

South Australia

# Emergency Management Act 2004

An Act to establish strategies and systems for the management of emergencies in the State; and for other purposes.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Emergency Management Act 2004*.

### **2—Objects and guiding principles**

- (1) The objects of this Act are—
  - (a) to establish an emergency management framework for the State that—
    - (i) promotes prompt and effective decision-making associated with emergencies; and
    - (ii) makes provision for comprehensive and integrated planning in relation to emergencies; and
  - (b) to promote community resilience and reduce community vulnerability in the event of an emergency.
- (2) The objects of this Act are to be achieved through—
  - (a) establishing the State Emergency Management Committee; and
  - (b) providing for the appointment of a State Co-ordinator and a State Recovery Co-ordinator; and
  - (c) the preparation, review and maintenance of the State Emergency Management Plan; and
  - (d) making provision for declarations relating to emergencies and disasters; and
  - (da) making provision for declarations relating to electricity supply emergencies; and
  - (e) establishing structures for risk prevention and preparedness; and
  - (f) establishing structures to support a seamless transition from response to recovery in relation to an emergency.
- (3) The guiding principles under this Act are that emergency management arrangements must—
  - (a) be based on an all hazards approach in addressing emergency prevention, preparedness, response and recovery (*PPRR*); and
  - (b) have regard to the particular needs of persons at risk in an emergency; and

- (ba) reflect the collective responsibility of all sectors of the community, including both State and local government, the business and non-government sectors, and individuals to—
  - (i) take appropriate steps to protect against, prepare for and mitigate the impact of emergencies; and
  - (ii) facilitate response and recovery operations; and
- (c) recognise that effective arrangements require a co-ordinated approach from all sectors of the community, including both State and local government, volunteers, the business and non-government sectors, and individuals.

### 3—Interpretation

In this Act, unless the contrary intention appears—

*Assistant State Co-ordinator*—see section 16;

*authorised officer* means the State Recovery Co-ordinator, a police officer or a person appointed as an authorised officer under section 17;

*Chief Public Health Officer* means the Chief Public Health Officer under the *South Australian Public Health Act 2011* and includes a person for the time being acting in that position;

*control agency*—see section 20;

*co-ordinating agency*—see section 19;

*disaster*—see section 24;

*electricity supply emergency*—see section 27B;

*emergency* means an event (whether occurring in the State, outside the State or in and outside the State) that causes, or threatens to cause—

- (a) the death of, or injury or other damage to the health of, any person; or
- (b) the destruction of, or damage to, any property; or
- (c) a disruption to essential services or to services usually enjoyed by the community; or
- (d) harm to the environment, or to flora or fauna;

**Note**—

This is not limited to naturally occurring events (such as earthquakes, floods or storms) but would, for example, include fires, explosions, accidents, epidemics, pandemics, emissions of poisons, radiation or other hazardous agents, hijacks, sieges, riots, acts of terrorism and hostilities directed by an enemy against Australia.

*identified major incident*—see section 22;

*major emergency*—see section 23;

*PPRR*—see section 2(3)(a);

*preparedness*, in relation to an emergency, means arrangements made to ensure that, should an emergency occur, the resources and services needed to cope with the effect of the emergency can be mobilised and deployed efficiently;

**prevention**, in relation to an emergency, means measures taken to eliminate or reduce the incidence of severity of the emergency;

**recovery operations** means the conduct of any measures (such as human, economic and environmental measures) taken during or after an emergency, being measures necessary to assist the re-establishment of the normal pattern of life of individuals, families and communities affected by the emergency and includes—

- (a) the restoration of essential facilities and services; and
- (b) the restoration of other facilities, services and social networks necessary for the normal functioning of a community; and
- (c) the provision of information, material and personal needs; and
- (d) the provision of means of emotional support; and
- (e) the recovery of the natural environment; and
- (f) support to assist the recovery of business;

**response operations** means any measures taken in anticipation of, during or immediately after an emergency to ensure that the effect of the emergency is minimised and that affected individuals are given immediate relief and support;

**SEMC** means the State Emergency Management Committee established under Part 2;

**SEMC guidelines** means the SEMC guidelines as prepared and published by the Minister from time to time under section 6;

**State Co-ordinator**—see section 14;

**State Emergency Management Plan** or **SEMP**—see Part 1A;

**state of alert**—see section 21A;

**State Recovery Co-ordinator**—see section 18A;

**vehicle** includes an aircraft or vessel.

#### 4—Application of Act

- (1) It is the intention of the Parliament that this Act apply within the State and outside the State to the full extent of the extra-territorial legislative capacity of the Parliament.
- (2) This Act does not authorise 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 declared major emergency or disaster).

#### 5—Interaction with other Acts

- (1) Subject to this section, this Act is in addition to and does not limit, or derogate from, the provisions of any other Act.
- (2) Where the provisions of this Act are inconsistent with any other Act or law, this Act prevails to the extent of the inconsistency.
- (3) Despite any other Act or law, no obligation to maintain secrecy or other restriction on the disclosure of information under another Act or law applies for the purposes of complying with a requirement or direction of the State Co-ordinator, the State Recovery Co-ordinator or an authorised officer given in accordance with Part 4 of this Act.

## Part 1A—State Emergency Management Plan

### 5A—State Emergency Management Plan

- (1) SEMC must prepare, keep under review and maintain the State Emergency Management Plan (*SEMP*) which must detail strategies for dealing with emergencies in the State, including strategies—
  - (a) for the prevention of emergencies; and
  - (b) relating to preparedness for emergencies; and
  - (c) for the containment of emergencies; and
  - (d) for the co-ordination of response and recovery operations; and
  - (e) for the orderly and efficient deployment of resources and services in connection with response and recovery operations.
- (2) The SEMP may be comprised of 1 plan or a series of plans and may relate to all sectors of the community, including both State and local government, the business and non-government sectors, and individuals.
- (3) Without limiting the generality of subsection (1), the SEMP may make provision for—
  - (a) the establishment of a committee to provide a forum to plan for and address emergency management (PPRR) training and other requirements for organisations; and
  - (b) the appointment of a specified agency to take the lead in planning emergency management activities for inclusion in the SEMP relating to the prevention of, preparedness for, response to and recovery from a particular hazard; and
  - (c) the division of the State into zones (*Emergency Management Zones*) (which may be comprised of 1 or more, or a part of 1 or more, areas of a council and any other area of the State); and
  - (d) for each Emergency Management Zone—the establishment of a management committee with responsibility for preparing, keeping under review and maintaining local planning for the Zone for the purposes of the SEMP; and

**Note—**

See also section 7(d) of the *Local Government Act 1999* which provides that 1 of the functions of a council is to take measures to protect its area from natural and other hazards and to mitigate the effects of such hazards.

  - (e) the appointment of a co-ordinator for each Emergency Management Zone; and
  - (f) the designation of specified locations for the purposes of the SEMP; and
  - (g) any other matter consistent with the objects and guiding principles of this Act that should, in the opinion of SEMC, be included in the SEMP.
- (4) The SEMP must include strategies of a kind referred to in subsection (1) relating to emergencies that cause, or threaten to cause, damage to marine environments, including marine flora and fauna.

## Part 2—State Emergency Management Committee

### 6—Establishment of State Emergency Management Committee

- (1) The State Emergency Management Committee (SEMC) is established.
- (2) SEMC consists of—
  - (a) the presiding member, being the person for the time being holding or acting in the position of chief executive of the administrative unit that has, subject to the Minister, responsibility for administering this Act; and
  - (b) the State Co-ordinator; and
  - (c) such other persons specified in, or appointed in accordance with, the SEMC guidelines.
- (3) The Minister must prepare, and publish on a website determined by the Minister, the *SEMC guidelines*.
- (4) The SEMC guidelines—
  - (a) must provide for—
    - (i) the membership of SEMC for the purposes of subsection (2)(c); and
    - (ii) the terms and conditions under which members will hold office and may be removed from office; and
    - (iii) the appointment and removal of deputy members and the circumstances in which deputy members may act; and
    - (iv) any other prescribed matters; and
  - (b) may make provision with respect to—
    - (i) the manner in which proceedings of SEMC are to be conducted; and
    - (ii) any other matters determined by the Minister.
- (5) The procedures to be observed in relation to the conduct of the business of the SEMC will be—
  - (a) as specified in the SEMC guidelines; or
  - (b) insofar as the procedure is not specified in the SEMC guidelines—as determined by the SEMC.
- (6) An act or proceeding of SEMC is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

### 7—Application of Public Sector (Honesty and Accountability) Act

The *Public Sector (Honesty and Accountability) Act 1995* applies to the members of SEMC as if the committee were an advisory body and the Minister responsible for the administration of this Act were the relevant Minister.

## 9—Functions and powers of SEMC

- (1) SEMC has the following functions:
  - (a) to provide leadership and maintain oversight of emergency management planning in the State;
  - (b) to prepare and keep under review the SEMP;
  - (c) to provide advice to the Minister in relation to the operation of this Act and the management of emergencies in the State;
  - (d) to undertake risk assessments relating to emergencies or potential emergencies where SEMC thinks fit or where requested by the Minister;
  - (e) to ensure that agencies and organisations with functions under the SEMP are aware of those functions and are provided with adequate information for the purpose of understanding and carrying out those functions;
  - (f) to monitor and evaluate the capacity of agencies and organisations with functions under the SEMP to properly carry out those functions;
  - (g) to co-ordinate the development and implementation of strategies and policies relating to emergency management (including strategies and policies developed at a national level and agreed to by the State);
  - (h) to monitor and evaluate the implementation of the SEMP and the response and recovery operations taken during or following—
    - (ai) a state of alert declared under this Act; and
    - (i) any identified major incident, major emergency or disaster declared under this Act; and
    - (ii) any other emergency as SEMC thinks fit;
  - (i) to perform any other functions assigned to SEMC by this Act or by the Minister.
- (2) SEMC may, for the purposes of preparing and implementing the State Emergency Management Plan—
  - (a) create such offices as it thinks fit and appoint persons to those offices; and
  - (b) assign additional functions to the State Co-ordinator and, with the approval of the State Co-ordinator, assign functions to any Assistant State Co-ordinators.

## 11—Establishment of advisory groups by SEMC

- (1) SEMC may, at any time, establish advisory groups—
  - (a) to advise SEMC on any matter; or
  - (b) to carry out functions on behalf of SEMC.
- (3) The membership of an advisory group will be determined by SEMC and may, but need not, consist of, or include, members of SEMC.
- (4) SEMC will determine who will be the presiding member of an advisory group.

- (5) The procedures to be observed in relation to the conduct of the business of an advisory group will be—
  - (a) as determined by SEMC; and
  - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the advisory group.

## **12—Delegation**

- (1) SEMC may delegate any of its functions or powers under this Act—
  - (a) to a member of SEMC; or
  - (b) to an advisory group established by SEMC; or
  - (c) to the person for the time being holding or acting in a particular office or position; or
  - (d) to any other person or body.
- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of SEMC to act in any matter; and
  - (d) is revocable at will by SEMC.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

## **13—Annual report by SEMC**

- (1) SEMC must, on or before 30 September in each year, present a report to the Minister on the operations of SEMC during the preceding financial year.
- (2) The Minister must, within 12 sitting days after receipt of a report under this section, cause copies of the report to be laid before both Houses of Parliament.

## **Part 3—The State Co-ordinator**

### **14—Appointment of State Co-ordinator**

The person for the time being holding or acting in the position of Commissioner of Police is appointed as the State Co-ordinator.

### **15—Functions of State Co-ordinator**

The State Co-ordinator has the following functions:

- (a) to manage and co-ordinate response and recovery operations in accordance with this Act and the SEMP;
- (b) if a state of alert or an identified major incident, a major emergency or a disaster is declared under this Act—to ensure SEMC is provided with adequate information in order to fulfill its monitoring functions under this Act;
- (c) to carry out other functions assigned to the State Co-ordinator under this Act.

## **16—Assistant State Co-ordinators**

- (1) The State Co-ordinator may, at any time, appoint one or more Assistant State Co-ordinators to exercise powers and functions under this Act in relation to—
  - (a) specific parts of the State; or
  - (b) specific types of hazards; or
  - (c) specific events.
- (3) An Assistant State Co-ordinator will be appointed for such term and on such conditions as the State Co-ordinator may determine.
- (4) An Assistant State Co-ordinator has the functions and powers delegated to the Assistant Co-ordinator by the State Co-ordinator or assigned to the Assistant Co-ordinator by SEMC with the approval of the State Co-ordinator.

## **17—Authorised officers**

- (1) The State Co-ordinator may appoint, individually or by class, such persons to be authorised officers for the purposes of this Act as the State Co-ordinator thinks fit.
- (1a) An appointment under subsection (1) may be subject to conditions specified by the State Co-ordinator.
- (2) An authorised officer, other than a police officer, must, as soon as practicable, be issued with an identity card in a form approved by the State Co-ordinator—
  - (a) containing the person's name and a photograph of the person; and
  - (b) stating that the person is an authorised officer for the purposes of this Act.
- (3) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for the inspection of the person—
  - (a) in the case of an authorised officer who is a police officer and is not in uniform—their certificate of authority; or
  - (b) in the case of an authorised officer who is not a police officer—their identity card, if one has been issued in accordance with subsection (2) or, if such an identity card has not yet been issued, with such other proof of the person's appointment as an authorised officer as the State Co-ordinator may determine.
- (4) An authorised officer must, on ceasing to be an authorised officer for any reason, surrender their identity card and any insignia or special apparel or equipment issued to the authorised officer for the purposes of this Act to the State Co-ordinator or a person nominated by the State Co-ordinator.

Maximum penalty: \$1 250.

## **18—Delegation**

- (1) The State Co-ordinator may delegate any functions or powers under this Act—
  - (a) to the State Recovery Co-ordinator or an Assistant State Co-ordinator; or
  - (b) to the person for the time being holding or acting in a particular office or position; or
  - (c) to any other person or body.

- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the State Co-ordinator to act in any matter; and
  - (d) is revocable at will by the State Co-ordinator.

## **Part 3A—The State Recovery Co-ordinator**

### **18A—Appointment of State Recovery Co-ordinator**

- (1) There will be a position of *State Recovery Co-ordinator*.
- (2) The Minister will make an appointment to the position of State Recovery Co-ordinator after consultation with the State Co-ordinator.
- (3) A person appointed as the State Recovery Co-ordinator must have qualifications or experience relevant to the conduct of recovery operations, determined by the Minister to be suitable for the purposes of appointment to the position of State Recovery Co-ordinator.
- (4) The terms on which a person is appointed to the position of State Recovery Co-ordinator will be determined by the Minister.
- (5) The position of State Recovery Co-ordinator may be held by a member of the Public Service.
- (6) The State Recovery Co-ordinator is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

### **18B—Functions of State Recovery Co-ordinator**

The State Recovery Co-ordinator has the following functions:

- (a) during an emergency—to assist the State Co-ordinator in managing and co-ordinating recovery operations in accordance with this Act and the SEMP;
- (b) after the cessation of an emergency—to lead recovery operations in accordance with this Act and the SEMP;
- (c) to carry out other functions assigned to the State Recovery Co-ordinator by the Minister or by regulations under this Act.

## **Part 4—The management of emergencies**

### **Division 1—Co-ordinating agency**

#### **19—Co-ordinating agency**

- (1) Subject to subsection (2), South Australia Police will be the co-ordinating agency for all emergencies.
- (2) The SEMP may designate a different body or organisation as the co-ordinating agency in relation to an emergency of a specified kind.

- (3) The co-ordinating agency has the following functions in relation to an emergency:
- (a) to consult with the relevant control agency and take action to facilitate the exercise by the control agency of functions or powers in relation to the emergency; and
  - (b) to determine whether other agencies should be notified of the emergency or called to any place to deal with the emergency or otherwise asked to take action in relation to the emergency; and
  - (c) to advise the State Co-ordinator, in accordance with any requirements of the State Co-ordinator, in relation to the emergency; and
  - (d) to exercise any other functions assigned to the co-ordinating agency under this Act or the SEMP.

## **Division 2—Control agency**

### **20—Control agency**

- (1) Subject to subsection (2), the control agency in relation to an emergency will be determined as follows:
- (a) if, under an Act or law or the SEMP, a particular person or agency is assigned the function of exercising control of persons and agencies involved in response operations relating to such an emergency then that person or agency is the control agency for that emergency;
  - (b) if, under an Act or law or the SEMP—
    - (i) 2 or more persons or agencies are assigned the function of exercising control of persons and agencies involved in response operations relating to such an emergency; or
    - (ii) it is unclear which person or agency is assigned that function in relation to such an emergency; or
    - (iii) no person or agency is assigned that function in relation to such an emergency,then the control agency for that emergency will be a person or agency determined by the co-ordinating agency.
- (2) Despite any other Act or law, where the senior police officer involved in response operations in relation to an emergency forms a reasonable suspicion that the emergency has resulted from, or is related to, a terrorist act, South Australia Police will be the control agency in relation to the emergency.
- (3) Except as otherwise provided by this Act, all other persons and agencies involved in response operations in relation to an emergency are, in carrying out those operations, subject to the control of the control agency.
- (4) In this section—
- terrorist act** has the same meaning as in the *Terrorism (Commonwealth Powers) Act 2002*.

## **Division 3—Declarations**

### **21—Publication of guidelines**

SEMC may publish guidelines setting out circumstances in which a state of alert should be declared or in which an emergency should be declared, under this Division, to be an identified major incident, a major emergency or a disaster.

#### **21A—State of alert**

- (1) If it appears to the State Co-ordinator that—
  - (a) an emergency that could be the subject of a declaration under another provision of this Division is likely to occur, or is likely to occur if steps are not taken to prevent it, and it is necessary or desirable to exercise powers under Division 4 in order to facilitate appropriate response operations; or
  - (b) an emergency that has been the subject of a declaration under another provision of this Division is ending and it is necessary or desirable to exercise powers under Division 4 in order to facilitate appropriate response and recovery operations,the State Co-ordinator may declare a state of alert in relation to the emergency.
- (2) A declaration under this section—
  - (a) must be in writing and published in a manner and form determined by the Minister; and
  - (b) remains in force for the period specified in the declaration (which must not exceed 14 days) and for such further periods (which may be of any length) as may be approved by the Governor.
- (3) The State Co-ordinator may, at any time, revoke a declaration under this section.
- (4) A declaration under this section is taken to have been revoked if a declaration is made under another provision of this Division in relation to the emergency.

### **22—Identified major incidents**

- (1) If it appears to the State Co-ordinator that the nature or scale of an emergency that has occurred, is occurring or is about to occur is such that it should be declared to be an identified major incident, the State Co-ordinator may declare the emergency to be an identified major incident.
- (2) A declaration under this section—
  - (a) may be made orally (but if made orally must, as soon as is reasonably practicable, be reduced to writing and a copy provided to the Minister); and
  - (b) subject to this section, remains in force while response operations are being carried out in relation to the emergency (but not for a period exceeding 12 hours).
- (3) The State Co-ordinator may, at any time, revoke a declaration under this section.

## **23—Major emergencies**

- (1) If it appears to the State Co-ordinator that a major emergency has occurred, is occurring or is about to occur, the State Co-ordinator may declare the emergency to be a major emergency (whether or not a state of alert has previously been declared in relation to the emergency or the emergency has previously been declared to be an identified major incident under section 22).
- (2) A declaration under this section—
  - (a) must be in writing and published in a manner and form determined by the Minister; and
  - (b) remains in force for the period specified in the declaration (which must not exceed 14 days) and for such further periods (which may be of any length) as may be approved by the Governor.
- (3) The State Co-ordinator may, at any time, revoke a declaration under this section.

## **24—Disasters**

- (1) If it appears to the Governor that a major emergency has occurred, is occurring or is about to occur and the Governor is satisfied that the nature or scale of the emergency is, or is likely to be, such that it should be declared to be a disaster under this section, the Governor may (whether or not a state of alert has previously been declared in relation to the emergency or the emergency has previously been declared to be an identified major incident under section 22 or a major emergency under section 23) declare the emergency to be a disaster.
- (2) A declaration under this section—
  - (a) must be made in writing and published in a manner and form determined by the Minister; and
  - (b) remains in force for the period specified in the declaration (which must not exceed 30 days) and for such further periods (which may be of any length) as may be approved by resolution of both Houses of Parliament or in accordance with subsection (2a).
- (2a) If due to the disaster or circumstances arising out of or in connection with the disaster, it is not possible for both Houses of Parliament to meet before the expiration of the declaration in order to consider a resolution under subsection (2)(b)—
  - (a) if 1 House of Parliament is able to meet before the expiration of the declaration, the resolution need only be approved by the House; or
  - (b) if neither House of Parliament is able to meet before the expiration of the declaration, the Governor may approve a further period during which the declaration will remain in force.
- (2b) An approval granted by the Governor under subsection (2a)(b) may be revoked by resolution of either House of Parliament.
- (4) The Governor may, at any time, revoke a declaration under this section.

## 24A—Public health incidents and emergencies

A state of alert may be declared in relation to an emergency or an emergency may be declared to be an identified major incident, a major emergency or a disaster whether or not the emergency has previously been declared to be a public health incident or a public health emergency under the *South Australian Public Health Act 2011*.

## Division 4—Powers

### 24B—Power to require information or documents

- (1) Powers under this section must be exercised in accordance with any prescribed requirements.
- (2) The State Co-ordinator may require a person—
  - (a) to give the State Co-ordinator within a specified time, or at specified times, specified information; or
  - (b) to produce to the State Co-ordinator within a specified time, or at specified times, specified documents,  
that the State Co-ordinator reasonably requires—
    - (c) to determine whether a declaration should be made under this Act; or
    - (d) to plan for the future exercise of powers under this Division; or
    - (e) to otherwise administer or enforce this Division.
- (3) If a person is required to give information or produce a document under this section and the information or document would tend to incriminate the person of an offence, the person must nevertheless give the information or produce the document, but—
  - (a) if the person is a natural person, the information or document so given or produced will not be admissible in evidence against the person in proceedings for an offence (other than an offence relating to the making of a false or misleading statement or declaration); and
  - (b) if the person is a body corporate—
    - (i) the information or document so given or produced will not be admissible in evidence against a director of the body corporate in proceedings for an offence (other than an offence relating to the making of a false or misleading statement or declaration); and
    - (ii) a director will not be guilty of an offence (other than an offence relating to the making of a false or misleading statement or declaration) as a result of the body corporate having been found guilty of an offence in proceedings in which the information or document so given or produced was admitted in evidence against the body corporate.
- (4) For the avoidance of doubt, powers may be exercised under this section whether or not a state of alert or an identified major incident, major emergency or disaster has been declared.
- (5) Information obtained under this section is not liable to disclosure under the *Freedom of Information Act 1991*.

## **25—General powers of State Co-ordinator and authorised officers**

- (a1) Powers under this section are additional to any other powers under this Act (but if a direction or requirement under this section is inconsistent with any direction or requirement under another provision of this Act, the direction or requirement under this section prevails to the extent of the inconsistency).
- (1) On the declaration of a state of alert or an identified major incident, a major emergency or a disaster under Division 3, and while that declaration remains in force, the State Co-ordinator must take any necessary action to implement the SEMP and cause such response and recovery operations to be carried out as the State Co-ordinator thinks appropriate.
- (2) Without limiting or derogating from the operation of subsection (1), but subject to this section and the regulations, the State Co-ordinator or an authorised officer may, if of the opinion that it is necessary to do so, do or cause to be done all or any of the following things:
- (a) enter and, if necessary, break into any land, building, structure or vehicle;
  - (b) take possession of, protect or assume control over any land, body of water, building, structure, vehicle or other thing;
  - (ba) remove or destroy, or order the removal or destruction of, any building, structure, vehicle, vegetation, animal or other thing;
  - (bb) carry out, or cause to be carried out, excavation or other earthworks;
  - (c) construct, or cause to be constructed, barriers, buildings or other structures;
  - (ca) subject a place or thing to a decontamination procedure;
  - (d) direct the owner of, 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 specified person;
  - (e) remove, or cause to be removed, to such place as the State Co-ordinator or authorised officer thinks fit, any person or animal, or direct the evacuation or removal of any person or animal;
  - (f) direct or prohibit the movement of persons, animals or vehicles;
  - (fa) direct a person to submit to a decontamination procedure;
  - (fb) direct a person to remain isolated or segregated from other persons or to take other measures to prevent the transmission of a disease or condition to other persons;
  - (fc) direct a person to undergo medical observation, examination (including diagnostic procedures) or treatment (including preventative treatment);
  - (g) remove flammable material or any other hazardous material or cause flammable material or any other hazardous material to be removed from any place, building or structure;
  - (h) cause any supply of fuel or other flammable liquid, any gas or electricity or any other hazardous material to be connected, reconnected, disconnected or shut off;
  - (i) direct a person who is in a position to do so—

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- (i) to stop any work or operation; or
  - (ii) to close any premises or other place; or
  - (iii) to contain the escape of any hazardous material, or to nullify the effects of the escape of any hazardous material; or
  - (iv) to shut off or remove any plant, equipment, apparatus or device or to perform any operation in relation to any plant, equipment, apparatus or device;
- (j) connect, disconnect, reconnect, shut off or cut off the supply of water or any drainage facility;
  - (k) make use of the gratuitous services of any person;
  - (ka) require a person to furnish such information as may be reasonably required in the circumstances (other than information that may be required to be furnished under section 6 of the *Essential Services Act 1981*);
  - (l) remove to such place as the State Co-ordinator or authorised officer thinks fit any person who obstructs or threatens to obstruct response or recovery operations;
  - (m) direct, insofar as may be reasonably necessary in the circumstances, any person (other than a control agency or other person referred to in paragraph (n)) to assist in the exercise of any power under this section;
  - (n) in the case of a major emergency or disaster—give directions to any control agency or person whose responsibilities require them to engage in response or recovery operations, or who is so engaged;
  - (o) exercise any prescribed power.
- (2a) A direction or requirement under this section must not prohibit travel into or out of the State where the travel is for the purpose of escaping domestic violence or providing support to a family member who is experiencing domestic violence, or is otherwise reasonably necessary for the purpose of dealing with circumstances arising out of domestic violence (but a direction may impose conditions in relation to such travel).
- (3) The State Co-ordinator (or a delegate of the State Co-ordinator) may give a direction or make a requirement under this section that applies to persons generally throughout the State.
- (4) A direction or requirement of a kind referred to in subsection (3) must be published on a website determined by the State Co-ordinator within 24 hours after it is given or made.
- (5) For the avoidance of doubt—
- (a) the State Co-ordinator or an authorised officer may exercise or discharge a power or function under this section even if to do so would contravene another law of the State; and
  - (b) the State Co-ordinator or an authorised officer may use such force as is reasonably necessary in the exercise or discharge of a power or function under this section or in ensuring compliance with a direction or requirement under this section; and

- (c) a direction or requirement given or imposed by the State Co-ordinator or an authorised officer under this section may do any of the following:
    - (i) it may apply to a person, or a class of persons, or in respect of any place or during any period;
    - (ii) it may require or allow a person or a class of persons to act in contravention of another law of the State;
    - (iii) it may affect the lawful rights or obligations of any person or class of persons;
  - (d) a direction or requirement may be issued in the form of a written instrument or in any other form (including, without limitation, orally, by SMS or email).
- (6) If a direction applies to a class of persons or applies in respect of any place or during any period, the State Co-ordinator, or an authorised officer, may exempt (conditionally or unconditionally) any person or class of persons from the direction.

### **25AA—Fees relating to quarantine during declared emergencies**

- (1) The following persons (*liable persons*) must pay a fee determined by the State Co-ordinator, by notice in the Gazette, relating to their quarantine or isolation at a place in South Australia:
  - (a) a prescribed arrival, or a class of prescribed arrival, specified in the notice;
  - (b) a designated person, or a class of designated person, specified in the notice.
- (2) A notice under subsection (1) may specify differential fees according to the class of liable person or any other factor specified in the notice.
- (3) A notice under subsection (1) has effect—
  - (a) if the notice specifies the day from which it has effect (which may be a day earlier than the day on which the notice is published in the Gazette)—from that day; or
  - (b) in any other case—from the day on which it is published in the Gazette.
- (4) To avoid doubt, a fee imposed on a liable person by a notice under subsection (1) is required to be paid by the liable person—
  - (a) in the case of a prescribed arrival—whether or not they arrive in South Australia before or after the day on which the notice is published in the Gazette; or
  - (b) in the case of a designated person—whether or not the refusal or failure to comply occurs before or after the day on which the notice is published in the Gazette.
- (5) The State Co-ordinator may, by further notice in the Gazette, vary or revoke a notice under subsection (1).
- (6) The State Co-ordinator may waive, reduce or refund a fee imposed under this section if the State Co-ordinator considers it appropriate to do so.
- (7) A fee imposed under this section is recoverable as a debt due to the Crown.
- (8) The State Co-ordinator may delegate a power or function under this section to an Assistant State Co-ordinator.

- (9) A delegation under subsection (8)—
- (a) must be in writing; and
  - (b) is revocable at will and does not derogate from the power of the State Co-ordinator to act in any matter.

- (10) In this section—

***designated person*** means a person who, on or after the day on which this section commences—

- (a) refuses or fails to comply with a direction or requirement under section 25 (whether applying to persons generally or otherwise) to remain quarantined or isolated at a place in South Australia; and
- (b) as a result of the refusal or failure, is directed or required to remain quarantined or isolated at a place determined by an authorised officer;

***prescribed arrival*** means a person—

- (a) who arrives in South Australia on or after the day on which this section commences; and
- (b) who is obliged, in accordance with a direction or requirement under section 25 (whether applying to persons generally or otherwise), to remain quarantined or isolated at a place after entering South Australia from a place outside South Australia.

## **26—Supply of gas or electricity**

A person or company supplying gas or electricity to any premises or other place must, at the direction of the State Co-ordinator or an authorised officer under this Division, send a competent person to connect, reconnect, disconnect or shut off the supply of gas or electricity to the premises or other place, or to any adjacent premises or place (and the person so attending must then comply with any direction that may be given in the exercise of powers under this Division).

## **26AA—Interaction with Division 6**

Except as provided in section 26, if an electricity supply emergency has been declared under Division 6, no direction may be given under this Division of a kind that could be given under Division 6.

## **26A—Modification of Controlled Substances Act**

- (1) The Minister may, by notice in the Gazette, modify the operation of section 18, 26 or 31 of the *Controlled Substances Act 1984* for the duration of the declaration of an identified major incident, a major emergency or a disaster if satisfied that it is necessary to do so in order to meet—
- (a) the demand for drugs for medical purposes arising from the incident, emergency or disaster; or
  - (b) the ordinary demand for drugs for medical purposes despite interruptions to medical services or supplies or other difficulties arising from the incident, emergency or disaster.

- (2) The Minister may, by subsequent notice in the Gazette, vary or revoke a notice under subsection (1).
- (3) Before a notice is made under this section, the Minister must consult with the Minister responsible for the administration of the *Controlled Substances Act 1984*.

### **26AB—Modification of procedural requirements**

- (1) Subject to this section, the regulations may modify, or dispense with, any procedural requirements applying under an Act or law, or any class of procedural requirements applying under Acts or laws, during a declared major emergency or disaster.
- (2) A regulation under subsection (1) modifying, or dispensing with, any procedural requirement is taken to be repealed on the cessation of the relevant declared major emergency or disaster (if not sooner repealed or disallowed in accordance with section 10 of the *Legislative Instruments Act 1978*).
- (3) This section does not apply to procedural requirements under—
  - (a) the *Constitution Act 1934*; or
  - (b) the *Parliamentary Committees Act 1991*; or
  - (c) an Act or law prescribed by the regulations for the purposes of this subsection.
- (4) Regulations may only be made modifying or dispensing with procedural requirements under the *Electoral Act 1985* for the purpose of facilitating voting in an election by persons affected by a declared major emergency or disaster.
- (5) A regulation modifying or dispensing with procedural requirements relating to a court or proceedings in a court may only be made at the request of the Chief Justice of the Supreme Court.
- (6) For the purposes of this section, a declared major emergency or disaster is taken to have ceased when no declaration is in force under section 23 or 24 of this Act in respect of the emergency or disaster.
- (7) In this section—

***procedural requirement*** includes—

  - (a) any required process that must be followed prior to the making of a decision or the carrying out of any act (including a requirement for procedural fairness); or
  - (b) a requirement that a decision be made, an act be carried out or a right be exercised, within or after a particular period; or
  - (c) any required process that must be followed after the making of a decision or the carrying out of any act.

### **26AC—Public sector mobilisation**

- (1) The Premier may give directions to public sector agencies about the deployment of resources and services in connection with—
  - (a) any response and recovery operations or the prevention of, or preparedness for, any emergency; and
  - (b) the sharing of information and collaboration required for that purpose.

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- (2) The Premier may, by instrument in writing, delegate functions under this section—
    - (a) to a particular person or committee; or
    - (b) to the person for the time being performing particular duties or holding or acting in a specified position.
  - (3) A delegation—
    - (a) may be absolute or conditional; and
    - (b) does not derogate from the power of the delegator to act personally in a matter; and
    - (c) may, if the instrument of delegation so provides, be further delegated; and
    - (d) is revocable at will.
  - (4) A direction under this section is not binding on a public sector agency to the extent (if any) to which it would impede or affect the performance of a quasi-judicial or statutorily independent function of the agency.
  - (5) In this section—

*public sector agency* has the same meaning as in the *Public Sector Act 2009*.

## **26B—No obligation on persons to maintain secrecy**

No obligation to maintain secrecy or other restriction on the disclosure of information applies to a person who is required to disclose information by a direction or requirement issued under section 24B or 25, except an obligation or restriction designed to keep the identity of an informant secret.

## **Division 5—Recovery operations**

### **27—Recovery operations**

- (1) The regulations may confer powers on the State Recovery Co-ordinator, and other authorised officers, to be exercised for the purposes of recovery operations.

**Note—**

During a state of alert or an identified major incident, major emergency or disaster declared under this Act, the State Recovery Co-ordinator reports to the State Co-ordinator and may exercise powers as an authorised officer under section 25.

- (2) Regulations made for the purposes of subsection (1)—
  - (a) may confer any powers of a kind specified in section 25(2); and
  - (b) may confer powers subject to any conditions or limitations specified in the regulations; and
  - (c) subject to subsection (3), will expire 6 months after the day on which they came into operation (unless repealed earlier).
- (3) Regulations made for the purposes of subsection (1) will not expire in accordance with subsection (2)(c) if a regulation is made, on the recommendation of both Houses of Parliament, extending their period of operation (by a further specified period or for an indefinite period).

- (4) The State Recovery Co-ordinator may, at any time for the purposes of exercising functions and powers under this Act in relation to recovery operations—
- (a) direct authorised officers who are not police officers; or
  - (b) request that the Commissioner of Police direct police officers,
- to take specified action for the purposes of carrying out the recovery operations.
- (5) An authorised officer may be assisted by volunteers in carrying out recovery operations under this section and may give such directions to a volunteer as the officer thinks necessary for that purpose.
- (6) Where—
- (a) the State Recovery Co-ordinator is satisfied that it is necessary or expedient that particular work be carried out in the course of a recovery operation under this section; and
  - (b) a person has (apart from this section) a duty to carry out the work or a legal liability in respect of carrying out the work,
- the State Recovery Co-ordinator may cause the work to be carried out and recover, as a debt from the person, the reasonable costs of carrying out the work.
- (7) For the purposes of subsection (6)—
- (a) if an independent contractor is engaged for the purpose of carrying out the work—the reasonable costs of carrying out the work will be taken to be the actual costs of engaging the contractor (and in any proceedings under subsection (6) a certificate apparently signed by the State Recovery Co-ordinator certifying the costs of engaging the contractor is, in the absence of proof to the contrary, to be accepted as proof of the costs so certified); or
  - (b) in any other case—the reasonable costs of carrying out the work are to be assessed by reference to the reasonable costs that would have been or would be incurred in having the action taken by an independent contractor engaged for that purpose.

## **Division 6—Electricity supply emergencies**

### **27A—Interpretation**

- (1) In this Division—
- AEMO** means the Australian Energy Market Operator Limited (ACN 072 010 327);
- generation** of electricity has the same meaning as in the *Electricity Act 1996*;
- interconnector** means a transmission line, or group of transmission lines, that connects the transmission networks in adjacent regions;
- Minister** means the Minister responsible for the administration of the *Electricity Act 1996*;
- National Electricity Law**—see the Schedule of the *National Electricity (South Australia) Act 1996*;
- national electricity market** has the same meaning as in the National Electricity Law;

*National Electricity Rules* means the National Electricity Rules as defined in the National Electricity Law;

*spot market* has the same meaning as in the National Electricity Rules;

*transmission network* has the same meaning as in the *Electricity Act 1996*.

- (2) This Division is in addition to, and does not derogate from, any other powers under this Act in relation to an emergency.

### **27B—Minister may declare electricity supply emergency**

- (1) If it appears to the Minister, on reasonable grounds, that the supply of electricity to all or part of the South Australian community is disrupted to a significant degree, or there is a real risk that it may be disrupted to a significant degree, the Minister may declare an electricity supply emergency.
- (2) A declaration under this section—
- (a) must be in writing and published in a manner and form determined by the Minister; and
  - (b) remains in force for the period specified in the declaration (which must not exceed 14 days) and for such further periods (which may be of any length) as may be approved by the Governor (provided that any such approval must also be in writing and published in a manner and form determined by the Minister).
- (4) The Minister may, at any time, revoke a declaration under this section.

### **27C—Minister's power to give directions**

- (1) On the declaration of an electricity supply emergency, and while that declaration remains in force, the Minister may give directions to any persons or class of persons (or both), that the Minister thinks are reasonably necessary to respond to the electricity supply emergency.
- (2) Without limiting subsection (1), directions may, for example—
- (a) require AEMO to restrict electricity flow on an interconnector in accordance with requirements specified in the direction;
  - (b) require a person to give a direction to, or exercise authority over, another person (where that is lawful under another Act or law);
  - (c) require AEMO to suspend the spot market in South Australia;
  - (d) require any specified persons who engage in generation of electricity, or any class of such persons, to generate electricity in accordance with requirements specified in the direction.
- (2a) A direction to a person may—
- (a) require the performance of specific acts or omissions; or
  - (b) require the exercise of specific powers or functions; or
  - (c) require specific outcomes or performance standards.

- (2b) For the avoidance of doubt—
- (a) a person may satisfy a direction or requirement given to or imposed on them under this section by giving directions to, or exercising authority over, another person or body, whether or not the direction or requirement under this section expressly requires the giving of such directions or the exercise of such authority; and
  - (b) for the purposes of section 32(1)(b), a reference to a direction or requirement given or imposed, or purportedly given or imposed, in accordance with this Act includes a reference to directions given to, or authority exercised over, another person or body by a person under this section.
- (3) A direction under this section—
- (a) operates for a period specified in the direction (which may be defined by reference to specified days or to the happening of specified events, provided that the direction may only operate during the period of the declared electricity supply emergency); and
  - (b) may be varied or revoked by a subsequent direction under this section (with effect at a specified time or on the happening of a specified event).
- (4) If the Minister proposes to give a direction under this section to a particular person, the Minister must, to the extent that it is reasonably practicable to do so in all the circumstances (and having regard to the urgency of the situation) consult with the person the subject of the proposed direction before giving the direction.
- (5) In giving a direction under this section, the Minister must, to the extent that it is reasonably practicable to do so, take reasonable steps to avoid unduly interfering with the operation of the national electricity market, the National Electricity Rules and the National Electricity Law.
- (6) A failure by the Minister to comply with subsection (4) or (5) will not invalidate a direction.
- (6a) If a direction applies to a class of persons, the Minister may exempt (conditionally or unconditionally) any person or class of persons from the direction.
- (6b) A person who contravenes a condition of an exemption granted to the person under this section is guilty of an offence.
- Maximum penalty:
- (a) in the case of a natural person—\$20 000; or
  - (b) in the case of a body corporate—\$100 000.
- (7) For the avoidance of doubt, a direction given under this section creates a mandatory duty to comply with that direction notwithstanding any other Act or law, including the *National Electricity (South Australia) Act 1996*.

**27D—Minister's power to use or require information**

- (1) The Minister may use any information to which the Minister has access as the Minister responsible for the administration of the *Electricity Act 1996* or may, by notice in writing, require a person to give the Minister specified information, or information of a specified class, that the Minister reasonably requires—
  - (a) to determine whether there is, or is likely to be, an electricity supply emergency; or
  - (b) to plan for the future exercise of powers under this Division; or
  - (c) to otherwise administer or enforce this Division.
- (2) A notice under this section may specify the manner or form in which access to the information is to be given.
- (3) If a person is required to give information under this section and the information would tend to incriminate the person of an offence, the person must nevertheless give the information, but—
  - (a) if the person is a natural person, the information so given will not be admissible in evidence against the person in proceedings for an offence (other than an offence relating to the making of a false or misleading statement or declaration); and
  - (b) if the person is a body corporate—
    - (i) the information so given will not be admissible in evidence against a director of the body corporate in proceedings for an offence (other than an offence relating to the making of a false or misleading statement or declaration); and
    - (ii) a director will not be guilty of an offence (other than an offence relating to the making of a false or misleading statement or declaration) as a result of the body corporate having been found guilty of an offence in proceedings in which the information so given was admitted in evidence against the body corporate.
- (4) For the avoidance of doubt, powers may be exercised under this section whether or not an electricity supply emergency has been declared.

**27E—Obligation to preserve confidentiality**

- (1) The Minister must preserve the confidentiality of information gained in the course of the performance of the Minister's functions under this Division that—
  - (a) could affect the competitive position of a person; or
  - (b) is commercially sensitive for some other reason.
- (2) Subject to subsection (4), subsection (1) does not apply to—
  - (a) the disclosure of information for the purposes of determining whether there is, or is likely to be, an electricity supply emergency; or
  - (b) the disclosure of information to the State Co-ordinator; or
  - (c) the disclosure of information where that is necessary for the administration or enforcement of this Act.

- (3) Information classified by the Minister as confidential under this section is not liable to disclosure under the *Freedom of Information Act 1991*.
- (4) Nothing in this Act permits the use or disclosure of protected information (within the meaning of the *Security of Critical Infrastructure Act 2018* of the Commonwealth) in a manner that is inconsistent with that Act.

### **27F—Manner of giving directions or requirements**

- (1) A direction under section 27C relating to a class of persons must be given by notice published on a website determined by the Minister and, for the purposes of this Act, the persons to whom the direction applies will be taken to have been given the notice at the time at which it is published on the website.
- (2) A direction (other than a direction of a kind referred to in subsection (1)) or requirement to be given to, or made of, a person under this Division must—
  - (a) be given or made by notice in writing served on the person, personally or by post; or
  - (b) if the Minister is of the opinion that good reason exists for doing so, be given or made by telephone, fax, email or some other form of electronic transmission (however, in such a case, a written record of the direction or requirement must be served on the person, personally or by post, as soon as is reasonably practicable).

### **27G—Delegation**

- (1) The Minister may delegate any functions or powers under this Division—
  - (a) to the person for the time being holding or acting in a particular office or position; or
  - (b) to any other person or body.
- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the Minister to act in any matter; and
  - (d) is revocable at will by the Minister.

### **27H—Inquiries relating to electricity supply emergencies etc**

The Minister may, if the Minister thinks fit—

- (a) following the declaration of an electricity supply emergency, refer any matter relating to the declaration, or to any directions given following the declaration, to the Essential Services Commission for inquiry in accordance with Part 7 of the *Essential Services Commission Act 2002*; or
- (b) refer any matter relating to directions given following the declaration of an electricity supply emergency or relating to an exercise of powers under section 27D to the Technical Regulator established under the *Electricity Act 1996* for inquiry and report in accordance with any requirements and procedures prescribed by the regulations.

## Part 5—Offences

### 28—Failure to comply with directions

- (1) A person must not, without reasonable excuse, refuse or fail to comply with a requirement or direction of the State Co-ordinator, the State Recovery Co-ordinator or an authorised officer given in accordance with this Act.

Maximum penalty:

- (a) if the offender is a body corporate—\$75 000;
- (b) if the offender is a natural person—\$20 000 or imprisonment for 2 years.

Expiation fee:

- (a) in the case of a natural person—\$1 000;
- (b) in the case of a body corporate—\$5 000.

- (2) If a body corporate is guilty of an offence against this section, each director and the manager of the body corporate are guilty of an offence and liable to the same penalty as is prescribed for the principal offence when committed by a natural person unless the director or the manager (as the case may be) proves that they could not by the exercise of due diligence have prevented the commission of the offence.
- (3) A person may be prosecuted and convicted of an offence under subsection (2) whether or not the body corporate has been prosecuted or convicted of the offence committed by the body corporate.

### 28A—Offences against Part 4 Division 6

- (1) A person who fails to comply with a direction of the Minister under section 27C is guilty of an offence.

Maximum penalty: \$250 000.

- (2) A person required to give information, or produce documents, to the Minister under section 27D must provide the information or produce documents within the time, or at the times, specified by that Minister.

Maximum penalty: \$100 000.

- (3) A prosecution for an offence against subsection (1) or (2) may only be commenced with the consent of the Minister.
- (4) In any legal proceedings an apparently genuine certificate, purporting to be signed by the Minister, certifying that the Minister consented to the commencement of a prosecution referred to in subsection (3) will, in the absence of proof to the contrary, be accepted as proof of the matters so certified.
- (5) An offence against subsection (1) or (2) may be prosecuted as an indictable offence or summary offence at the discretion of the prosecutor but, if prosecuted as a summary offence, the maximum penalty that may be imposed is a fine not exceeding \$10 000.
- (6) In this section—

*Minister* has the same meaning as in Part 4 Division 6.

## 29—Obstruction

A person must not hinder or obstruct operations carried out in accordance with this Act.

Maximum penalty: \$10 000.

## 30—Impersonating an authorised officer etc

- (1) A person must not falsely represent that they are an authorised officer or other person with responsibilities under this Act.

Maximum penalty: \$10 000.

- (2) A person must not, without lawful authority—

- (a) wear any insignia or special apparel issued to an authorised officer for the purposes of this Act; or
- (b) use any special equipment issued to an authorised officer for the purposes of this Act,

in circumstances where to do so would lead to a reasonable belief that they were an authorised officer.

Maximum penalty: \$10 000.

## 31—Disclosure of information

- (1) An authorised officer may direct a person who the authorised officer reasonably suspects has committed, is committing or is about to commit, an offence against this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity.

- (2) A person to whom a direction is given under subsection (1) must immediately comply with the direction.

Maximum penalty: \$5 000.

## 31A—Confidentiality

If a person, in the course of the administration or enforcement of this Act or as a result of a requirement or direction issued under this Act, obtains—

- (a) medical information relating to another; or
- (b) personal or financial information relating to another; or
- (ba) information relating to trade secrets or business processes,

the person must not intentionally disclose that information unless—

- (c) the disclosure is made in the course of the administration or enforcement of this Act; or
- (d) the disclosure is made with the consent of the other person; or
- (e) the disclosure is required by a court or tribunal constituted by law.

Maximum penalty: \$20 000.

## Part 6—Miscellaneous

### 32—Protection from liability

- (1) No civil or criminal liability will attach to a person for an act or omission in good faith—
  - (a) in the exercise or discharge, or purported exercise or discharge, of a power or function under this Act; or
  - (b) in the carrying out, or purported carrying out, of any direction or requirement given or imposed, or purportedly given or imposed, in accordance with this Act.
- (1a) Subsection (1) does not affect the operation of the *Return to Work Act 2014*.
- (2) Subject to subsection (3), a liability that would, but for subsection (1), lie against a person lies instead against the Crown.
- (3) No liability attaches to the Crown in respect of acts or omissions—
  - (a) in making a declaration under Part 4 Division 6; or
  - (b) in giving a direction to a person, or imposing a requirement on a person, under Part 4 Division 6; or
  - (c) in the carrying out of a direction given, or a requirement imposed, under Part 4 Division 6.

### 32A—Protection from liability—COVID-19

- (1) Despite any other provision of this Act, or any other Act or law, no liability attaches to the Crown in respect of—
  - (a) any acts or omissions in connection with—
    - (i) the exercise or discharge, or purported exercise or discharge, of a power or function under a prescribed Act; or
    - (ii) the carrying out, or purported carrying out, of any direction or requirement given or imposed, or purportedly given or imposed, in accordance with a prescribed Act; or
  - (b) any failure to exercise or discharge a power or function under a prescribed Act,  
  
in relation to the outbreak of the human disease named COVID-19 within South Australia (whether the relevant acts or omissions or failure occurred before or after the commencement of this section).
- (2) Despite any other provision of this Act, or any other Act or law, no civil or criminal liability attaches to a person for an act or omission in good faith in respect of—
  - (a) any acts or omissions in connection with—
    - (i) the exercise or discharge, or purported exercise or discharge, of a power or function under a prescribed Act; or

(ii) the carrying out, or purported carrying out, of any direction or requirement given or imposed, or purportedly given or imposed, in accordance with a prescribed Act; or

(b) any failure to exercise or discharge a power or function under a prescribed Act,

in relation to the outbreak of the human disease named COVID-19 within South Australia (whether the relevant acts or omissions or failure occurred before or after the commencement of this section).

(2a) Subsections (1) and (2) do not affect the operation of the *Return to Work Act 2014*.

(3) In this section—

*prescribed Act* means—

(a) this Act; and

(b) the *South Australian Public Health Act 2011*; and

(c) the *COVID-19 Emergency Response Act 2020*; and

(d) any other Act or law prescribed by the regulations.

### 33—Employment

A person who is absent from employment on official duties in connection with response or recovery operations undertaken in accordance with this Act is not liable to be dismissed or prejudiced in employment by reason of that absence.

### 33A—Victimisation

(1) An employer who causes detriment to an employee on the ground, or substantially on the ground, that the employee was temporarily absent from employment because the employee was carrying out an emergency management response commits an act of victimisation.

(2) An act of victimisation under this section may be dealt with—

(a) as a tort; or

(b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*,

but, if the victim commences proceedings in a court seeking a remedy in tort, the victim cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, the victim cannot subsequently commence proceedings in a court seeking a remedy in tort.

(3) If a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

(4) It is a defence to any proceedings in respect of an act of victimisation under this section for the employer to show that—

(a) the absence was not reasonable having regard to all the circumstances; or

- 
- (b) that the victimisation did not occur for the reason, or for reasons that include the reason, referred to in subsection (1).
- (5) In proceedings against a person seeking a remedy in tort for an act of victimisation committed by an employee or agent of the person, it is a defence to prove that the person exercised all reasonable diligence to ensure that the employee or agent would not commit an act of victimisation.
- (6) For the purposes of this section, an employee carries out an ***emergency management response*** if—
- (a) the employee undertakes an activity that involves responding to a state of alert, identified major incident, major emergency or disaster declared under this Act; and
  - (b) the employee carries out the activity on a voluntary basis; and
  - (c) the employee is a member of, or has a member-like association with, an emergency services organisation or is otherwise a person with responsibilities under this Act or the SEMP; and
  - (d) the employee was requested by or on behalf of the emergency services organisation or by a person exercising functions under this Act to carry out the activity or no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.
- (7) For the purposes of subsection (6)(b) an employee carries out an activity on a voluntary basis even if the employee directly or indirectly takes or agrees to take—
- (a) an honorarium; or
  - (b) a gratuity; or
  - (c) a similar payment,
- wholly or partly for carrying out the activity.
- (8) In this section—
- detriment*** includes—
- (a) injury, damage or loss; or
  - (b) intimidation or harassment; or
  - (c) discrimination, disadvantage or adverse treatment in relation to a person's employment; or
  - (d) threats of reprisal;
- emergency services organisation*** means—
- (a) an emergency services organisation within the meaning of the *Fire and Emergency Services Act 2005*; or
  - (b) an organisation prescribed by the regulations;
- employee*** has the same meaning as in the *Fair Work Act 1994*;
- employer*** has the same meaning as in the *Fair Work Act 1994*.

### 34—Evidentiary

In any proceedings, a document—

- (a) purporting to be signed by the State Co-ordinator and certifying that a person named, or referred to, in the document was, on a specified date, an authorised officer; or
- (b) purporting to be signed by the State Co-ordinator and certifying that a declaration of an identified major incident or major emergency was in force in respect of a specified emergency on a specified day or during a specified period; or
- (c) purporting to be signed by the Minister and certifying that a declaration of a disaster was in force in respect of a specified emergency on a specified day or during a specified period,

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

### 36—Insurance policies to cover damage

All policies of insurance against damage or loss of property caused by, or occurring during the course of, an emergency will be taken to extend to damage or loss arising from measures taken by any person acting in pursuance of an authority conferred by or under this Act in relation to the emergency.

### 37—State Emergency Relief Fund

- (1) The State Disaster Relief Fund continues in existence as the State Emergency Relief Fund (the *fund*).
- (2) Any money received by the Minister for the relief of persons who suffer injury, loss or damage as a result of a declared emergency or proclaimed situation, or otherwise to assist communities adversely affected by the impact of a declared emergency or proclaimed situation (in response to a public appeal), must be paid into the fund.
- (3) The Minister may appoint a committee of persons to administer the fund.
- (4) A committee appointed for the purposes of this section will administer the fund subject to the directions of the Governor.
- (5) Subject to this section, no money received by the fund in respect of a particular declared emergency or proclaimed situation 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 declared emergency or proclaimed situation, or to assist communities adversely affected by that declared emergency or proclaimed situation.
- (6) If the committee is satisfied that it has made sufficient payment to persons or communities on account of a particular declared emergency or proclaimed situation, the committee may, with the approval of the Governor, leave the balance of the money in the fund to be applied under this section for the purpose of responding to some future declared emergency or proclaimed situation.
- (7) Where the committee is of the opinion that a person who suffered injury, loss or damage as a result of a declared emergency or proclaimed situation has been overcompensated for that injury, loss or damage by reason of being paid—
  - (a) money from the 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 the person to pay to the fund the amount of the overcompensation as determined by the committee and specified in the notice.
- (8) A person who is given a notice under subsection (7) 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).
- (9) Money paid to the fund pursuant to subsection (8) may be disbursed for the purpose of responding to the declared emergency or proclaimed situation in respect of which the money was first paid, or for the purpose of responding to a future declared emergency or proclaimed situation.
- (10) No money in the fund may be used to defray the administrative costs of administering the fund.
- (11) In this section—  
***declared emergency*** means an emergency in respect of which a declaration under this Act has been made;  
***proclaimed situation*** means a situation or circumstance that is within the ambit of a proclamation made by the Governor for the purposes of this section.
- (12) A proclamation made for the purposes of the definition of ***proclaimed situation***—
- (a) may apply by reference to any factor specified by the proclamation, including by limiting the scope of the proclamation by area or a period of time; and
  - (b) may, from time to time as the Governor thinks fit, be varied or substituted by a new proclamation.

### 38—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act or as are necessary in consequence of conditions directly or indirectly caused by an emergency in respect of which a declaration under this Act is made.
- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) apply generally or to a particular case or class of case; and
  - (b) apply throughout the State or within a particular part of the State; and
  - (c) prescribe penalties, not exceeding a \$20 000 fine, for breach of or non-compliance with a regulation; and
  - (d) fix expiation fees for alleged offences against the regulations.
- (3) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of the *Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015*.
- (4) A provision of a regulation made under subsection (3) may, if the regulation so provides, take effect from the commencement of this subsection or from a later day.

- (5) To the extent to which a provision takes effect under subsection (4) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
- (a) decreasing the person's rights; or
  - (b) imposing liabilities on the person.

## **Schedule 1—Transitional provisions**

### **Part 3—Transitional provisions**

#### **7—Continuation of State Disaster Plan**

- (1) The State Disaster Plan prepared under the *State Disaster Act 1980*, as in force immediately before the commencement of this clause, continues as the State Emergency Management Plan under this Act until altered or replaced by SEMC in accordance with this Act.
- (2) SEMC must, as soon as reasonably practicable after the commencement of this Act, cause a review of the plan continued in operation under subclause (1) for the purpose of determining whether it should be altered or replaced.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation repealed by principal Act

The *Emergency Management Act 2004* repealed the following:

*State Disaster Act 1980*

### Legislation amended by principal Act

The *Emergency Management Act 2004* amended the following:

*Electricity Act 1996*

*Essential Services Act 1981*

*Gas Act 1997*

*Local Government Act 1999*

*Summary Offences Act 1953*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2004	30	<i>Emergency Management Act 2004</i>	29.7.2004	25.11.2004 ( <i>Gazette 25.11.2004 p4406</i> )
2005	70	<i>Terrorism (Police Powers) Act 2005</i>	8.12.2005	Sch 2 (cl 2)—8.12.2005
2006	42	<i>Emergency Management (State Emergency Relief Fund) Amendment Act 2006</i>	14.12.2006	14.12.2006
2009	29	<i>Statutes Amendment (Public Health Incidents and Emergencies) Act 2009</i>	25.6.2009	Pt 3 (ss 4—12)—25.6.2009
2011	21	<i>South Australian Public Health Act 2011</i>	16.6.2011	Sch 1 (cll 3—5)—16.9.2012 ( <i>Gazette 30.8.2012 p3945</i> )
2013	16	<i>Statutes Amendment (Directors' Liability) Act 2013</i>	23.5.2013	Pt 14 (ss 28 & 29)—17.6.2013 ( <i>Gazette 6.6.2013 p2498</i> )

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2015	8	<i>Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015</i>	18.6.2015	Pt 12 (ss 69—72)—17.8.2015 ( <i>Gazette</i> 25.6.2015 p3076)
2016	18	<i>Emergency Management (Miscellaneous) Amendment Act 2016</i>	26.5.2016	1.7.2016 ( <i>Gazette</i> 23.6.2016 p2617)
2017	11	<i>Emergency Management (Electricity Supply Emergencies) Amendment Act 2017</i>	26.4.2017	26.4.2017 ( <i>Gazette</i> 26.4.2017 p1136)
2020	7	<i>COVID-19 Emergency Response Act 2020</i>	9.4.2020	Sch 3 (cll 1 & 2)—9.4.2020: s 2(1)
2020	22	<i>Emergency Management (Quarantine Fees and Penalty) Amendment Act 2020</i>	24.7.2020	24.7.2020 except s 5—18.7.2020: s 2
2021	25	<i>Statutes Amendment (COVID-19 Permanent Measures) Act 2021</i>	17.6.2021	Pt 5 (ss 7 to 10)—9.9.2021 ( <i>Gazette</i> 18.8.2021 p3099)
2021	43	<i>Emergency Management (Electricity Supply Emergencies) Amendment Act 2021</i>	25.11.2021	25.11.2021
<b>2025</b>	<b>36</b>	<b><i>Emergency Management (Miscellaneous) Amendment Act 2025</i></b>	<b>11.9.2025</b>	<b>1.12.2025 (<i>Gazette</i> 27.11.2025 p4646)</b>

## Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	8.12.2005
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>8.12.2005</i>
s 2	inserted by 18/2016 s 4	1.7.2016
s 2(2)	amended by 11/2017 s 4	26.4.2017
<b>s 2(3)</b>	<b>amended by 36/2025 s 3(1)</b>	<b>1.12.2025</b>
s 3		
<i>appointed member</i>	<i>deleted by 8/2015 s 69</i>	<i>17.8.2015</i>
<b>authorised officer</b>	<b>amended by 36/2025 s 4(1)</b>	<b>1.12.2025</b>
<i>Chief Medical Officer</i>	<i>inserted by 29/2009 s 4(1)</i>	<i>25.6.2009</i>
	<i>deleted by 21/2011 Sch 1 cl 3</i>	<i>16.9.2012</i>
Chief Public Health Officer	inserted by 21/2011 Sch 1 cl 3	16.9.2012
electricity supply emergency	inserted by 11/2017 s 5	26.4.2017
emergency	substituted by 29/2009 s 4(2)	25.6.2009

PPRR	inserted by 18/2016 s 5(1)	1.7.2016
preparedness	inserted by 18/2016 s 5(1)	1.7.2016
prevention	inserted by 18/2016 s 5(1)	1.7.2016
recovery operations	substituted by 18/2016 s 5(2)	1.7.2016
response operations	substituted by 18/2016 s 5(2)	1.7.2016
<b>SEMC guidelines</b>	<b>inserted by 36/2025 s 4(2)</b>	<b>1.12.2025</b>
State Emergency Management Plan	substituted by 18/2016 s 5(3)	1.7.2016
<b>state of alert</b>	<b>inserted by 36/2025 s 4(3)</b>	<b>1.12.2025</b>
<b>State Recovery Co-ordinator</b>	<b>inserted by 36/2025 s 4(3)</b>	<b>1.12.2025</b>
s 4		
s 4(1)	inserted by 11/2017 s 6	26.4.2017
s 4(2)	s 4 redesignated as s 4(2) by 11/2017 s 6	26.4.2017
s 5		
s 5(3)	<b>inserted by 36/2025 s 5</b>	<b>1.12.2025</b>
Pt 1A	inserted by 18/2016 s 6	1.7.2016
s 5A		
s 5A(4)	<b>inserted by 36/2025 s 6</b>	<b>1.12.2025</b>
Pt 2		
s 6		
s 6(2)—(6)	substituted by 8/2015 s 70	17.8.2015
	<b>substituted by 36/2025 s 7</b>	<b>1.12.2025</b>
s 7	substituted by 8/2015 s 71	17.8.2015
s 8	<b>deleted by 36/2025 s 8</b>	<b>1.12.2025</b>
s 9		
s 9(1)	amended by 18/2016 s 7(1)—(4)	1.7.2016
	<b>amended by 36/2025 s 9(1), (2)</b>	<b>1.12.2025</b>
s 10	<b>deleted by 36/2025 s 10</b>	<b>1.12.2025</b>
s 11		
s 11(2)	<i>deleted by 18/2016 s 8</i>	1.7.2016
Pt 3		
s 15	amended by 18/2016 s 9	1.7.2016
	<b>heading amended by 36/2025 s 11(1)</b>	<b>1.12.2025</b>
	<b>amended by 36/2025 s 11(2)</b>	<b>1.12.2025</b>
s 16		
s 16(2)	<b>deleted by 36/2025 s 12</b>	<b>1.12.2025</b>
s 17		
s 17(1a)	inserted by 29/2009 s 5	25.6.2009
s 17(2)	amended by 25/2021 s 7(1)	9.9.2021
s 17(3)	amended by 25/2021 s 7(2)	9.9.2021
	<b>amended by 36/2025 s 13</b>	<b>1.12.2025</b>

s 17(4)	amended by 36/2025 s 13	1.12.2025
s 18		
s 18(1)	amended by 36/2025 s 14(1), (2)	1.12.2025
Pt 3A	inserted by 36/2025 s 15	1.12.2025
Pt 4		
Pt 4 Div 1		
s 19		
s 19(2)	amended by 18/2016 s 10(1)	1.7.2016
s 19(3)	amended by 18/2016 s 10(2)	1.7.2016
	amended by 36/2025 s 16	1.12.2025
Pt 4 Div 2		
s 20		
s 20(1)	amended by 18/2016 s 11(1), (2)	1.7.2016
Pt 4 Div 3		
heading	substituted by 36/2025 s 17	1.12.2025
s 21	amended by 36/2025 s 18	1.12.2025
s 21A	inserted by 36/2025 s 19	1.12.2025
s 23		
s 23(1)	amended by 36/2025 s 20	1.12.2025
s 23(2)	amended by 29/2009 s 6(1)	25.6.2009
	(c) deleted by 29/2009 s 6(1)	25.6.2009
s 23(3)	inserted by 29/2009 s 6(2)	25.6.2009
s 24		
s 24(1)	amended by 36/2025 s 21(1)	1.12.2025
s 24(2)	amended by 29/2009 s 7(1)	25.6.2009
	amended by 36/2025 s 21(2)	1.12.2025
s 24(2a) and (2b)	inserted by 36/2025 s 21(3)	1.12.2025
s 24(3)	deleted by 29/2009 s 7(2)	25.6.2009
s 24A	inserted by 29/2009 s 8	25.6.2009
	amended by 21/2011 Sch 1 cl 4	16.9.2012
	amended by 36/2025 s 22	1.12.2025
Pt 4 Div 4		
heading	amended by 36/2025 s 23	1.12.2025
s 24B	inserted by 36/2025 s 24	1.12.2025
s 25		
heading	amended by 36/2025 s 25(1)	1.12.2025
s 25(a1)	inserted by 36/2025 s 25(2)	1.12.2025
s 25(1)	amended by 18/2016 s 12(1)	1.7.2016
	amended by 36/2025 s 25(3), (4)	1.12.2025
s 25(2)	amended by 70/2005 Sch 2 cl 2(1), (2)	8.12.2005
	amended by 29/2009 s 9(1)—(4)	25.6.2009
	amended by 18/2016 s 12(2)	1.7.2016
	amended by 36/2025 s 25(5)—(8)	1.12.2025

s 25(2a)	inserted by 22/2020 s 4	24.7.2020
s 25(3)	inserted by 29/2009 s 9(5)	25.6.2009
	amended by 21/2011 Sch 1 cl 5	16.9.2012
	<b>substituted by 36/2025 s 25(9)</b>	<b>1.12.2025</b>
<b>s 25(4)—(6)</b>	<b>inserted by 36/2025 s 25(9)</b>	<b>1.12.2025</b>
s 25AA	inserted by 22/2020 s 5	18.7.2020
s 26	amended by 29/2009 s 10	25.6.2009
s 26AA	inserted by 11/2017 s 7	26.4.2017
s 26A	inserted by 29/2009 s 11	25.6.2009
<b>ss 26AB and 26AC</b>	<b>inserted by 36/2025 s 26</b>	<b>1.12.2025</b>
s 26B	inserted by 25/2021 s 8	9.9.2021
	<b>amended by 36/2025 s 27</b>	<b>1.12.2025</b>
Pt 4 Div 5		
<i>s 27 before substitution by 36/2025</i>		
<i>s 27(1)</i>	<i>amended by 18/2016 s 13</i>	<i>1.7.2016</i>
<b>s 27</b>	<b>substituted by 36/2025 s 28</b>	<b>1.12.2025</b>
Pt 4 Div 6	inserted by 11/2017 s 8	26.4.2017
s 27A		
s 27A(1)		
<i>designated person</i>	<i>inserted by 43/2021 s 3(1)</i>	<i>25.11.2021</i>
	<b><i>deleted by 36/2025 s 29</i></b>	<b><i>1.12.2025</i></b>
<i>end user</i>	<i>inserted by 43/2021 s 3(1)</i>	<i>25.11.2021</i>
	<b><i>deleted by 36/2025 s 29</i></b>	<b><i>1.12.2025</i></b>
<i>market participant</i>	<i>deleted by 43/2021 s 3(2)</i>	<i>25.11.2021</i>
<i>metering coordinator</i>	<i>inserted by 43/2021 s 3(2)</i>	<i>25.11.2021</i>
	<b><i>deleted by 36/2025 s 29</i></b>	<b><i>1.12.2025</i></b>
<b><i>retailing</i></b>	<b><i>deleted by 36/2025 s 29</i></b>	<b><i>1.12.2025</i></b>
<i>third party energy service provider</i>	<i>inserted by 43/2021 s 3(3)</i>	<i>25.11.2021</i>
	<b><i>deleted by 36/2025 s 29</i></b>	<b><i>1.12.2025</i></b>
<b>s 27B</b>		
<b>s 27B(2)</b>	<b>substituted by 36/2025 s 30</b>	<b>1.12.2025</b>
<b>s 27B(3)</b>	<b>deleted by 36/2025 s 30</b>	<b>1.12.2025</b>
s 27C		
s 27C(1)	amended by 43/2021 s 4(1)	25.11.2021
	<b>amended by 36/2025 s 31(1)</b>	<b>1.12.2025</b>
s 27C(2)	amended by 43/2021 s 4(2)	25.11.2021
	<b>amended by 36/2025 s 31(2)</b>	<b>1.12.2025</b>
s 27C(2a)	inserted by 43/2021 s 4(3)	25.11.2021
	<b>amended by 36/2025 s 31(3)</b>	<b>1.12.2025</b>
s 27C(2b)	inserted by 43/2021 s 4(3)	25.11.2021

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	<b>amended by 36/2025 s 31(4), (5)</b>	<b>1.12.2025</b>
s 27C(4)	substituted by 43/2021 s 4(4)	25.11.2021
	<b>amended by 36/2025 s 31(6)</b>	<b>1.12.2025</b>
s 27C(6a)	inserted by 43/2021 s 4(5)	25.11.2021
	<b>amended by 36/2025 s 31(6)</b>	<b>1.12.2025</b>
s 27C(6b)	inserted by 43/2021 s 4(5)	25.11.2021
<b>s 27D</b>	<b>substituted by 36/2025 s 32</b>	<b>1.12.2025</b>
s 27E		
s 27E(1)	amended by 43/2021 s 5	25.11.2021
	<b>amended by 36/2025 s 33(1)</b>	<b>1.12.2025</b>
<b>s 27E(2)</b>	<b>amended by 36/2025 s 33(2), (3)</b>	<b>1.12.2025</b>
<b>s 27E(4)</b>	<b>inserted by 36/2025 s 33(4)</b>	<b>1.12.2025</b>
s 27F		
s 27F(1)	inserted by 43/2021 s 6(1)	25.11.2021
	<b>amended by 36/2025 s 34</b>	<b>1.12.2025</b>
s 27F(2)	s 27F amended and redesignated as s 27F(2) by 43/2021 s 6(1), (2)	25.11.2021
Pt 5		
s 28		
s 28(1)	s 28 redesignated as s 28(1) by 16/2013 s 28	17.6.2013
	amended by 22/2020 s 6	24.7.2020
	amended by 25/2021 s 9	9.9.2021
	<b>amended by 36/2025 s 35(1)</b>	<b>1.12.2025</b>
s 28(2)	inserted by 16/2013 s 28	17.6.2013
	<b>amended by 36/2025 s 35(2)</b>	<b>1.12.2025</b>
s 28(3)	inserted by 16/2013 s 28	17.6.2013
s 28A	inserted by 11/2017 s 9	26.4.2017
<b>s 30</b>		
<b>s 30(1)</b>	<b>amended by 36/2025 s 36(1)</b>	<b>1.12.2025</b>
<b>s 30(2)</b>	<b>amended by 36/2025 s 36(2)</b>	<b>1.12.2025</b>
s 31A	inserted by 29/2009 s 12	25.6.2009
	<b>amended by 36/2025 s 37(1)—(3)</b>	<b>1.12.2025</b>
Pt 6		
s 32		
s 32(1)	amended by 11/2017 s 10(1),(2)	26.4.2017
	amended by 7/2020 Sch 3 cl 1	9.4.2020
<b>s 32(1a)</b>	<b>inserted by 36/2025 s 38</b>	<b>1.12.2025</b>
s 32(2)	amended by 11/2017 s 10(3)	26.4.2017
s 32(3)	inserted by 11/2017 s 10(4)	26.4.2017
s 32A	inserted by 7/2020 Sch 3 cl 2	9.4.2020
s 32A(1)	s 32A amended and redesignated as s 32A(1) by 25/2021 s 10(1)—(4)	9.9.2021
s 32A(2)	inserted by 25/2021 s 10(4)	9.9.2021

s 32A(2a)	inserted by 36/2025 s 39	1.12.2025
s 32A(3)	inserted by 25/2021 s 10(4)	9.9.2021
s 33A	inserted by 36/2025 s 40	1.12.2025
s 35	deleted by 16/2013 s 29	17.6.2013
s 36	amended by 36/2025 s 41	1.12.2025
s 37		
s 37(2)	substituted by 42/2006 s 3(1)	14.12.2006
s 37(5) and (6)	substituted by 42/2006 s 3(2)	14.12.2006
s 37(7)	amended by 42/2006 s 3(3)	14.12.2006
s 37(9)	substituted by 42/2006 s 3(4)	14.12.2006
s 37(11) and (12)	inserted by 42/2006 s 3(5)	14.12.2006
s 38		
s 38(2)	amended by 36/2025 s 42(1), (2)	1.12.2025
s 38(3)—(5)	inserted by 8/2015 s 72	17.8.2015
Sch 1		
Pts 1 and 2	omitted under Legislation Revision and Publication Act 2002	8.12.2005

## Transitional etc provisions associated with Act or amendments

### *Emergency Management (Miscellaneous) Amendment Act 2016, Sch 1—Transitional provisions*

#### 1—Continuation of State Emergency Management Plan

The State Emergency Management Plan in force under the *Emergency Management Act 2004* immediately before the commencement of section 6 of this Act continues, after that commencement, as the State Emergency Management Plan under section 5A of the *Emergency Management Act 2004*.

#### 2—Recovery operations advisory group

- (1) An advisory group established under section 11(2) of the *Emergency Management Act 2004* and in existence immediately before the commencement of section 8 of this Act continues, after that commencement, as an advisory group to advise the State Emergency Management Committee in relation to recovery operations as if it were an advisory group established under section 11(1)(a) of the *Emergency Management Act 2004*.
- (2) An advisory group continued in existence under subclause (1) retains the same membership, presiding member, procedures for the conduct of business and any delegation in place immediately before the commencement of section 8 of this Act, subject to any determination of the State Emergency Management Committee after that commencement under section 11 of the *Emergency Management Act 2004*.

## ***Emergency Management (Electricity Supply Emergencies) Amendment Act 2017, Pt 2***

### **11—Review and report**

The Minister responsible for the administration of the *Electricity Act 1996* must—

- (a) ensure that the amendments to the *Emergency Management Act 2004* enacted by this Act are reviewed as soon as practicable after the fifth anniversary of the commencement of this Act; and
- (b) cause a report on the outcome of the review to be tabled in both Houses of Parliament within 12 sitting days after its completion.

## ***Emergency Management (Miscellaneous) Amendment Act 2025, Sch 1***

### **1—Transitional provision**

Sections 32 and 32A of the *Emergency Management Act 2004*, as in force after the commencement of sections 38 and 39 of this Act, apply in relation to acts and omissions whether occurring before or after that commencement.

### **2—Review of *Emergency Management Act 2004***

- (1) The Minister must cause a review of the *Emergency Management Act 2004* to be conducted, and a report on the review to be prepared and submitted to the Minister, within the period of 6 years after the commencement of this Act.
- (2) The Minister must cause a copy of a report submitted under subsection (1) to be laid before both Houses of Parliament within 12 sitting days after receiving the report.

## **Historical versions**

8.12.2005  
14.12.2006  
25.6.2009  
16.9.2012  
17.6.2013  
17.8.2015  
1.7.2016  
26.4.2017  
9.4.2020  
18.7.2020 (electronic only)  
24.7.2020  
9.9.2021  
25.11.2021