

(Reprint No. 1)

SOUTH AUSTRALIA

STATE EMERGENCY SERVICE ACT, 1987

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 15 January 1992.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Establishment of the State Emergency Service
5. The Director of the Service
6. Director may delegate
7. Commissioner to administer Act and submit annual report
8. Functions of the Service
9. S.E.S. units
10. Emergency officers
11. Director may assume command in certain emergencies
12. Powers of emergency officers where Director assumes command
13. Compensation where emergency officers cause damage through exercise of powers
14. Members of recognized interstate emergency organizations have certain powers
15. Powers of emergency officers in relation to other emergencies
16. Offences
17. Immunity from liability
19. Evidentiary provision
20. Offences are summary
21. This Act does not derogate from other Acts
22. Money required for the purposes of this Act
23. Regulations

STATE EMERGENCY SERVICE ACT, 1987

being

State Emergency Service Act, 1987, No. 14 of 1987 [Assented to 9 April 1987]¹

as amended by

State Emergency Service (Immunity for Members) Amendment Act 1991 No. 66 of 1991 [Assented to 5 December 1991]²

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to establish the State Emergency Service; to make provision for the handling of certain emergency situations; and to provide for other related matters.

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *State Emergency Service Act, 1987*.

Commencement

2. (1) This Act shall come into operation on a day to be fixed by proclamation.
(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Interpretation

3. In this Act, unless the contrary intention appears—
“assistant emergency officer” means a member of an S.E.S. unit who has not been appointed under this Act as an emergency officer:
“the Commissioner” means the person for the time being holding, or acting in, the office of Commissioner of Police:
“the Deputy Director” means the person for the time being holding, or acting in, the position of Deputy Director of the State Emergency Service:
“the Director” means the person for the time being holding, or acting in, the position of Director of the State Emergency Service:

¹Came into operation 1 January 1988: *Gaz.* 23 December 1987, p. 1916.

²Came into operation 19 December 1991: *Gaz.* 19 December 1991, p. 1907.

“emergency” means any occurrence (including, without limiting the generality of this definition, fire, flood, storm, tempest, earthquake, eruption, epidemic of human, animal or plant disease and accident) that causes, or threatens to cause, loss of life or injury to persons or animals or damage to property, but does not include—

(a) an occurrence in respect of which a declaration under the *State Disaster Act, 1980*, is in force;

(b) a civil riot or disturbance;

or

(c) an industrial dispute:

“emergency officer” means a person appointed by or under this Act as an emergency officer:

“emergency order” means an order of the Director in force under section 11(1):

“the Service” means the State Emergency Service established under this Act:

“S.E.S. unit” means an organization registered as an S.E.S. unit under this Act.

Establishment of the State Emergency Service

4. (1) There shall be a body entitled the “State Emergency Service”.

(2) The Service shall be comprised of—

(a) the Director and all other persons employed in a position in the Service;

(b) the members of all S.E.S. units;

and

(c) all persons who assist the Director on a voluntary basis.

The Director of the Service

5. (1) There shall be a Director of the Service.

(2) The position of Director is a position in the Public Service of the State.

Director may delegate

6. (1) The Director may, with the approval of the Minister, delegate to any person appointed to the Public Service of the State any of the Director’s powers under this Act, except the powers under section 11(1) and (3) to assume command of operations and to extend an order assuming command.

(2) The Director may, with the approval of the Minister, delegate the powers under section 11(1) and (3) to the Deputy Director.

(3) A delegation under this section is revocable at will and does not prevent the Director from exercising any power.

Commissioner to administer Act and submit annual report

7. (1) The Commissioner is responsible to the Minister for the administration of this Act and, in carrying out that function, is subject to the control and direction of the Minister.

(2) The Commissioner must, on or before the thirtieth day of September in each year, submit a report to the Minister on the administration of this Act during the period of 12 months that ended on the preceding thirtieth day of June.

(3) The Minister must, as soon as practicable after receiving a report submitted pursuant to subsection (1), cause a copy of the report to be laid before each House of Parliament.

Functions of the Service

8. The functions of the Service are as follows:

- (a) to assist the Commissioner in dealing with any emergency;
 - (b) to assist the State Co-ordinator, in accordance with the State Disaster Plan, in carrying out counter-disaster operations or post-disaster operations under the *State Disaster Act, 1980*;
 - (c) to assist the South Australian Metropolitan Fire Service and the Country Fire Services Board in dealing with emergencies in accordance with the Acts under which those authorities are established;
 - (d) to deal with an emergency where no other body or person has lawful authority to assume command of operations for dealing with the emergency;
 - (e) to deal with an emergency until such time as any other body or person that has lawful authority to assume command of operations for dealing with the emergency has assumed command;
 - (ea) to respond to emergency calls and, where appropriate, provide assistance in any situation of need whether or not the situation constitutes an emergency;
- and
- (f) to carry out such other functions as may be assigned to the Service by this Act or any other Act or by the Minister.

S.E.S. units

9. (1) On the application of an organization formed for the purpose of dealing with emergencies, the Director may, by instrument published in the *Gazette*, register the organization as an S.E.S. unit and assign it a distinctive name.

(2) An organization is, on being registered as an S.E.S. unit, a body corporate and any former incorporation is, by virtue of that registration, dissolved.

(3) Where the incorporation of an organization is dissolved pursuant to subsection (2), the real and personal property and rights and liabilities of the organization are, by force of this subsection, transferred to and vested in the S.E.S. unit.

(4) An S.E.S. unit is authorized to perform such functions as are assigned to it by its constitution or by or under this Act.

(5) The constitutions and membership lists of all S.E.S. units must be available for inspection by any interested member of the public, on payment of the prescribed fee, at the Service's headquarters.

(6) Where—

- (a) an S.E.S. unit wishes to be dissolved;

or

- (b) the Director is of the opinion that an S.E.S. unit has become defunct or is not properly performing its functions,

the Director may, by instrument published in the *Gazette*, cancel the registration and dissolve the organization.

(7) Where an S.E.S. unit is dissolved pursuant to this section, the real and personal property and rights and liabilities of the unit are, by force of this subsection, transferred to and vested in the Minister, and the Minister may dispose of any property so vested in such manner as the Minister considers will best promote the objects of this Act.

- (8) An S.E.S. unit is exempt from—

(a) rates under the *Local Government Act, 1934*;

(b) rates under the *Waterworks Act, 1932*, or the *Sewerage Act, 1929*;

and

(c) land tax under the *Land Tax Act, 1936*.

Emergency officers

10. (1) The Director is an emergency officer for the purposes of this Act.

(2) The Director may appoint, individually or by class, such other persons to be emergency officers for the purposes of this Act as the Director thinks fit.

Director may assume command in certain emergencies

11. (1) Where it appears to the Director—

(a) that an emergency has arisen or is imminent;

and

(b) that no other body or person has lawful authority to assume command, or that no other body or person having lawful authority to assume command has done so,

the Director may, by written order, assume command of all operations for dealing with the emergency.

(2) An order under subsection (1) remains, unless sooner revoked, in force for a period of 48 hours.

(3) The Director may, by written order, with the approval of the Minister, extend an order under subsection (1) for a further period of 24 hours.

(4) The Director must, as soon as reasonably practicable after making an order under subsection (1) or (3), publish the order in the prescribed manner or, in the absence of regulations prescribing the manner in which the order is to be published, in such manner as the Director thinks appropriate in the circumstances.

- (5) The Director may, by written order, revoke an order made under subsection (1).

(6) The fact that the Director has, by order, assumed command of operations for dealing with an emergency does not prevent some other body or person who has lawful authority to assume command from doing so and, on that other body or person assuming command, the order of the Director shall be deemed to have been revoked.

(7) The Director, forthwith upon assuming command of operations for dealing with an emergency in respect of which some other body or person has lawful authority to assume command, must notify that other body or person of the action taken by the Director.

(8) Where both the Director and the Deputy Director are absent or are for some other reason unable to exercise a power under subsection (1) or (3), the Minister may exercise that power, and a reference in this Act to an order of the Director will be taken to include a reference to an order of the Minister under this section.

Powers of emergency officers where Director assumes command

12. (1) An emergency officer may, while an emergency order is in force, do or cause to be done such things as the officer considers necessary or desirable for the protection of life or property under threat as a result of the emergency to which the order relates.

(2) Without limiting the generality of subsection (1), an emergency officer may—

- (a) require the owner, or the person for the time being in charge of, any real or personal property to place it under the control or at the disposition of a person nominated by the emergency officer;
- (b) direct the evacuation or removal of persons or animals from an area or place, and their removal to an area or place nominated by the emergency officer;
- (c) enter and, if necessary, break into any land, building, structure or vehicle;
- (d) take possession of or assume control over any land, body of water, building, structure or vehicle;
- (e) remove, demolish or destroy any building, structure, vehicle, vegetation or seriously injured animal;
- (f) shut off, or cut off, any supply of fuel, gas, electricity or water, or any drainage facility;
- (g) direct or prohibit the movement of persons, animals or vehicles;
- (h) remove to such place as the emergency officer thinks proper any person who obstructs or threatens to obstruct the taking of any action pursuant to this section;

or

- (i) direct (but only so far as is reasonably necessary in all the circumstances) any person to assist the emergency officer in the exercise of the powers vested in the emergency officer by this section.

Compensation where emergency officers cause damage through exercise of powers

13. (1) A person is entitled to be compensated for any injury, loss or damage—

- (a) that arises in consequence of anything done in the exercise or purported exercise of powers under section 12 (apart from subsection (2)(h));

and

- (b) that would not have arisen in any event in consequence of the emergency.

(2) In assessing compensation under subsection (1), the following must be taken into account:

- (a) any amount recovered, or recoverable, by the person suffering the injury, loss or damage under a policy of insurance;

and

- (b) the extent (if at all) to which the conduct of the person suffering the injury, loss or damage contributed to that injury, loss or damage.

Members of recognized interstate emergency organizations have certain powers

14. (1) In this section—

“recognized interstate emergency organization” means an organization formed outside this State that has been declared by the Director, by notice in the *Gazette*, to be a recognized interstate emergency organization.

(2) A member of a recognized interstate emergency organization who assists in dealing with an emergency in this State in respect of which an emergency order is in force shall, while so assisting, be deemed for all purposes to be an emergency officer.

Powers of emergency officers in relation to other emergencies

15. (1) An emergency officer or an assistant emergency officer may, on the request of a member of the police force, assist the police in dealing with an emergency.

(2) An emergency officer or an assistant emergency officer may, on the request of an authorized officer under the *State Disaster Act, 1980*, assist in counter-disaster operations or post-disaster operations under that Act.

(3) An emergency officer or an assistant emergency officer may, on the request of a commanding officer under the *South Australian Metropolitan Fire Service Act, 1936*, assist in dealing with a fire or other emergency in accordance with that Act.

(4) An emergency officer or an assistant emergency officer may, on the request of a fire control officer or C.F.S. officer under the *Country Fires Act 1989* assist in dealing with a fire or other emergency in accordance with that Act.

(5) An emergency officer or an assistant emergency officer may, on the request of a person in command of operations to deal with an emergency that has occurred outside this State, assist in those operations.

Offences

16. (1) A person shall not, without reasonable excuse, refuse or fail to comply with a direction given by an emergency officer, or a person acting at the direction of an emergency officer, under this Act.

Penalty: \$5 000.

(2) A person shall not obstruct or interfere with an emergency officer, or a person acting at the direction of an emergency officer, while that officer or person is acting under this Act.

Penalty: \$5 000.

Immunity from liability

17. (1) An emergency officer, an assistant emergency officer or any person assisting at the direction of an emergency officer incurs no civil or criminal liability for an act or omission in good faith in the exercise, performance or discharge, or purported exercise, performance or discharge, of a power, function or duty under this Act.

(2) A liability that would, but for subsection (1), lie against an emergency officer or other person lies against the Crown.

* * * * *

Evidentiary provision

19. In any proceedings, an apparently genuine document purporting to be signed by the Director and certifying—

(a) that an order by which the Director assumed command of operations for dealing with a specified emergency was in force on a specified day or during a specified period;

or

(b) that a specified person was, on a specified day, an emergency officer, or a person acting at the direction of an emergency officer,

is, in the absence of proof to the contrary, proof of the facts certified.

Offences are summary

20. (1) Offences against this Act are summary offences.

(2) Proceedings for an offence against this Act may not be commenced except upon the authorization of the Attorney-General.

(3) In any proceedings, an apparently genuine document purporting to be signed by the Attorney-General and to authorize the commencement of proceedings for an offence against this Act is, in the absence of proof to the contrary, proof of that authorization.

This Act does not derogate from other Acts

21. The provisions of this Act are in addition to, and do not derogate from, the provisions of any other Act.

Money required for the purposes of this Act

22. The money required for the purposes of this Act will be paid out of money provided by Parliament for the purpose.

Regulations

23. (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) provide for the manner in which any of the powers of emergency officers must be exercised;

(b) provide for the registration, or the cancellation of registration, of S.E.S. units and prescribe functions, powers or duties for S.E.S. units;

(c) provide for the publication of orders made under this Act;

(d) prescribe fees in respect of administrative matters;

(e) prescribe penalties, not exceeding \$500, for breach of, or non-compliance with, the regulations.

(3) Regulations made under this section—

(a) may apply generally or to a particular case or class of case;

(b) may apply throughout the State or to a particular part of the State;

or

(c) may vary according to any other factor.

APPENDIX

Legislative History

Section 3:	definition of "assistant emergency officer" inserted by 66, 1991, s. 3
Section 8:	amended by 66, 1991, s. 4
Section 15(1)-(3):	amended by 66, 1991, s. 5(a)
Section 15(4):	amended by 66, 1991, s. 5
Section 15(5):	amended by 66, 1991, s. 5(a)
Section 17(1):	substituted by 66, 1991, s. 6
Section 18:	repealed by 66, 1991, s. 7