



TASMANIA

**EMERGENCY MANAGEMENT AMENDMENT
ACT 2018**

No. 31 of 2018

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Sections 6A, 6B and 6C inserted
 - 6A. Ministerial Committee for Emergency Management
 - 6B. Procedure of Ministerial Committee
 - 6C. Functions and powers of Ministerial Committee
6. Section 8 amended (Membership of State Committee)
7. Section 9 amended (Functions and powers of State Committee)
8. Section 10 amended (State Emergency Management Controller and Deputy)

9. Section 12 repealed
10. Section 15 amended (Membership of Regional Committees)
11. Section 16 amended (Functions and powers of Regional Committees)
12. Section 17 amended (Regional Emergency Management Controllers and Deputies)
13. Section 21 amended (Membership of Municipal Committees)
14. Section 22 amended (Functions and powers of Municipal Committees)
15. Section 24 amended (Functions and powers of Municipal Coordinators)
16. Part 2, Division 3A inserted
 - Division 3A – Administration of recovery*
 - Subdivision 1 – State Recovery Advisor*
 - 24A. State Recovery Advisor
 - 24B. Functions and powers of State Recovery Advisor
 - Subdivision 2 – Recovery Taskforce and Recovery Committees*
 - 24C. Recovery Taskforce
 - 24D. State Recovery Coordinator
 - 24E. Recovery Committees
 - 24F. Transition of responsibility
 - Subdivision 3 – Municipal Recovery Coordinator*
 - 24G. Municipal Recovery Coordinator
 - 24H. Functions and powers of Municipal Recovery Coordinator
17. Section 30 amended (Delegation by committees and persons)
18. Section 30A inserted
 - 30A. Subdelegation by certain officers
19. Section 31 amended (Authorised officers)
20. Part 3, Division 1: Heading amended
21. Section 32 amended (Tasmanian Emergency Management Arrangements (TEMA))
22. Section 40 amended (Authorisation of emergency powers)
23. Part 3, Division 3A inserted
 - Division 3A – State of alert*
 - 41A. Declaration of state of alert
 - 41B. Authority of declaration of state of alert

- 41C. Duties if state of alert declared
- 41D. Authorisation by Regional Controller if state of alert declared
- 24. Section 42 amended (Declaration of state of emergency)
- 25. Section 46 amended (Councils to use resources in emergency)
- 26. Section 56 amended (Workers' compensation payable to or in respect of volunteers)
- 27. Section 67 inserted
 - 67. Savings and transitional provisions consequent on commencement of *Emergency Management Amendment Act 2018*
- 28. Schedule 1 amended (Emergency powers)
- 29. Schedule 3 amended (Membership and Meetings of Committees)
- 30. Schedule 4 amended (Savings and transitional provisions)
- 31. Repeal of Act



EMERGENCY MANAGEMENT AMENDMENT ACT 2018

No. 31 of 2018

An Act to amend the *Emergency Management Act 2006*

[Royal Assent 10 December 2018]

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

1. Short title

This Act may be cited as the *Emergency Management Amendment Act 2018*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 3

3. Principal Act

In this Act, the *Emergency Management Act 2006** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *affiliated organisation*:

arrangements document means a document prepared by the State Committee under section 32(1);

- (b) by inserting “resist, adapt to,” after “to,” in paragraph (a) of the definition of *emergency management*;
- (c) by omitting “Tasmanian Emergency Management Plan” from the definition of *emergency management plan* and substituting “TEMA”;
- (d) by inserting the following definition after the definition of *environment*:

evacuation centre means a place, or facility, where people affected by an emergency may be provided, under this Act, with information in relation to hazards associated with the emergency or with

*No. 12 of 2006

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 4

temporary shelter from those hazards;

- (e) by inserting the following definition after the definition of *Head of Agency*:

Ministerial Committee means the Ministerial Committee for Emergency Management established under section 6A;

- (f) by inserting the following definition after the definition of *Municipal Emergency Management Plan*:

Municipal Recovery Coordinator means a person appointed as a Municipal Recovery Coordinator under section 24G;

- (g) by inserting the following definitions after the definition of *property*:

recovery, in relation to an area or community affected by an emergency, includes any process undertaken in that area or community that does either or both of the following:

- (a) returns all, or part of, the social, economic or environmental features or the infrastructure of that area or community to a functional standard;

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 4

- (b) assists the area or community, during and after the emergency, to deal with the impacts of the emergency;

recovery centre means a place or facility where people affected by an emergency may be provided with information about, or support to recover from, that emergency;

Recovery Taskforce means a Recovery Taskforce established under section 24C;

- (h) by inserting the following definition after the definition of *risk*:

Secretary responsible to the Premier means the Secretary of the department responsible for the administration of the *State Service Act 2000*;

- (i) by inserting the following definitions after the definition of *state of emergency*:

State Recovery Advisor means the person holding the office of State Recovery Advisor under section 24A;

State Recovery Coordinator means a State Recovery Coordinator appointed under section 24D;

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 5

- (j) by omitting the definition of *Tasmanian Emergency Management Plan* and substituting the following definition:

TEMA, also known as the *Tasmanian Emergency Management Arrangements*, means the arrangements document approved by the Minister under section 32(3)(a), as amended or substituted from time to time with the approval of the Minister under that section;

5. Sections 6A, 6B and 6C inserted

Before section 7 of the Principal Act, the following sections are inserted in Division 1:

6A. Ministerial Committee for Emergency Management

- (1) The Premier is to establish the Ministerial Committee for Emergency Management.
- (2) The Ministerial Committee consists of –
- (a) the Premier; and
 - (b) the Deputy Premier; and
 - (c) the Minister assigned the administration of this Act; and
 - (d) the State Controller; and

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 5

- (e) any other Minister, holder of a position or person that the Premier considers appropriate.
- (3) Unless otherwise determined by the Premier, the Premier is the chairperson of the Ministerial Committee.

6B. Procedure of Ministerial Committee

- (1) The Premier may specify the terms of reference for the Ministerial Committee for Emergency Management.
- (2) The chairperson may request or allow a person to attend a meeting of the Ministerial Committee to give advice and opinions in respect of any matter under the Ministerial Committee's consideration, if the chairperson of the Ministerial Committee considers that it would be helpful for the Ministerial Committee to have the advice or opinion of that person in respect of that matter.
- (3) Schedule 3 has effect in respect of the membership and meetings of the Ministerial Committee.

6C. Functions and powers of Ministerial Committee

- (1) The Ministerial Committee has the following functions:
 - (a) functions relating to emergency management as determined by the

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 5

Premier or imposed by this or any other Act;

- (b) other functions as included in the terms of reference specified for the Ministerial Committee under section 6B(1).

(2) The Ministerial Committee has the following powers:

- (a) to impose functions relating to emergency management on the State Committee, a State Recovery Coordinator or the State Recovery Advisor;
- (b) to require the State Controller to provide any necessary information;
- (c) to establish sub-committees, for the purpose of assisting the Ministerial Committee in the performance and exercise of its functions and powers, made up of members or non-members of the Ministerial Committee as it sees fit;
- (d) to do all other things necessary or convenient to be done in connection with the performance and exercise of its functions and powers.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 6

- (3) The functions and powers of the Ministerial Committee may be performed, and exercised, by the Premier if –
 - (a) a state of emergency has been declared; and
 - (b) the Premier is satisfied on reasonable grounds that a function or power of the Ministerial Committee must be performed, or exercised, within a limited period; and
 - (c) a quorum of the Ministerial Committee is unable to be formed within that period.

6. Section 8 amended (Membership of State Committee)

Section 8 of the Principal Act is amended by omitting subsections (5) and (6) and substituting the following subsections:

- (5) The State Controller is to appoint a member of the State Committee as the executive officer of the State Committee for a period specified in the instrument of appointment.
- (6) The functions of the executive officer of the State Committee are to be –

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 7

- (a) determined by the State Controller; and
- (b) included in the instrument of appointment.

7. Section 9 amended (Functions and powers of State Committee)

Section 9(1)(a) of the Principal Act is amended by omitting “Tasmanian Emergency Management Plan” and substituting “TEMA”.

8. Section 10 amended (State Emergency Management Controller and Deputy)

Section 10 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Head of Agency for the Department” and substituting “Commissioner of Police”;
- (b) by omitting from subsection (2) “Deputy for the Head of Agency for the Department” and substituting “Deputy Commissioner of Police”;
- (c) by inserting the following subsection after subsection (6):

(7) In this section –

***Deputy Commissioner of
Police*** means the Deputy
Commissioner of Police

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 9

appointed under section 9
of the *Police Service Act*
2003.

9. Section 12 repealed

Section 12 of the Principal Act is repealed.

10. Section 15 amended (Membership of Regional Committees)

Section 15 of the Principal Act is amended by
omitting subsections (5) and (6) and substituting
the following subsections:

- (5) The State Controller, after consulting with the Regional Controller for the region, is to appoint a member of the Regional Committee for that region as the executive officer of that Regional Committee for a period specified in the instrument of appointment.
- (6) The functions of the executive officer of a Regional Committee are to be –
 - (a) determined by the State Controller after consultation with the Regional Controller for the relevant region; and
 - (b) included in the instrument of appointment.

11. Section 16 amended (Functions and powers of Regional Committees)

Section 16 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(d) “functions” and substituting “functions or powers”;
- (b) by inserting the following paragraph after paragraph (a) in subsection (2):
 - (ab) establish subcommittees for the purpose of assisting it in the performance and exercise of its functions and powers; and

12. Section 17 amended (Regional Emergency Management Controllers and Deputies)

Section 17 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Police in consultation with the State Controller” and substituting “Police, and approved by the State Controller,”;
- (b) by omitting from subsection (2) “Police in consultation with the State Controller” and substituting “Police, and approved by the State Controller,”.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 13

13. Section 21 amended (Membership of Municipal Committees)

Section 21 of the Principal Act is amended as follows:

(a) by inserting the following paragraph after paragraph (b) in subsection (1):

(ba) the Municipal Recovery Coordinators for the municipal areas in respect of which the Municipal Committee has the responsibility of instituting and coordinating emergency management; and

(b) by omitting subsection (5) and substituting the following subsections:

(5) The Municipal Chairperson is to appoint a member of the Municipal Committee as the executive officer of the Municipal Committee for a period specified in the instrument of appointment.

(5A) The functions of the executive officer of the Municipal Committee are to be –

(a) determined by the Municipal Chairperson; and

(b) included in the instrument of appointment issued by

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 14

the Municipal
Chairperson.

14. Section 22 amended (Functions and powers of Municipal Committees)

Section 22 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(d) “and powers” after “functions”;
- (b) by inserting the following paragraph after paragraph (f) in subsection (1):
 - (fa) other functions imposed on the Municipal Committee by a Municipal Emergency Management Plan or a Special Emergency Plan that relates to emergency management in the municipal area, or the municipal areas, referred to in paragraph (a);
- (c) by omitting subsection (2) and substituting the following subsection:
 - (2) A Municipal Committee has the following powers:
 - (a) to establish subcommittees for the purposes of assisting it in the performance and exercise of its functions and powers;

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 15

- (b) prescribed powers;
- (c) to do all other things necessary or convenient to be done in connection with the performance and exercise of its functions and powers.

15. Section 24 amended (Functions and powers of Municipal Coordinators)

Section 24(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c)(i) “section 46” and substituting “section 46, or as required for the establishment and coordination of evacuation centres and recovery centres in the municipal area”;
- (b) by inserting the following paragraph after paragraph (h):
 - (ha) other functions imposed on a Municipal Coordinator by a Municipal Emergency Management Plan;

16. Part 2, Division 3A inserted

After section 24 of the Principal Act, the following Division is inserted in Part 2:

Division 3A – Administration of recovery
Subdivision 1 – State Recovery Advisor

24A. State Recovery Advisor

- (1) Unless otherwise determined by the Premier, the State Recovery Advisor is the Secretary responsible to the Premier.
- (2) The State Recovery Advisor may hold that office in conjunction with any other appointment, position or office.

24B. Functions and powers of State Recovery Advisor

The State Recovery Advisor has the following functions:

- (a) to ensure that plans and arrangements for recovery are prepared and maintained;
- (b) to support the State Controller, Regional Controllers and State Recovery Coordinator to coordinate recovery processes during and after an emergency;
- (c) to advise, on request, the Premier or the Ministerial Committee on matters related to recovery including –

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 16

- (i) the appointment of a State Recovery Coordinator;
and
- (ii) the establishment of a Recovery Taskforce;
- (d) to oversee the transition of responsibility for recovery under section 24F;
- (e) other functions in respect of recovery imposed on the State Recovery Advisor by the Premier;
- (f) other functions in respect of recovery imposed on the State Recovery Advisor by the Ministerial Committee;
- (g) other functions imposed by this or any other Act;
- (h) prescribed functions.

Subdivision 2 – Recovery Taskforce and Recovery Committees

24C. Recovery Taskforce

- (1) The Premier may determine that a Recovery Taskforce is to be established to support recovery during or after an emergency.

- (2) If the Premier is not available to make a determination under subsection (1), the Ministerial Committee may determine that a Recovery Taskforce is to be established to support recovery during or after an emergency.
- (3) If the Premier or Ministerial Committee makes a determination under subsection (1) or (2), the Secretary responsible to the Premier is to establish a Recovery Taskforce in accordance with that determination.

24D. State Recovery Coordinator

- (1) The Premier may appoint, in writing, a State Recovery Coordinator to lead a Recovery Taskforce.
- (2) If the Premier appoints a State Recovery Coordinator under subsection (1), the Premier –
 - (a) is to specify in the instrument of appointment –
 - (i) the term of the appointment; and
 - (ii) the functions of the State Recovery Coordinator; and
 - (b) is to notify the State Controller of the appointment.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 16

- (3) If a person appointed as a State Recovery Coordinator is a State Service officer or State Service employee, he or she may be appointed as a State Recovery Coordinator in conjunction with his or her State Service employment.

24E. Recovery Committees

- (1) The Ministerial Committee, the State Controller, the State Recovery Advisor or a State Recovery Coordinator may establish a committee, or more than one committee, for one or more of the following purposes:
 - (a) coordinating recovery processes;
 - (b) engaging affected communities in recovery processes;
 - (c) any other purpose related to recovery.
- (2) When establishing a committee under subsection (1), the Ministerial Committee, the State Controller, the State Recovery Advisor or State Recovery Coordinator is to determine the chairperson, membership and terms of reference for the committee.

24F. Transition of responsibility

- (1) In this section –

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 16

relevant recovery authority means –

- (a) the State Recovery Coordinator;
or
 - (b) a person determined under subsection (3) to be a relevant recovery authority.
- (2) If a relevant recovery authority has been appointed or determined in relation to an emergency –
- (a) the State Controller is to transfer all information in respect of the emergency to the relevant recovery authority as soon as practicable and to the satisfaction of the relevant recovery authority; and
 - (b) upon receipt by the State Controller of written confirmation by the relevant recovery authority of the completion of the transfer of information in accordance with paragraph (a), the relevant recovery authority is to have, and the State Controller is to cease to have, responsibility for the recovery process in relation to the emergency.
- (3) If no State Recovery Coordinator has been appointed under section 24D in relation to an emergency, the State

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 16

Controller may determine one of the following to be a relevant recovery authority:

- (a) the State Recovery Advisor;
 - (b) a specified State Service Agency.
- (4) For the avoidance of doubt, a person determined under subsection (3) to be a relevant recovery authority does not receive any additional functions or powers, under this or any other Act, solely on the basis of that determination.

Subdivision 3 – Municipal Recovery Coordinator

24G. Municipal Recovery Coordinator

- (1) In this section –
- general manager*** has the same meaning as in the *Local Government Act 1993*.
- (2) A general manager of a council may appoint a Municipal Recovery Coordinator for the municipal area governed by the council.
- (3) A Municipal Recovery Coordinator may hold that office in conjunction with any other appointment, position or office.
- (4) A Municipal Recovery Coordinator holds office for the period, and on the terms

and conditions, specified in his or her instrument of appointment.

- (5) If no Municipal Recovery Coordinator is appointed under this section, the Municipal Coordinator for the municipal area is to perform the functions and exercise the powers of a Municipal Recovery Coordinator as specified in section 24H.

24H. Functions and powers of Municipal Recovery Coordinator

- (1) A Municipal Recovery Coordinator has the following functions, for the purposes of the planning, review and implementation of recovery processes, in respect of the municipal area for which he or she is the Municipal Recovery Coordinator:
- (a) prior to, during or subsequent to the occurrence of an emergency within the municipal area, to ensure that –
 - (i) arrangements are in place to implement recovery processes, including the establishment and coordination of evacuation centres and recovery centres; and

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 16

- (ii) his or her instructions and decisions and the instructions and decisions of the Municipal Committee, Municipal Chairperson and Regional Controller are transmitted to, and adequately carried out by, persons to whom they are directed or relate;
- (b) to advise the Regional Controller of any powers or declarations under this Act that are to be used, or made, for the purposes of recovery within the municipal area;
- (c) to request resources of another municipal area if the Municipal Recovery Coordinator considers that those resources are necessary to implement recovery processes within the municipal area;
- (d) to assist a recovery committee established under section 24E within the municipal area or a combined area;
- (e) to assist and advise the Municipal Chairperson, the Municipal Committee or the relevant council on all matters with respect to recovery within the municipal area or a combined area;

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 16

- (f) other functions in respect of recovery imposed on the Municipal Recovery Coordinator by the Municipal Committee or the Municipal Coordinator;
 - (g) other functions imposed on the Municipal Recovery Coordinator by this or any other Act;
 - (h) other functions imposed on the Municipal Recovery Coordinator by a Municipal Emergency Management Plan;
 - (i) prescribed functions.
- (2) A Municipal Recovery Coordinator has the following powers:
 - (a) prescribed powers;
 - (b) the power to do all things necessary or convenient to perform his or her functions.
- (3) If a Municipal Recovery Coordinator of a municipal area performs a function under subsection (1)(a), he or she is to notify the Municipal Coordinator for the municipal area of the performance of that function as soon as possible after he or she performs the function.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 17

17. Section 30 amended (Delegation by committees and persons)

Section 30 of the Principal Act is amended as follows:

(a) by inserting the following paragraph after paragraph (b):

(ba) the Deputy State Controller;

(b) by inserting the following paragraph after paragraph (d):

(da) a Deputy Regional Controller;

(c) by inserting the following paragraphs after paragraph (g):

(ga) a Deputy Municipal Coordinator;

(gb) the State Recovery Advisor;

(gc) a State Recovery Coordinator;

(gd) a Municipal Recovery Coordinator;

18. Section 30A inserted

After section 30 of the Principal Act, the following section is inserted in Division 5:

30A. Subdelegation by certain officers

(1) Despite section 30, each of the following persons may subdelegate any function or

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 19

power delegated under that section, other than this power of subdelegation:

- (a) the State Controller;
 - (b) the Deputy State Controller;
 - (c) a Regional Controller;
 - (d) a Deputy Regional Controller;
 - (e) a Municipal Coordinator;
 - (f) a Deputy Municipal Coordinator.
- (2) Subsection (1) does not apply to a function or power if, under the delegation of that function or power, it is stated that that function or power is not to be subdelegated under this section.

19. Section 31 amended (Authorised officers)

Section 31 of the Principal Act is amended as follows:

- (a) by inserting the following paragraphs after paragraph (c) in subsection (1):
 - (ca) the State Recovery Advisor;
 - (cb) a State Recovery Coordinator;
 - (cc) a Municipal Recovery Coordinator;
- (b) by inserting the following paragraphs after paragraph (c) in subsection (2):

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 20

- (ca) the State Recovery Advisor;
- (cb) a State Recovery Coordinator;
- (cc) a Municipal Recovery Coordinator;

20. Part 3, Division 1: Heading amended

Division 1 of Part 3 of the Principal Act is amended by inserting in the heading to that Division “***and arrangements***” after “***plans***”.

21. Section 32 amended (Tasmanian Emergency Management Arrangements (TEMA))

Section 32 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “a plan for” and substituting “an arrangements document in relation to”;
- (b) by omitting from subsection (2) “plan” and substituting “the arrangements document”;
- (c) by omitting from subsection (3) “a plan” and substituting “an arrangements document”;
- (d) by omitting from subsection (3)(a) “plan” and substituting “arrangements document”;

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 21

- (e) by omitting from subsection (3)(b) “plan” and substituting “arrangements document”;
- (f) by omitting subsection (4) and substituting the following subsections:
 - (4) The arrangements document approved under subsection (3)(a) (the *TEMA*) is to –
 - (a) provide the broad policies for emergency management in Tasmania; and
 - (b) provide details of the arrangements and responsibilities for the governance and coordination of emergency management in Tasmania.
 - (4A) The TEMA may specify the emergencies and hazards to which it applies, but is not limited to only those emergencies or hazards so specified.
- (g) by omitting from subsection (5) “Tasmanian Emergency Management Plan” and substituting “TEMA”;
- (h) by omitting subsection (6) and substituting the following subsection:

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 22

- (6) At any time, the State Committee may submit to the Minister –
 - (a) any suggested amendments to the TEMA; or
 - (b) a substitute TEMA.
- (i) by omitting from subsection (7) “plan” and substituting “TEMA”;
- (j) by omitting from subsection (7) “Tasmanian Emergency Management Plan” and substituting “TEMA”.

22. Section 40 amended (Authorisation of emergency powers)

Section 40 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “emergency” first occurring and substituting “emergency, or a significant threat of an emergency,”;
- (b) by omitting from subsection (1)(b) “elsewhere in Australia” and substituting “outside Tasmania”;
- (c) by omitting paragraph (f) from subsection (3) and substituting the following paragraph:
 - (f) may specify either or both of the following:

- (i) that a specific emergency power may be exercised under the authorisation by an authorised officer or class of authorised officers;
- (ii) that an authorised officer or class of authorised officers may exercise all emergency powers exercisable under the authorisation; and

23. Part 3, Division 3A inserted

After section 41 of the Principal Act, the following Division is inserted in Part 3:

Division 3A – State of alert

41A. Declaration of state of alert

- (1) The State Controller may declare a state of alert if he or she –
 - (a) is satisfied on reasonable grounds that there is a significant threat of an emergency occurring in Tasmania; or
 - (b) is satisfied on credible information that an emergency that may impact on Tasmania is occurring, or may occur, outside Tasmania.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 23

(2) A declaration of a state of alert –

- (a) may be oral or in writing, but if it is oral it is to be confirmed in writing as soon as practicable; and
- (b) is to specify that the declaration is made under this Act; and
- (c) is to describe the general nature of the emergency to which the declaration relates; and
- (d) is to describe the area in Tasmania in respect of which the declaration is made; and
- (e) is to specify the emergency powers that may be exercised by a Regional Controller, or any person or class of persons that the State Controller thinks fit, in accordance with section 41B; and
- (f) is to specify –
 - (i) that the declaration takes effect immediately; or
 - (ii) the date at which and time at which, or the event on the occurrence of which, the declaration takes effect; and

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 23

- (g) subject to subsection (3), is to specify –
 - (i) the period for which the declaration has effect; or
 - (ii) the date and time at which the declaration ceases to have effect; or
 - (iii) the event on the occurrence of which the declaration ceases to have effect; and
 - (h) may specify any conditions and instructions that the State Controller considers appropriate.
- (3) A declaration for a state of alert may not be made so as to have effect for a period exceeding 7 days.
 - (4) The State Controller may extend a declaration of a state of alert for one or more further periods, each of which does not exceed 7 days, if satisfied that there are reasonable grounds to do so.
 - (5) The State Controller may amend or revoke a declaration of a state of alert at any time.
 - (6) A state of alert is also revoked if a state of emergency is declared under section 42 in respect of the emergency to which the state of alert relates.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 23

- (7) The extension, amendment or revocation of a declaration of a state of alert may be oral or in writing, but if it is oral it is to be confirmed in writing as soon as practicable.

41B. Authority of declaration of state of alert

- (1) A person authorised in accordance with section 41A(2)(e) to exercise emergency powers under a declaration of a state of alert may –
 - (a) only exercise those powers for the purposes of making necessary preparations, or to mitigate risks, in relation to the emergency to which the state of alert relates; and
 - (b) exercise those powers whether or not he or she has received a written copy of the declaration.
- (2) A person authorised under a declaration of a state of alert to exercise an emergency power may authorise another person to use all or any part of such an emergency power.

41C. Duties if state of alert declared

While a declaration of a state of alert is in effect –

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 23

- (a) the State Controller and the Regional Controller for a region in respect of which the declaration has been made are to implement emergency management in relation to the emergency to which the state of alert relates –
 - (i) in accordance with any relevant emergency management plan; and
 - (ii) as he or she considers appropriate; and
- (b) subject to any directions given under this Act by the Premier, Minister or State Controller, if a region is affected by the declaration the Regional Controller for the region is to –
 - (i) take the action, as he or she considers appropriate, required by any relevant emergency management plan; or
 - (ii) take immediate action to use, direct and coordinate all available resources so as to counter the likely effects of the relevant emergency; and

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 23

- (c) the Municipal Coordinator for a municipal area within the region in respect of which the declaration has been made is to advise and assist the Regional Controller with respect to emergency management in the municipal area.

41D. Authorisation by Regional Controller if state of alert declared

- (1) Unless the State Controller has directed otherwise, a Regional Controller may authorise the exercise of all, or any, emergency powers in the region for which he or she is Regional Controller if –
 - (a) a state of alert has been declared in respect of that region, part of that region or the whole State; or
 - (b) a state of alert has been declared in respect of another place that is not in that region and the Regional Controller is satisfied that the potential emergency, that is the subject of the state of alert, may impact on that region to the extent that it is reasonable to authorise the exercise of those powers in that region for the purpose of –

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 23

- (i) protecting persons from distress, injury or death; or
 - (ii) protecting property or the environment from damage or destruction; or
 - (iii) otherwise mitigating the impact of the emergency on that region.
- (2) Section 40(3), (4), (5), (6), (7), (8) and (9) and section 41 apply to an authorisation given by a Regional Controller under this section as if –
 - (a) a reference in section 40(3), (5), (6), (7) or (9) to the State Controller were a reference to the Regional Controller; and
 - (b) a reference in section 40(5) or (6) to the Minister were a reference to the State Controller; and
 - (c) a reference in section 41 to an authorisation under section 40 were a reference to an authorisation under this section.
- (3) If the State Controller is of the opinion that there is a conflict between an authorisation under this section and an authorisation under section 40, the State Controller may amend or revoke either

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 24

authorisation as he or she considers appropriate.

24. Section 42 amended (Declaration of state of emergency)

Section 42 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) The Premier may declare a state of emergency if he or she is satisfied, on reasonable grounds, of one or more of the following:

(a) that an emergency, or a significant threat of an emergency, is occurring or has occurred in Tasmania;

(b) that the existing circumstances require, or may require, the exercise of special emergency powers.

(b) by omitting from subsection (3)(a) “not”;

(c) by omitting from subsection (3)(b) “not”.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 25

25. Section 46 amended (Councils to use resources in emergency)

Section 46 of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “whether or not a state of emergency, or a state of alert, has been declared in respect of the municipal area” after “Plan”;
- (b) by omitting paragraph (b) and substituting the following paragraphs:
 - (b) so far as that plan is not applicable and whether or not a state of emergency or a state of alert has been declared in respect of the municipal area, in accordance with the directions of the Municipal Chairperson, Municipal Coordinator or Municipal Committee; or
 - (c) so far as that plan is not applicable and if a state of emergency, or state of alert, has been declared in respect of the municipal area, in accordance with the directions of the Regional Controller.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 26

26. Section 56 amended (Workers' compensation payable to or in respect of volunteers)

Section 56 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (2A) For the purposes of the *Workers Rehabilitation and Compensation Act 1988*, a volunteer emergency management worker –
- (a) who is registered in Tasmania with an organisation that participates in emergency management, or rescue and retrieval operations, in Tasmania; and
 - (b) who, in his or her capacity within that organisation, participates in emergency management, or a rescue and retrieval operation, outside Tasmania –

is taken to be employed in emergency management, or rescue and retrieval operations, in connection with Tasmania, while so participating, if the Secretary of the department responsible in relation to the administration of this Act has agreed to such participation.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 27

27. Section 67 inserted

After section 66 of the Principal Act, the following section is inserted in Part 4:

67. Savings and transitional provisions consequent on commencement of *Emergency Management Amendment Act 2018*

(1) In this section –

commencement day means the day on which the *Emergency Management Amendment Act 2018* commences.

(2) On the commencement day –

- (a) the Ministerial committee established under section 12, as in existence immediately before that day, is abolished; and
- (b) the appointment of each member to that Ministerial committee is revoked.

(3) The Tasmanian Emergency Management Plan that is in force immediately before the commencement day –

- (a) is taken, on and after that day, to be approved as the TEMA under section 32; and
- (b) on and after that day, may be amended or substituted under that section; and

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 28

(c) expires as the TEMA on the earlier of the following events:

(i) the approval of a new arrangements document under that section as a TEMA;

(ii) on the first anniversary of the commencement day.

28. Schedule 1 amended (Emergency powers)

Clause 1 of Schedule 1 to the Principal Act is amended as follows:

(a) by inserting the following paragraph after paragraph (q) in subclause (1):

(qa) to remove debris from, or demolish, premises if, in the opinion of the authorised officer, the removal or demolition is necessary to avert an emergency, or to minimise the possibility of aggravating an emergency or the effects of an emergency;

(b) by omitting from subclause (3) “Before entering premises under subclause (1)” and substituting “Before exercising any emergency power under subclause (1) in respect of premises”.

Emergency Management Amendment Act 2018
Act No. 31 of 2018

s. 29

29. Schedule 3 amended (Membership and Meetings of Committees)

Clause 1 of Schedule 3 to the Principal Act is amended by inserting “the Ministerial Committee,” after “means” in the definition of *Committee*.

30. Schedule 4 amended (Savings and transitional provisions)

Clause 12(1) of Schedule 4 to the Principal Act is amended by omitting “Tasmanian Emergency Management Plan” and substituting “TEMA”.

31. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which this Act commences.

*[Second reading presentation speech made in:–
House of Assembly on 19 September 2018
Legislative Council on 22 November 2018]*