

(Reprint No. 1)

SOUTH AUSTRALIA

STATE DISASTER ACT, 1980

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.

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STATE DISASTER ACT, 1980

being

State Disaster Act, 1980, No. 106 of 1980 [Assented to 18 December 1980]¹

as amended by

State Disaster Act Amendment Act, 1985, No. 12 of 1985 [Assented to 14 March 1985]²

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

An Act to make provision for the protection of life and property in the event of disaster and matters incidental thereto.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *State Disaster Act, 1980*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Arrangement of Act

3. This Act is arranged as follows:

PART I—PRELIMINARY
PART II—THE STATE DISASTER COMMITTEE
PART III—ADMINISTRATION
PART IV—COUNTER-DISASTER OPERATIONS
PART IVA—POST-DISASTER OPERATIONS
PART V—MISCELLANEOUS

Interpretation

4. In this Act, unless the contrary intention appears—
“authorized officer” means a person who is an authorized officer pursuant to the provisions of this Act:

¹Came into operation 23 December 1980: *Gaz.* 23 December 1980, p. 2369.

²Came into operation 21 March 1985: *Gaz.* 21 March 1985, p. 864.

“counter-disaster operations” means any measures taken in pursuance of this Act during the continuance of a state of disaster to protect life or property:

“disaster” means any occurrence (including fire, flood, storm, tempest, earthquake, eruption, epidemic of human, animal or plant disease and accident) that—

(a) causes, or threatens to cause, loss of life or injury to persons or animals or damage to property;

and

(b) is of such a nature or magnitude that extraordinary measures are required in order to protect human or animal life or property:

“disaster area” means the area of the State to which a declaration of a state of disaster or a post-disaster period under this Act applies:

* * * * *

“post-disaster operations” means any measures taken in pursuance of and in accordance with this Act during a post-disaster period:

“post-disaster period” means a period declared by the Governor under this Act to be a post-disaster period:

“the State Co-ordinator” means the person holding, or acting in, the office of State Co-ordinator under this Act:

“the State Disaster Plan” means a plan prepared by the State Disaster Committee comprising the measures to be taken in the event of a disaster:

“vehicle” includes an aircraft, or vessel.

Application of this Act

5. (1) This Act binds the Crown.

(2) Where the provisions of this Act are inconsistent with any other Act or law, the provisions of this Act shall prevail.

(3) The powers conferred on any person by, or pursuant to, this Act are in addition to, and do not derogate from, any powers that he may possess under any other Act or law.

(4) This Act does not authorize the taking of measures to bring an industrial dispute to an end or to control civil disorders not being civil disorders resulting from, and occurring during the continuance of, a state of disaster.

PART II

THE STATE DISASTER COMMITTEE

The State Disaster Committee

6. (1) There shall be a committee entitled the "State Disaster Committee".

(2) The Committee shall consist of the following members:

(a) the State Co-ordinator;

and

(b) eight persons appointed by the Governor, of whom—

(i) three shall be appointed on the nomination of the Minister;

(ii) one shall be appointed on the nomination of the Minister, being selected by him from a panel of three persons submitted by the Director of the State Emergency Service;

(iii) one shall be appointed on the nomination of the Minister, being selected by him from a panel of three persons submitted by the Chief Officer of the South Australian Metropolitan Fire Service;

(iv) one shall be appointed on the nomination of the Minister, being selected by him from a panel of three persons submitted by the Country Fire Services Board;

(v) one shall be appointed on the nomination of the Minister, being selected by him from a panel of three persons submitted by the Local Government Association of South Australia;

and

(vi) one shall be appointed on the nomination of the Minister of Community Welfare.

(2a) The Minister may, by notice in writing, request a body referred to in subsection (2) to submit a panel of names for the purposes of this section and, where such a body fails to comply with the request within the time allowed in the notice, the Minister may select a person for appointment as a member of the Committee, and a person so selected may then be appointed to the Committee as if his name had been duly submitted by the body to whom the notice was addressed.

(3) A member of the Committee shall be appointed for such term, and upon such conditions, as the Governor may determine.

(4) The Governor may appoint one member of the Committee to be Chairman of the Committee and another member to be Deputy Chairman of the Committee.

(5) The Governor may appoint a suitable person to be a deputy of a member, and that person may act as a member of the Committee in the absence of the member of whom he is a deputy.

Terms and conditions of appointment

7. Subject to this Act, the Committee shall conduct its business in such manner as it thinks fit.

Functions of the Committee

8. (1) The Committee shall—
- (a) prepare a State Disaster Plan;
 - (b) advise the Minister on matters affecting the Plan and on methods of combating disasters;
 - (c) keep the State Disaster Plan under review and make such amendments to it as from time to time appear necessary or expedient;
 - (d) maintain contact with organizations that might usefully participate in counter-disaster operations and keep them informed of what would be expected of them in the event of a disaster;
 - (e) monitor the standard operating procedures of any body or organization that performs any function under the State Disaster Plan or that might participate in counter-disaster operations.
- (2) The Committee may, for the purposes of implementing the State Disaster Plan, create such offices as it thinks fit and appoint persons to those offices.

PART III
ADMINISTRATION

State Co-ordinator and Deputy State Co-ordinator

9. (1) The Commissioner of Police shall be the State Co-ordinator for the purposes of this Act.

(2) The Governor may appoint a person to be Deputy State Co-ordinator and the person so appointed shall, if the State Co-ordinator is unable to carry out his duties, exercise all the powers of the State Co-ordinator.

Delegation

10. (1) The State Co-ordinator may delegate any of his powers or functions under this Act.

(2) Any such delegation shall be revocable at will and shall not prevent the State Co-ordinator from acting personally in any matter.

Authorized officers

11. (1) The State Co-ordinator may, by instrument in writing, appoint persons to be authorized officers.

(2) Every person holding a prescribed office shall be an authorized officer.

PART IV

COUNTER-DISASTER OPERATIONS

Interim declaration of state of disaster by the Minister

12. (1) If it appears to the Minister that a disaster has occurred, is occurring, or is about to occur he may declare that a state of disaster exists in respect of so much of the State as, in his opinion, is affected, or is likely to be affected, by the disaster.

(2) A declaration under this section—

(a) shall be made in writing and published in a manner and form determined by the Minister;

(b) shall remain in force for twelve hours;

and

(c) shall not be renewed or extended.

Declaration of state of disaster by the Governor

13. (1) If it appears to the Governor that a disaster has occurred, is occurring, or is about to occur, he may (whether or not there has been any previous declaration by the Minister) declare that a state of disaster exists in respect of so much of the State as, in his opinion, is affected, or likely to be affected, by the disaster.

(2) A declaration under this section—

(a) shall be made in writing and published in a manner and form determined by the Minister;

and

(b) shall, subject to this section, remain in force for 96 hours.

(3) A declaration under this section may be renewed or extended on the authority of a resolution of both Houses of Parliament, but in the absence of such an authority, shall not be renewed or extended.

(4) The Governor may, at any time, revoke a declaration under this section.

Powers of Minister on declaration of a state of disaster

14. (1) Upon a declaration of a state of disaster the Minister may authorize the expenditure of such sums of money as are approved by the Governor to relieve distress and assist in counter-disaster operations.

(2) This section shall, without further appropriation, be sufficient authority for the payment of moneys in pursuance of an authorization given under subsection (1) out of the General Revenue of the State.

Powers of State Co-ordinator and authorized officers during state of disaster

15. (1) Upon the declaration of a state of disaster and while that declaration remains in force the State Co-ordinator shall take any necessary action to carry the State Disaster Plan into effect and shall cause such counter-disaster operations to be carried out as he thinks appropriate.

(2) Without limiting the generality of subsection (1), but subject to the regulations, the State Co-ordinator or an authorized officer may, if he is of the opinion that it is necessary to do so, do or cause to be done all or any of the following things:

- (a) require the owner, or the person for the time being in charge, of any real or personal property in a disaster area to place it under the control or at the disposition of a person nominated by the State Co-ordinator or the authorized officer;
- (b) direct the evacuation and removal of persons or animals from a disaster area, or part of a disaster area, and remove to such place as he thinks fit any person or animal found within the disaster area, or that part of the disaster area;
- (c) enter and, if necessary, break into any land, building, structure or vehicle within the disaster area;
- (d) take possession of any land, body of water, building, structure, vehicle or other thing within the disaster area;
- (e) remove, demolish or destroy any building, structure, vehicle, animal or vegetation within the disaster area;
- (f) shut off, or cut off, any supply of fuel, gas, electricity or water, or any drainage facility, within the disaster area;
- (g) direct or prohibit the movement of persons, animals or vehicles into or within the disaster area;
- (h) remove to such place as he thinks proper any person who obstructs or threatens to obstruct counter-disaster operations;
- (i) give directions to any persons whose responsibilities require him to engage in counter-disaster operations, or who is so engaged.

* * * * *

(4) A person is entitled to be compensated for any injury, loss or damage suffered by him—

- (a) that arises in consequence of the exercise of powers under this section (apart from subsection (2)(h));

and

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

(5) In assessing compensation under subsection (4) a court shall take 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.

Offences

16. (1) A person shall not without lawful excuse refuse or fail to comply with any lawful direction of the State Co-ordinator or of an authorized officer given, during the continuance of a state of disaster, within a part of the State to which the declaration of a state of disaster applies.

Penalty: Five thousand dollars.

(2) A person shall not obstruct or interfere with any counter-disaster operations carried out in pursuance of this Act.

Penalty: Five thousand dollars.

PART IVA

POST-DISASTER OPERATIONS

Declaration of post-disaster period

16a. (1) If it appears to the Governor while a declaration of a state of disaster is in force that post-disaster operations will have to be carried out after the expiration or revocation of the declaration, he may declare that a post-disaster period will exist in respect of the disaster area upon that expiration or revocation.

(2) A declaration under this section—

(a) shall be made in writing and published in a manner and form determined by the Minister;

(b) shall, subject to this section, be in force for such number of hours as is specified in the declaration, being not more than 168 hours after the expiration or revocation of the declaration of the state of disaster;

and

(c) shall not be renewed or extended.

(3) The Governor may, at any time, revoke a declaration under this section.

(4) During the continuance of a post-disaster period, the Minister may authorize the expenditure of such sums of money as are approved by the Governor to assist in post-disaster operations.

(5) This section shall, without further appropriation, be sufficient authority for the payment of moneys out of the General Revenue of the State in pursuance of an authorization given under subsection (4).

Post-disaster operations

16b. (1) During the continuance of a post-disaster period, the State Co-ordinator may direct authorized officers to assist the owner of any property within the disaster area to do all or any of the following things within the disaster area:

(a) to remove, demolish or dispose of any damaged property;

(b) to destroy any injured animal or remove or dispose of any dead animal;

(c) to take measures for the purpose of preventing any further damage to property or injury to persons or animals.

(2) An authorized officer may be assisted by volunteers in carrying out post-disaster operations, and may give such directions to a volunteer as he thinks necessary for that purpose.

(3) No post-disaster operation may be carried out except at the request of the owner of the property in respect of which the operation is to be carried out.

PART V

MISCELLANEOUS

Immunity from liability of persons acting under this Act

17. (1) A person shall not incur any civil liability for any act or omission done by him in good faith in the exercise or discharge of his powers, functions, duties or responsibilities under this Act.

(2) A liability that would, but for subsection (1), lie against a person shall lie against the Crown.

Protection of employment rights

18. (1) A person who during the continuance of a state of disaster is absent from his employment on duties in connection with counter-disaster operations or, being an authorized officer, is absent from his employment on duties in connection with post-disaster operations, shall not be liable to be dismissed or prejudiced in his employment by reason of that absence, and his actual and accruing rights in respect of his employment shall be determined as if he had not been absent from his employment.

(2) Where an employer has paid to an employee wages or salary due to him under this section, in respect of a period during which the employee has been absent from employment, the employer is entitled to re-imburement of the amount so paid.

(3) Any amount to which an employer is entitled under subsection (2) shall, upon application to the Minister, be paid to the employer by the Minister.

Workers compensation

19. The *Workers Compensation Act, 1971-1979*, applies to an authorized officer, or a person who takes part in counter-disaster operations or post-disaster operations under the direction of an authorized officer—

(a) as if—

(i) his functions and duties under this Act constituted his employment;

(ii) he were receiving a prescribed wage in respect of that employment and that wage were his only income;

and

(iii) his employer were the Minister:

and

(b) with any other prescribed modifications.

Evidentiary provision

20. In any proceedings, a document purporting to be signed by the Minister and certifying that—

(a) a declaration of a state of disaster or a post-disaster period was in force either in respect of the whole State or a specified part of the State on a specified day or during a specified period;

or

- (b) that a person named or referred to in the document was, on a specified date, an authorized officer, or a person who was taking part in counter-disaster operations or post-disaster operations under the direction of an authorized officer,

shall, in the absence of proof to the contrary, be proof of the fact so certified.

Summary proceedings

21. (1) Proceedings for an offence against this Act shall be disposed of summarily.
- (2) Proceedings for an offence against this Act shall not be commenced without the authorization of the Attorney-General.
- (3) An apparently genuine document purporting to be under the hand of the Attorney-General and to authorize the commencement of proceedings for an offence against this Act shall, in the absence of proof to the contrary, be proof of that authorization.

Offences by bodies corporate

22. Where a body corporate is guilty of an offence against this Act, any director or manager of the body corporate shall also be guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless he proves that he could not, by the exercise of reasonable diligence, have prevented the commission of the principal offence by the body corporate.

The State Disaster Relief Fund

22a. (1) The Minister shall establish a fund to be known as the "State Disaster Relief Fund".

(2) Any moneys received by the Minister for the relief of persons who suffer injury, loss or damage as a result of a disaster in respect of which a declaration under this Act is made shall be paid into the fund established under this section.

(3) All moneys held in the account kept at Treasury entitled the "Premier's Bushfire Relief Appeal Trust Fund" as at the commencement of the *State Disaster Act Amendment Act, 1985*, shall, upon the establishment of the fund referred to in subsection (1), be paid into that fund, and those moneys may be disbursed for the relief of persons who suffered injury, loss or damage as a result of the disaster in respect of which the moneys were received, or of persons who suffer injury, loss or damage in some future disaster.

(4) The Minister may appoint a committee of persons to administer the fund.

(5) A committee appointed for the purposes of this section shall administer the fund subject to the directions of the Governor.

(6) Subject to this section, no moneys received by the fund in respect of a particular disaster may be disbursed otherwise than to, or for the purpose of the relief of, persons who suffered injury, loss or damage as a result of that disaster.

(7) Where the committee is satisfied that it has made sufficient payment to all persons who suffered injury, loss or damage as a result of a particular disaster, the committee may, with the approval of the Governor, leave the balance of the moneys in the fund for the relief of persons who suffer injury, loss or damage in some future disaster.

(8) Where the committee is of the opinion that a person who suffered injury, loss or damage as a result of a disaster has been overcompensated for that injury, loss or damage by reason of being paid—

(a) moneys from the fund or, in the case of a payment made before the commencement of the *State Disaster Act Amendment Act, 1985*, from the fund entitled the "Premier's Bushfire Relief Appeal Trust Fund";

and

(b) damages or compensation from another source,

the committee may, by notice in writing given personally or by post to the person, require him to pay to the fund the amount of the overcompensation as determined by the committee and specified in the notice.

(9) A person who is given a notice under subsection (8) is liable to pay to the fund, as a debt due to the Crown, the amount specified in the notice within the time specified in the notice (being a period of not less than one month from the day on which the notice is given).

(10) Moneys paid to the fund pursuant to subsection (9) may be disbursed for the relief of persons who suffered injury, loss or damage as a result of the disaster in respect of which the moneys were first paid, or of any future disaster.

(11) No moneys in the fund may be used to defray the administrative costs of administering the fund.

Money required for the purposes of this Act

23. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

Regulations

24. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act, or as are necessary in consequence of conditions directly or indirectly caused by a disaster.

(2) Without limiting the generality of the foregoing, those regulations may—

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

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

and

(c) prescribe penalties, not exceeding five hundred dollars, for breach of or non-compliance with, a regulation.

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APPENDIX

Legislative History

Section 3:	amended by 12, 1985, s. 3
Section 4:	definition of "disaster" amended by 12, 1985, s. 4(a) - (c) definition of "disaster area" amended by 12, 1985, s. 4(d), (e) definition of "Minister" repealed by 12, 1985, s. 4(f) definition of "post-disaster operations" inserted by 12, 1985, s. 4(f) definition of "post-disaster period" inserted by 12, 1985, s. 4(f)
Section 6(2):	amended by 12, 1985, s. 5(a)
Section 6(2a):	inserted by 12, 1985, s. 5(b)
Section 8:	amended and redesignated as s. 8(1) by 12, 1985, s. 6
Section 8(2):	inserted by 12, 1985, s. 6(b)
Section 13(2):	amended by 12, 1985, s. 7
Section 15(1):	amended by 12, 1985, s. 8(a)
Section 15(2):	substituted by 12, 1985, s. 8(b)
Section 15(3):	repealed by 12, 1985, s. 8(b)
Section 15(4):	amended by 12, 1985, s. 8(c)
	Part IVA comprising ss. 16a, 16b and heading inserted by 12, 1985, s. 9
Section 18(1):	amended by 12, 1985, s. 10
Section 19:	amended by 12, 1985, s. 11
Section 20:	amended by 12, 1985, s. 12
Section 22a:	inserted by 12, 1985, s. 13
Section 24(3):	repealed by 12, 1985, s. 14