue unit which is not accredited under this Division is guilty of an offence.

Maximum penalty—50 penalty units.

- (1A) It is an offence for a person who is not a member of a rescue unit accredited under this Division to display, drive or operate a rescue vehicle.

Maximum penalty—50 penalty units.

- (1B) It is a defence to any proceeding under subsection (1A) if the person who contravened the subsection had a reasonable excuse or lawful authority for displaying, driving or operating the rescue vehicle.
- (2) A rescue unit is required to be accredited even though—
- (a) it is a unit of the NSW Police Force, Fire and Rescue NSW, the Ambulance Service of NSW, the State Emergency Service, the NSW Rural Fire Service or any other government agency, or
  - (b) it is a unit of a volunteer agency, or
  - (b1) it is a unit comprised of persons from one or more emergency services organisations or other agencies, or
  - (c) it carries out, in addition to operations for the rescue of persons, other operations such as the rescue of animals or the recovery of property.
- (3) A rescue unit is not required to be accredited—
- (a) if it is a unit only engaged in surf life-saving, or
  - (b) (Repealed)
  - (c) if it is a unit (including a unit of the New South Wales Mines Rescue Brigade) which only carries out rescues at mines under the [Coal Industry Act 2001](#), or
  - (d) in any other circumstances prescribed by the regulations.

#### **54 Accreditation of rescue units by Minister**

- (1) Application may be made to the Minister for the accreditation of a rescue unit.
- (2) An application for accreditation is required to be lodged with the State Rescue Board.
- (3) The State Rescue Board is to report to the Minister on the need for the rescue unit concerned, the standard of equipment and training and the effect of accreditation of the unit on the control and co-ordination of rescue services.
- (4) The Minister may accept or refuse an application for accreditation.
- (5) The Minister is to have regard to any recommendation made by the State Rescue Board on an application for accreditation, but is not bound by the recommendation.

#### **55 Limitation on accreditation**

- (1) The accreditation of a rescue unit may be limited by the Minister to the carrying out of rescue operations in a particular area or of a particular kind, or otherwise.
- (2) An accredited rescue unit which carries out rescue operations in contravention of any

such limitation is to be taken to be not accredited for the purposes of this Division.

#### **56 Duration of accreditation**

- (1) The Minister may accredit a rescue unit for a specified period or indefinitely.
- (2) The Minister may at any time cancel the accreditation of a rescue unit.

#### **57 Register of personnel of rescue units**

- (1) The agency which manages or controls an accredited rescue unit is required to maintain a register of the personnel who comprise the unit.
- (2) That agency is to provide a copy of the register to the State Rescue Board as soon as practicable after the accreditation of the rescue unit and then every 6 months or, if the State Rescue Board specifies different periods, at the periods specified.
- (3) To avoid doubt, if the accredited rescue unit is comprised of persons from one or more emergency services organisations or other agencies, the agency that manages or controls the unit must include the personnel from other agencies in the register under subsection (1).

### **Division 5 General provisions**

#### **58 Arrangements for inter-State co-operation in rescue**

- (1) The State Rescue Board may make arrangements with any agency which manages or controls inter-State rescue units—
  - (a) for those rescue units to carry out rescue operations in New South Wales, or
  - (b) for accredited rescue units under this Division to carry out rescue operations outside New South Wales.
- (2) An inter-State rescue unit which carries out a rescue operation in New South Wales in accordance with any such arrangement is not required to be accredited under Division 4, but is to be regarded as an accredited rescue unit for the purposes of this Division.
- (3) In this section—

***inter-State rescue unit*** means a rescue unit established and operating in another State or in a Territory of the Commonwealth.

#### **59 Liability for actions of members of rescue units and volunteers**

- (1) Anything done or omitted to be done by an accredited rescue unit or by a person as a member of an accredited rescue unit or authorised volunteer does not, if done or omitted in good faith in connection with a rescue operation or otherwise in response to an emergency, subject the accredited rescue unit, the person or any other person

to any action, liability, claim or demand.

(2) Anything done or omitted to be done by a casual volunteer does not, if done or omitted in good faith in connection with a rescue operation or otherwise in response to an emergency, subject the volunteer personally to any action, liability, claim or demand.

(3) In this section—

**accredited rescue unit** includes—

- (a) a rescue unit (within the meaning of Division 4) engaged in surf life-saving, and
- (b) any organisation or agency (other than a government agency) that manages or controls an accredited rescue unit, whether on its own or jointly with another organisation or agency.

**authorised volunteer** means a person who assists an accredited rescue unit in carrying out a rescue operation with the consent of the person in charge of the rescue operation.

**casual volunteer** means a person who assists, on his or her own initiative, in a rescue operation or otherwise in response to an emergency in circumstances in which the assistance was reasonably given.

## 60 (Repealed)

# Part 3A Employment protection for volunteer emergency workers

## 60A Interpretation

(1) In this Part—

**emergency operations** are operations carried out by an emergency services organisation in response to an emergency.

(2) The circumstances in which a person is considered to be the **employer** of another person (and that other person is considered to be the **employee**) for the purposes of this Part include the following—

(a) the person is the employer of the other person for the purposes of the *Industrial Relations Act 1996*, including by reason of Schedule 1 (Persons deemed to be employees) to that Act,

(a1) the person engages the other person to carry out regular work under one or more contracts for services and the value of that work represents a substantial proportion of the regular work carried out by the other person,

(b) the person is the bailor under a contract of bailment within the meaning of

Chapter 6 of the *Industrial Relations Act 1996* and the other person is the bailee engaged under that contract,

- (c) the person is the holder of a licence under the *Passenger Transport Act 1990* and the other person (being engaged in transporting passengers in a private hire vehicle pursuant to that licence) is a person to whom Chapter 6 of the *Industrial Relations Act 1996* applies,
- (d) the person is a principal contractor under a contract of carriage within the meaning of Chapter 6 of the *Industrial Relations Act 1996* and the other person is a contract carrier engaged under that contract.

#### **60AA Emergency operations to which this Part applies**

This Part applies to the following emergency operations—

- (a) emergency operations carried out in a part of the State in which a state of emergency exists until—
  - (i) the end of that state of emergency, or
  - (ii) the Premier, by order published in the Gazette or on the NSW legislation website, declares that this Part no longer applies,
- (b) emergency operations to which this Part applies because of an order in force under section 60D.

#### **60B Employees taking part in emergency operations protected from victimisation**

An employer must not victimise an employee of the employer for being absent if the absence was due to the employee taking part, as a member of an emergency services organisation, in emergency operations to which this Part applies.

Maximum penalty—30 penalty units.

#### **60C What constitutes victimisation of employees**

An employer victimises an employee if the employer—

- (a) dismisses the employee from employment with the employer or terminates the engagement of the employee by the employer, or
- (b) alters the employee's position in his or her employment with the employer, or alters the circumstances of the employee's engagement by the employer, to the employee's prejudice, or
- (c) otherwise injures the employee in his or her employment with, or engagement by, the employer.

#### **60D Order of Premier, Minister or authorised officer applying Part to emergency**

**operations**

- (1) The Premier, Minister or an authorised officer may, by order published in the Gazette or on the NSW legislation website, direct that emergency operations carried out in connection with an emergency specified in the order are operations to which this Part applies.
- (2) In determining whether an order under this section is needed, the Premier, Minister or authorised officer is to have regard to the possible duration of the emergency.
- (3) An order may apply to all emergency operations carried out in connection with the emergency or may be limited in its operation by reference to any one or more of the following—
  - (a) particular operations or a class of operations,
  - (b) a particular emergency services organisation or organisations taking part in those operations,
  - (c) a particular area in which those operations are being carried out.
- (4) An order made by the Premier remains in force for the period specified in the order unless revoked earlier. If no period is specified, the order remains in force until revoked. Revocation is to be by a further order of the Premier published in the Gazette or on the NSW legislation website.
- (4AA) An order made by the Minister remains in force for the period, not more than 14 days, specified in the order unless revoked earlier.
- (4AB) Revocation of an order made by the Minister is by either of the following published in the Gazette or on the NSW legislation website—
  - (a) a further order of the Minister under this section,
  - (b) an order of the Premier under this section.
- (4A) An order made by an authorised officer remains in force for the period, not exceeding 48 hours, specified in the order (unless revoked earlier). Revocation is to be by a further order of the authorised officer or the Premier published in the Gazette or on the NSW legislation website.
- (5) An order may be made under this section whether or not a state of emergency has been declared under section 33.
- (6) In this section—

**authorised officer** means any of the following—

  - (a) the Commissioner or a Deputy Commissioner of the NSW Rural Fire Service or the



State Emergency Service,

- (b) the State Emergency Operations Controller or Deputy State Emergency Operations Controller referred to in section 18.

**60E Onus of proof on employer in certain circumstances**

In proceedings for an offence under this Part, if all the facts necessary to prove the offence (other than the reason for the defendant's action) are proved, the defendant has the onus of proving that the defendant was not motivated by the reason alleged.

**60F Orders ancillary to conviction**

- (1) A court that convicts an employer of an offence under this Part may (with the concurrence of the victimised person concerned) make an order in terms of any one or more of the following—
- (a) directing the employer to pay the victimised person a specified sum by way of reimbursement for any salary, wages or other remuneration lost by the person because of the victimisation,
  - (b) directing the employer to reinstate the victimised person to the employment of the employer in the position the person held immediately before any dismissal or any alteration to his or her employment or in a similar position,
  - (c) declaring void, in whole or in part, a contract pursuant to which the victimised person is engaged by the employer,
  - (d) varying, in whole or in part, any provision of a contract pursuant to which the victimised person is engaged by the employer,
  - (e) directing payment to the victimised person, within a specified time, by the employer, of an amount that does not exceed the amount that the person would otherwise have received under the contract pursuant to which the victimised person was engaged by the employer,
  - (f) directing payment to the victimised person, within a specified time, by the employer, of other damages in such sum as appears to the court appropriate to compensate the victimised person for other loss suffered by the person,
  - (g) directing the employer to take such other measures as the court considers necessary in order to place the victimised person in the position in which the person would have been but for the victimisation.
- (2) An order in the terms of subsection (1) (a), (e) or (f) operates as an order against the employer for the payment of money under the [Civil Procedure Act 2005](#) and is enforceable as such an order under that Act.

- (3) An employer must give effect to an order in terms of subsection (1) (b) or (g).

Maximum penalty—30 penalty units.

- (4) The amount of salary, wages or other remuneration that would have been payable to a person in respect of any period during which his or her employer fails to give effect to an order in terms of subsection (1) (b) is recoverable, as a debt due to the person by the employer, in any court of competent jurisdiction.

**60G What constitutes “taking part in” emergency operations**

- (1) A person is considered to be taking part in emergency operations only when the person is effectively devoting his or her time to those operations by making himself or herself available for those operations (even if not actively engaged in those operations at the time) in accordance with arrangements made with an emergency services organisation.
- (2) For example, travel to or from the place where emergency operations are being carried out, being on standby at or near that place and rest during those operations (in accordance with arrangements made with an emergency services organisation) constitute taking part in those operations.

**60H Certificate evidence that employee took part in emergency operations**

- (1) The chief executive officer of an emergency services organisation may issue a certificate to the effect that a particular person was a member of the organisation during a particular emergency and took part in particular emergency operations carried out by the organisation in respect of that emergency in accordance with arrangements made with that organisation.
- (2) Such a certificate is in any proceedings evidence of the matters certified.
- (3) The chief executive officer of an emergency services organisation may delegate his or her functions under this section (except this power of delegation) to any officer of the organisation.

**60I Part does not affect other remedies available to employee**

This Part does not affect any right or remedy that an employee or former employee may have under any other Act.

**60J No contracting out**

This Part applies regardless of the terms of any agreement whether entered into before or after the commencement of this Part.

**60K Industrial dispute does not prevent operation of Part**

Section 7 (Limitation on operation of Act—industrial disputes and civil disturbances) does

not limit or otherwise affect the operation of this Part merely because the victimisation of an employee involves or gives rise to an industrial dispute.

## **Part 4 Miscellaneous**

### **60KA Definitions**

In this Part—

**danger area** means the area specified by a directing officer as the area affected by an emergency.

**directing officer** means—

- (a) the Minister, or
- (b) the State Emergency Operations Controller, or
- (c) a police officer of or above the rank of sergeant, or
- (d) a police officer of a class prescribed by the regulations for the purposes of this definition.

**emergency or rescue management organisation** means any of the following—

- (a) (Repealed)
- (b) the State Emergency Management Committee,
- (c) a Regional Emergency Management Committee,
- (d) a Local Emergency Management Committee,
- (e) the State Rescue Board,
- (f) a committee or sub-committee of a body referred to in paragraphs (b)–(e).

**premises** includes land, place, building, vehicle, vessel or aircraft, or any part of premises.

### **60L Power of police to evacuate or to take other steps concerning persons**

- (1) A directing officer may, if satisfied that there are reasonable grounds for doing so for the purpose of protecting persons from injury or death threatened by an actual or imminent emergency, direct, or authorise a police officer to direct, a person to do any or all of the following—
  - (a) to leave any particular premises and to move outside the danger area,
  - (b) to take any children or adults present in any particular premises who are in the person's care and to move them outside the danger area,

(c) not to enter the danger area.

(1A) A directing officer may, if satisfied that there are reasonable grounds for doing so for the purpose of protecting persons from chemical, biological or radiological contamination, direct or authorise a police officer to direct, a person who may have been subjected to such contamination to do any or all of the following—

- (a) to remain in a particular area,
- (b) to remain quarantined from other persons,
- (c) to submit to decontamination procedures.

(2) If a person does not comply with a direction given under this section, a police officer may do all such things as are reasonably necessary to ensure compliance with it, using such force as is reasonably necessary in the circumstances.

(3) The regulations may limit the circumstances, and regulate the manner, in which the powers conferred by this section may be exercised.

(4) Neither this section nor section 6 of the *Police Act 1990* imposes a duty on a police officer to use force to ensure compliance with a direction under this section.

(5) (Repealed)

## **61 Power to take other safety measures**

(1) A directing officer may, if satisfied that there are reasonable grounds for doing so for the purpose of protecting persons or animals from injury or death or protecting property threatened by an actual or imminent emergency, direct, or authorise a police officer to direct, the doing of any one or more of the following—

- (a) the closure to traffic of any street, road, lane, thoroughfare or footpath or place open to or used by the public, in the danger area or any part of the danger area,
  - (a1) the removal of vehicles in the danger area or any part of the danger area,
- (b) the closure of any other public or private place in the danger area or any part of the danger area,
- (c) the pulling down, destruction or shoring up of any wall or premises that have been damaged or rendered insecure in the danger area or any part of the danger area,
- (d) the shutting off or disconnecting of the supply of any water, gas, liquid, solid, grain, powder or other substance in or from any main, pipeline, container or storage facility in the danger area or any part of the danger area,
- (e) the shutting off or disconnecting of the supply of gas or electricity to any premises in the danger area or any part of the danger area,

- (f) the taking possession of, and removal or destruction of any material or thing in the danger area or any part of the danger area that may be dangerous to life or property or that may interfere with the response of emergency services to the emergency,
  - (g) the protection or isolation of any material or thing in the danger area by preventing a person from removing or otherwise interfering with the material or thing.
- (2) The cost of taking action under subsection (1) (c) is to be borne by the owner of the wall or premises and is to be paid to, and may be recovered in a court of competent jurisdiction by, the Commissioner of Police.
- (3) For the purposes of the exercise of a function under subsection (1) (d), the directing officer or a police officer may require the person who controls or supplies the substance concerned to immediately send some competent person to the scene for the purpose of shutting it off or disconnecting it in accordance with the reasonable directions of the officer.
- (4) A person must comply with a requirement, or directions, under subsection (3).  
Maximum penalty—50 penalty units.
- (5) A person who supplies a substance referred to in subsection (1) (d) or (e) is not liable for any damages because of any interruption of that supply under this section if the supply is shut off or disconnected in accordance with the directions of the directing officer or police officer.
- (6) The regulations may limit the circumstances, and regulate the manner, in which the powers conferred by this section may be exercised.

#### **61A Power to enter premises**

A person may enter any premises for the purposes of complying with a direction under section 61 (1).

#### **61AA Use of assistants**

A police officer exercising a function under section 61 may do so with the aid of, and be accompanied by, such assistants as the police officer considers necessary.

#### **61B Notice of entry**

- (1) A person authorised to enter premises may enter the premises without giving notice—
- (a) if entry to the premises is made with the consent of the owner or occupier, or
  - (b) if the entry is made to a part of the premises that is open to the public, or

(c) if entry is required urgently and the case is one in which the directing officer giving the direction has authorised in writing (either generally or in a particular case) entry without notice.

(2) In any other case, the person must give the owner or occupier of the premises reasonable written notice of the intention to enter the premises.

### **61C Care to be taken**

In the exercise of a function under section 61, a person authorised to enter premises must do as little damage as possible.

### **61D Use of force by police officers**

(1) Reasonable force may be used by a police officer for the purpose of gaining entry to premises to comply with a direction under section 61 but only if the directing officer—

(a) has authorised in writing the use of force in the particular case, or

(b) has specified in writing the circumstances that are required to exist before force may be used and the particular case falls within those circumstances.

(2) If a police officer authorised to enter premises uses force to do so, the police officer must, as soon as practicable, inform the directing officer who directed him or her to exercise the function under section 61.

(3) The directing officer so informed must give notice of the use of force to the Commissioner of Police.

(4) If a person's property is damaged by the exercise of a right of entry the person is to receive such compensation as may be determined by the Minister for Police, but is not entitled to receive compensation.

(5) A person may apply to the Premier for a review of a determination as to compensation made by the Minister for Police under this section.

### **61E Authority to enter premises**

(1) A power conferred to enter premises, or to take action on premises, may not be exercised unless the person proposing to exercise the power is in possession of an authority and produces the authority if required to do so by the owner or occupier of the premises.

(2) The authority must be a written authority that—

(a) states that it is issued under this Act, and

(b) gives the name of the person to whom it is issued, and

- (c) describes the nature of the powers conferred and the source of the powers, and
- (d) states the date (if any) on which it expires, and
- (e) describes the kind of premises to which the power extends, and
- (f) bears the signature of the directing officer or the police officer who issued the direction under section 61.

(3) However, a police officer exercising a power to enter premises, or to take action on premises, must produce his or her warrant card if required to do so by the owner or occupier of the premises in lieu of an authority (unless the police officer is in uniform).

## **62 Personal liability**

(1) A matter or thing done by—

- (a) an emergency or rescue management organisation, or
- (b) a member of any such organisation or of the staff of any such organisation (in the person's capacity as such a member), or
- (c) the State Emergency Operations Controller or a Regional or Local Emergency Operations Controller (in the person's capacity as such a controller),

does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the member or controller personally to any action, liability, claim or demand.

(2) A matter or thing done by a government sector employee, or by a member (or member of staff) of an emergency services organisation, does not, if the matter or thing was done in good faith for the purposes of executing this Act, subject the employee or member to any action, liability, claim or demand.

(3) In this section—

**government sector employee** means a person employed in a government sector agency (within the meaning of the [Government Sector Employment Act 2013](#)).

## **62A Certain damage to be covered by insurance**

(1) Any damage to property caused by the exercise in good faith of functions under section 37A (1) or 61 (1) by—

- (a) the Minister or an emergency services officer authorised by the Minister during a state of emergency, or
- (b) a directing officer or a police officer authorised by a directing officer at an actual or imminent emergency, or

(c) a person acting on and in accordance with a direction given by—

- (i) the Minister or an emergency services officer authorised by the Minister under section 37A (1) during a state of emergency, or
- (ii) a directing officer or a police officer authorised by a directing officer under section 61 (1) at an actual or imminent emergency,

is taken to be damage by the happening that constitutes the emergency (being fire, flood, storm, tempest, explosion or other risk, contingency or event) for the purposes of any policy of insurance against the risk, contingency or event concerning an act or omission that covers the property.

- (2) This section applies only in respect of damage to property caused in the exercise of a function to protect persons or animals from injury or death or property from damage if those persons are, or the property is, endangered by the happening that constitutes the emergency or endangered by the escape or likely escape of hazardous material as the result of that happening.
- (3) Any provision, stipulation, covenant or condition in any agreement that negatives, limits or modifies or purports to negative, limit or modify the operation of this section is void and of no effect.
- (4) In this section, ***hazardous material*** means anything that, when produced, stored, moved, used or otherwise dealt with without adequate safeguards to prevent it from escaping, may cause injury or death or damage to property.

#### **62B Obstruction of members of rescue units**

A person must not obstruct or hinder a member of an accredited rescue unit acting in connection with a rescue operation or otherwise in response to an emergency.

Maximum penalty—50 penalty units or imprisonment for 2 years, or both.

#### **63 This Act not to limit other Acts or laws**

Except as expressly provided by this Act, this Act does not limit the operation of any other Act or law.

#### **63A Staff**

- (1) Such staff as may be necessary to enable—
  - (a) a relevant emergency or rescue management organisation to exercise its functions, and
  - (b) the operation of the State emergency operations centre, and
  - (c) the State Emergency Recovery Controller to exercise his or her functions,



are to be employed in the Public Service under the *Government Sector Employment Act 2013*.

- (1A) Without limiting subsection (1), staff may be employed under that subsection to provide executive support facilities (including operational support) for a relevant emergency or rescue management organisation.
- (2) In this section, **relevant emergency or rescue management organisation** means—
- (a) (Repealed)
  - (b) the State Emergency Management Committee, or
  - (c) the State Rescue Board, or
  - (d) a subcommittee of any such organisation.

### **63AA Delegation by Secretary**

The Secretary may delegate any of the Secretary's functions under this Act (other than this power of delegation) to an employee of the Department of Justice.

### **63B Offences relating to emergency services organisations**

- (1) A person who manufactures or sells emergency services organisation insignia is guilty of an offence.

Maximum penalty—50 penalty units.

- (2) A person who—

- (a) uses or displays emergency services organisation insignia, or
  - (b) impersonates an emergency services organisation officer,
- with the intention to deceive is guilty of an offence.

Maximum penalty—50 penalty units.

- (2A) A person who—

- (a) impersonates an emergency services organisation officer with the intention to deceive and purports to exercise a function of such an officer, or
- (b) impersonates an emergency services organisation officer with the intention to deceive in order to facilitate the commission of an offence,

is guilty of an offence.

Maximum penalty—100 penalty units.

- (3) A person is not guilty of an offence under this section if—
- (a) the person's conduct is authorised by the relevant emergency services organisation, or
  - (b) the person establishes that the conduct is for the purposes of a public entertainment, or
  - (c) the person establishes that the person has a reasonable excuse.

- (4) In this section—

**emergency services organisation insignia** means—

- (a) any items (being uniforms, insignia, emblems, logos, devices, accoutrements and other things) that are generally recognised as pertaining to an emergency services organisation (other than the NSW Police Force) or as being used by an emergency services organisation officer, or
- (b) any parts of any such items, or
- (c) any reasonable imitation of any such items or parts, or
- (d) any thing or class of thing prescribed by the regulations as being within this definition (whether or not it may already be within this definition),

but does not include any thing or class of thing prescribed by the regulations as being outside this definition.

**emergency services organisation officer** includes an employee, member, volunteer or any other person who exercises functions on behalf of an emergency services organisation (other than the NSW Police Force).

**sell** means sell, exchange or let on hire, and includes—

- (a) offer, expose, possess, send, forward or deliver for sale, exchange or hire, or
- (b) cause, suffer or allow any of the above.

#### **64 Service of documents**

- (1) A document may be served on an emergency or rescue management organisation by leaving it at, or by sending it by registered post to, the office of the organisation.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on an emergency or rescue management organisation in a manner not provided for by this section.

**64A Procedure for tabling annual reports when Parliament not sitting**

- (1) This section applies to a report under section 17 or 49A that the Minister is required to lay before both Houses of Parliament.
- (2) If a House of Parliament is not sitting when the Minister seeks to cause a copy of the report to be tabled before it, the Minister is to cause a copy of the report to be presented to the Clerk of that House of Parliament.
- (3) A copy of the report presented to the Clerk of a House of Parliament under this section—
  - (a) is, on presentation and for all purposes, taken to have been laid before the House, and
  - (b) may be printed by authority of the Clerk of the House, and
  - (c) if so printed, is taken to be a document published by or under the authority of the House, and
  - (d) is to be recorded—
    - (i) in the case of the Legislative Council—in the Minutes of Proceedings of the Legislative Council, and
    - (ii) in the case of the Legislative Assembly—in the Votes and Proceedings of the Legislative Assembly,on the first sitting day of the House after receipt of the copy of the report by the Clerk.

**65 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

- (a) the constitution of an emergency or rescue management organisation, or
- (b) any resolution of such an organisation, or
- (c) the appointment of, or the holding of office by, any member of such an organisation, or
- (d) the presence of a quorum at any meeting of such an organisation.

**66 Proceedings for offences**

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before the Local Court.

## **67 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

## **68 Savings, transitional and other provisions**

Schedule 4 has effect.

## **69 (Repealed)**

## **Schedule 1 (Repealed)**

## **Schedule 2 Provisions relating to members and procedure of emergency management organisations**

(Sections 14 (5), 22 (5) and 28 (7))

### **1 Definitions**

In this Schedule—

**member** means a member of a relevant organisation.

**relevant organisation** means—

- (a) (Repealed)
- (b) the State Emergency Management Committee, or
- (c) a Regional Emergency Management Committee, or
- (d) a Local Emergency Management Committee.

### **2 Deputies of members**

- (1) A member may, from time to time, appoint a person to be the member's deputy, and the member may revoke any such appointment.
- (2) In the absence of a member, the member's deputy—
  - (a) may, if available, act in the place of the member, and
  - (b) while so acting, has all the functions of the member and is to be taken to be a member.

### **3 Terms of office**

Subject to this Schedule, a member (other than an ex-officio member) holds office until a successor is appointed.

### **4 Vacancy in office**

- (1) The office of a member (other than an ex-officio member) becomes vacant if—
  - (a) the member dies, or
  - (b) a successor to the member is duly appointed, or
  - (c) the member resigns the office by instrument in writing addressed to the person who appointed the member, or
  - (d) the member is removed from office by the person who appointed the member.
- (2) If the office of any such member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

### **5 Effect of certain other Acts**

- (1) The provisions of the [Government Sector Employment Act 2013](#) relating to the employment of Public Service employees do not apply to a member.
- (2) If by or under any Act provision is made—
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of a member.
- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

### **6 General procedure**

The procedure for the calling of meetings of a relevant organisation and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by that organisation.

### **7 Quorum**

The quorum for a meeting of a relevant organisation is a majority of the members of the organisation for the time being.

## 8 Presiding member

- (1) The Chairperson of a relevant organisation or, in the absence of the Chairperson, the Deputy Chairperson (if any) or, in the absence of both, another member elected to chair the meeting by the members present is to preside at a meeting of the organisation.
- (2) The person presiding at any meeting of a relevant organisation has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## 9 Voting

A decision supported by a majority of the votes cast at a meeting of a relevant organisation at which a quorum is present is the decision of the organisation.

## 10 Committees

- (1) A relevant organisation may establish committees to assist it in connection with the exercise of any of its functions.
- (2) It does not matter that any or all of the members of a committee are not members of the relevant organisation.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the relevant organisation or (subject to any determination of that organisation) by the committee.

## Schedule 3 Provisions relating to members and procedure of State Rescue Board

(Section 44)

### 1 Definitions

In this Schedule—

**Board** means the State Rescue Board.

**member** means a member of the Board.

### 2 Allowances

A member referred to in section 43 (1) (g) or (h) is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member.

### 3 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

#### **4 Quorum**

The quorum for a meeting of the Board is 5 members.

#### **5 Presiding member**

- (1) The Chairperson of the Board or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another member elected to chair the meeting by the members present) is to preside at a meeting of the Board.
- (2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

#### **6 Voting**

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

#### **7 Transaction of business outside meetings or by telephone etc**

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of—
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

#### **8 Committees of Board**

- (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

- (2) It does not matter that any or all of the members of a committee are not members of the Board.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

## **9 First meeting**

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

## **Schedule 4 Savings, transitional and other provisions**

(Section 68)

### **Part 1 General**

#### **1 Savings and transitional regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of—

this Act

*State Emergency and Rescue Management (Amendment) Act 1994*

*State Emergency Legislation Amendment Act 1995*

*State Emergency and Rescue Management Amendment Act 2000*

*State Emergency and Rescue Management Amendment (Botany Emergency Works) Act 2008*

*State Emergency and Rescue Management Amendment Act 2009*

*State Revenue Legislation Amendment Act 2010*, but only to the extent that it amends this Act, the *Fire Brigades Act 1989*, the *Rural Fires Act 1997* or the *State Emergency Service Act 1989*

*State Emergency and Rescue Management Amendment Act 2010*

any other Act that amends this Act

- (2) Any such provision may, if the regulations so provide, take effect on the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—



- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Provisions consequent on this Act**

### **2 Accreditation of rescue units—existing units**

- (1) A person who manages or controls a rescue unit established before the commencement of section 53 (Offence to operate rescue unit without accreditation) is not guilty of an offence under that section during the transition period.
- (2) For the purposes of this clause, the transition period is the period between the commencement of section 53 and the expiry of 3 months after that commencement.

## **Part 3 Provisions consequent on the [State Emergency and Rescue Management \(Amendment\) Act 1994](#)**

### **3 Part 3A applies to existing employment**

Part 3A of this Act applies in respect of any employment or engagement even if it commenced before the commencement of that Part.

## **Part 4 Provisions consequent on [State Emergency Legislation Amendment Act 1995](#)**

### **4 State Emergency Operations Controller to cease to be Chairperson of State Emergency Management Committee and State Rescue Board**

On and from the commencement of this Part, the State Emergency Operations Controller—

- (a) ceases to hold office as the Chairperson of the State Emergency Management Committee and of the State Rescue Board, and
- (b) is not entitled to any remuneration or compensation because of the loss of those offices.

### **5 Director-General of SES to cease to be Deputy State Emergency Operations Controller and Deputy Chairperson of State Rescue Board**

On and from the commencement of this Part, the Director-General of the State Emergency Service—

(a) ceases to hold office as Deputy State Emergency Operations Controller and Deputy Chairperson of the State Rescue Board, and

(b) is not entitled to any remuneration or compensation because of the loss of those offices.

## **6 Continuation of appointment of State Emergency Operations Controller**

The person who, on the commencement of the amendment made to section 18 (1) by the [State Emergency Legislation Amendment Act 1995](#), is the State Emergency Operations Controller is taken to be appointed under that subsection as so amended.

## **7 References to State Rescue and Emergency Services Board**

On and from the commencement of this Part, a reference in any Act (other than this Act) or statutory instrument, or any other instrument, or in any other document, to the State Rescue and Emergency Services Board is to be read as a reference to the State Rescue Board.

## **Part 5 Provisions consequent on State Emergency and Rescue Management Amendment Act 2000**

### **8 Definition**

In this Part—

**amending Act** means the [State Emergency and Rescue Management Amendment Act 2000](#).

### **9 Existing District and Local Rescue Sub-committees**

(1) District Rescue Sub-committees established under section 22 (4) are, on the repeal of section 22 (4) by the amending Act, taken to be district rescue committees established under section 48A.

(2) Local rescue sub-committees established under section 28 (6) are, on the repeal of section 28 (6) by the amending Act, taken to be local rescue committees established under section 48A.

## **Part 6**

### **10-13 (Repealed)**

## **Part 7 Provisions consequent on State Revenue Legislation Amendment Act 2010**

### **14 Collection of emergency services contributions**

(1) In this clause—

**relevant provision** means any of the following provisions (as inserted by the *State Revenue Legislation Amendment Act 2010*)—

- (a) section 47 (3) of the *Fire Brigades Act 1989*,
  - (b) section 106 (3) of the *Rural Fires Act 1997*,
  - (c) section 24E (3) of the *State Emergency Service Act 1989*.
- (2) Anything done by the Chief Executive, Emergency Management NSW before the commencement of this clause that could have been validly done under a relevant provision if the provision had been in force when it was done is taken to have been validly done on and from the date when it was done.

## **Part 8 Provisions consequent on State Emergency and Rescue Management Amendment Act 2010**

### **15 Existing Chairperson of State Emergency Management Committee**

The person holding office as Chairperson of the State Emergency Management Committee immediately before the substitution of section 14 (2A) by the *State Emergency and Rescue Management Amendment Act 2010* continues to hold office as Chairperson of the Committee until such time as an appointment is made by the Minister under section 14 (2A) as so substituted.

## **Part 9 Provisions consequent on Emergency Legislation Amendment Act 2012**

### **16 Definition of “amending Act”**

In this Part, **amending Act** means the *Emergency Legislation Amendment Act 2012*.

### **17 State Emergency Management Plan**

- (1) Displan, as in force under section 12 (1) immediately before the commencement of the amending Act, is taken to be the State Emergency Management Plan.
- (2) A reference in any Act, any instrument made under an Act or a document of any kind to Displan or the State Disaster Plan is taken to be a reference to the State Emergency Management Plan.

### **18 Existing districts established under section 21**

- (1) Districts established under section 21 before the commencement of the amending Act are taken to be regions.
- (2) A reference in any Act, any instrument made under an Act or a document of any kind to a district established under section 21 is taken to be a reference to a region.

## 19 Existing District Emergency Management Committees

- (1) District Emergency Management Committees constituted under Part 2 of this Act before the commencement of the amending Act are taken to be Regional Emergency Management Committees.
- (2) A reference in any Act, any instrument made under an Act or a document of any kind to such a District Emergency Management Committee is taken to be a reference to a Regional Emergency Management Committee established under that Part.

## 20 Existing District Emergency Operations Controllers

- (1) Any person holding office as a District Emergency Operations Controller, or as the deputy of that District Emergency Operations Controller, immediately before the commencement of the amending Act is taken to have been appointed as the Regional Emergency Operations Controller or as the deputy of that Regional Emergency Operations Controller (as the case may be).
- (2) A reference in any Act, any instrument made under an Act or a document of any kind to a District Emergency Operations Controller appointed under section 24 is taken to be a reference to a Regional Emergency Operations Controller.

## 21 Repeal of sections 26 (2) and 32 (2)

The repeal of sections 26 (2) and 32 (2) by the amending Act does not operate to abolish any positions.

## Part 10 Provisions consequent on [Emergency Services Legislation Amendment Act 2018](#)

### 22 Definition

In this Part, **amending Act** means the [Emergency Services Legislation Amendment Act 2018](#).

### 23 Abolition of State Disasters Council

- (1) On the repeal of section 11 by the amending Act, the State Disasters Council is abolished.
- (2) The persons who were members of the State Disasters Council cease, on that abolition, to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.

### 24 Decorporatisation of State Rescue Board

- (1) On the substitution of section 42 (1) by the amending Act, the State Rescue Board ceases to be a corporation constituted by this Act.

- (2) The assets, rights and liabilities of the State Rescue Board become, on that cessation, the assets, rights and liabilities of the Crown.
- (3) The persons who were members of the State Rescue Board become, on that cessation, members of the State Rescue Board established by this Act as amended by the amending Act.
- (4) In this clause—

**assets** means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

**liabilities** means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

**rights** means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).