



New South Wales

State Emergency and Rescue Management Amendment Act 2010 No 117

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State Emergency and Rescue Management Amendment Act 2010 No 117

Act No 117, 2010

An Act to amend the *State Emergency and Rescue Management Act 1989* to make further provision with respect to the management of State emergencies and rescues; and for other purposes. [Assented to 29 November 2010]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *State Emergency and Rescue Management Amendment Act 2010*.

2 Commencement

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

Schedule 1 Amendment of State Emergency and Rescue Management Act 1989 No 165

[1] Section 3 Definitions

Omit paragraph (a) of the definition of *government agency* in section 3 (1).

Insert instead:

- (a) a Department within the meaning of the *Public Sector Employment and Management Act 2002*,

[2] Section 3 (1), definitions of “State Emergency Operations Controller” and “State Emergency Recovery Controller”

Omit the definitions. Insert instead in alphabetical order:

State Emergency Operations Controller—see section 18.

State Emergency Recovery Controller—see section 20A.

[3] Section 10 Minister

Omit section 10 (1) (c). Insert instead:

- (c) approving Displan or any alterations to Displan.

[4] Section 11 State Disasters Council

Omit section 11 (3) (b1).

[5] Section 11 (4A)

Insert after section 11 (4):

- (4A) The Minister may, but is not required to, appoint the person holding office as the Chairperson of the State Emergency Management Committee as a member of the State Disasters Council.

[6] Section 12 State Disaster Plan

Omit section 12 (4). Insert instead:

- (4) As soon as practicable after the Minister approves Displan or any alterations to Displan, the Chief Executive, Emergency Management NSW must:
 - (a) publish (in such manner as the Chief Executive determines) a copy of Displan or the alterations to Displan, and
 - (b) forward a copy of Displan or the alterations to Displan to each agency to which Displan relates.

[7] Section 14 State Emergency Management Committee

Insert at the end of section 14 (2) (b):

, and

- (c) such other persons as may be nominated by the Minister from time to time.

[8] Section 14 (2A)

Omit the subsection. Insert instead:

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

[9] Section 15

Omit the section. Insert instead:

15 Functions of State Emergency Management Committee

The State Emergency Management Committee has the following functions:

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

[10] Section 17 Annual report of State Emergency Management Committee

Omit section 17 (1). Insert instead:

- (1) As soon as practicable after 30 June, but on or before 31 December in each year, the Chief Executive, Emergency

Management NSW is to provide the Minister with a report approved by the State Emergency Management Committee on the work and activities of the Committee for the 12 months ending on 30 June in that year.

[11] Section 18

Omit the section. Insert instead:

18 State Emergency Operations Controller and Deputy

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

[12] Section 19 Responsibility and functions of State Emergency Operations Controller

Omit section 19 (2A). Insert instead:

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

[13] Section 20A

Omit the section. Insert instead:

20A State Emergency Recovery Controller and Deputy

- (1) There is to be a State Emergency Recovery Controller and a Deputy State Emergency Recovery Controller.
- (2) The office of the State Emergency Recovery Controller is to be held by the person for the time being holding or acting in the position of the Chief Executive, Emergency Management NSW.
- (3) The office of the Deputy State Emergency Recovery Controller is to be held by the person for the time being holding or acting in a senior position in the Government Service that is designated by the Minister as the Deputy State Emergency Recovery Controller.
- (4) During the absence or a vacancy in the office of the State Emergency Recovery Controller, the Deputy State Emergency Recovery Controller has all of the functions of the State Emergency Recovery Controller.
- (5) A *senior position* in the Government Service is:
 - (a) a position of senior executive officer (within the meaning of the *Public Sector Employment and Management Act 2002*), or
 - (b) a position in the Public Service for which the rate of salary or wages payable to the person exceeds the maximum rate payable for Grade 12, Administrative and Clerical Division, of the Public Service.

[14] Section 22 District Emergency Management Committees

Omit section 22 (2) (b). Insert instead:

- (b) the Chairperson of the Local Emergency Management Committee for each local government area within the relevant district, and

[15] Section 25 Functions of District Emergency Operations Controller

Omit section 25 (2A). Insert instead:

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

[16] Section 31 Functions of Local Emergency Operations Controller

Omit section 31 (2A). Insert instead:

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

[17] Section 32A Definitions

Insert after paragraph (e) of the definition of *emergency services officer*:

- (f) a member of the Ambulance Service of NSW of or above the rank of station officer.

[18] Section 50 Police at scene to co-ordinate etc rescue operation

Omit “the *Fire Brigades Act 1909*, the *Ambulance Services Act 1990* or” from section 50 (4).

[19] Section 51

Omit the section. Insert instead:

51 Notification of rescue incidents to police

- (1) The agency that manages or controls an accredited rescue unit must, immediately after the agency becomes aware of an incident which requires or is likely to require the rescue of any person, notify a member of the NSW Police Force of all relevant information concerning the incident.
- (2) The agency that manages or controls an accredited rescue unit is not required to notify a member of the NSW Police Force of any such incident if it is aware that the incident has already been notified to a member of the NSW Police Force.

[20] Section 60KA Definitions

Omit the definition of *danger area*. Insert instead:

danger area means the area specified by a senior police officer as the area affected by an emergency.

[21] Section 61 Power of police to take other safety measures

Omit “a danger area” wherever occurring in section 61 (1).

Insert instead “the danger area”.

[22] Section 61AA

Insert after section 61A:

61AA Use of assistants

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

[23] Section 63A Staff

Insert at the end of section 63A (1) (b):

and

- (c) the State Emergency Recovery Controller to exercise his or her functions,

[24] Section 63A (1)

Omit “Part 2 of the *Public Sector Management Act 1988*”.

Insert instead “Chapter 1A of the *Public Sector Employment and Management Act 2002*”.

[25] Section 63A (1A)

Insert after section 63A (1):

- (1A) Without limiting subsection (1), staff may be employed under that subsection to provide executive support facilities (including operational support) for a relevant emergency or rescue management organisation.

[26] Section 64A

Insert after section 64:

64A Procedure for tabling annual reports when Parliament not sitting

- (1) This section applies to a report under section 17 or 49A that the Minister is required to lay before both Houses of Parliament.
- (2) If a House of Parliament is not sitting when the Minister seeks to cause a copy of the report to be tabled before it, the Minister is to cause a copy of the report to be presented to the Clerk of that House of Parliament.
- (3) A copy of the report presented to the Clerk of a House of Parliament under this section:
 - (a) is, on presentation and for all purposes, taken to have been laid before the House, and

- (b) may be printed by authority of the Clerk of the House, and
- (c) if so printed, is taken to be a document published by or under the authority of the House, and
- (d) is to be recorded:
 - (i) in the case of the Legislative Council—in the Minutes of Proceedings of the Legislative Council, and
 - (ii) in the case of the Legislative Assembly—in the Votes and Proceedings of the Legislative Assembly, on the first sitting day of the House after receipt of the copy of the report by the Clerk.

[27] Schedule 1 Provisions relating to Controllers

Omit the Schedule.

[28] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[29] Schedule 4, Part 8

Insert after Part 7:

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

15 Existing Chairperson of State Emergency Management Committee

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

[Agreement in principle speech made in Legislative Assembly on 12 November 2010
Second reading speech made in Legislative Council on 24 November 2010]

BY AUTHORITY