



ANNO VICESIMO NONO

ELIZABETHAE II REGINAE

A.D. 1980

No. 106 of 1980

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

[Assented to 18 December 1980]

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

PART I

PART I
PRELIMINARY

- Short title. 1. This Act may be cited as the "State Disaster Act, 1980".
- Commencement. 2. This Act shall come into operation on a day to be fixed by proclamation.
- Arrangement of Act. 3. This Act is arranged as follows:
PART I—PRELIMINARY
PART II—THE STATE DISASTER COMMITTEE
PART III—ADMINISTRATION
PART IV—COUNTER-DISASTER OPERATIONS
PART V—MISCELLANEOUS
- Interpretation. 4. In this Act, unless the contrary intention appears—
"authorized officer" means a person who is an authorized officer pursuant to the provisions of this Act:
"counter-disaster operations" means any measures taken in pursuance of this Act during the continuance of a state of disaster to protect life or property:
"disaster" means any occurrence (including fire, flood, storm, tempest, earthquake, eruption and accident) that—
(a) causes, or threatens to cause, loss of life or injury to persons or damage to property;
and

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

“disaster area” means a part of the State to which a declaration of a state of disaster under this Act applies:

“the Minister” means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor and includes any other Minister who may, for the time being, be temporarily discharging the duties of that Minister:

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

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

“vehicle” includes an aircraft, or vessel.

5. (1) This Act binds the Crown.

Application
of this Act.

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

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

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

PART II

PART II

THE STATE DISASTER COMMITTEE

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

The State
Disaster
Committee.

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

(a) the State Co-ordinator;

and

(b) three persons appointed by the Governor on the nomination of the Minister.

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

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

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

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

Terms and
conditions of
appointment.

PART II
Functions of
the Committee.

8. The Committee shall—

- (a) prepare a State Disaster Plan;
- (b) advise the Minister on matters affecting the Plan and on methods of combatting disasters;
- (c) keep the State Disaster Plan under review and make such amendments to it as from time to time appear necessary or expedient;
- (d) maintain contact with organizations that might usefully participate in counter-disaster operations and keep them informed of what would be expected of them in the event of a disaster.

PART III

PART III

ADMINISTRATION

State
Co-ordinator
and Deputy
State
Co-ordinator.

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

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

Delegation.

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

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

Authorized
officers.

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

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

PART IV

PART IV

COUNTER-DISASTER OPERATIONS

Interim
declaration
of state of
disaster by
the Minister.

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

(2) A declaration under this section—

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

(b) shall remain in force for twelve hours;

and

(c) shall not be renewed or extended.

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

Declaration
of state of
disaster by
the Governor.

(2) A declaration under this section—

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

and

(b) shall, subject to this section, remain in force for four days.

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

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

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

Powers of
Minister on
declaration
of a state
of disaster.

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

15. (1) Upon the declaration of a state of disaster and while that declaration remains in force the State Co-ordinator shall take any necessary action to carry the State Disaster Plan into effect.

Powers of
State
Co-ordinator
and
authorized
officers.

(2) Without limiting the generality of subsection (1), where the State Co-ordinator is of the opinion that it is necessary to do so, he may—

(a) require the owner, or the person for the time being in charge, of any real or personal property in a disaster area to place it under the control or at the disposition of a person nominated by the State Co-ordinator;

or

(b) direct the evacuation and removal of persons from a disaster area, or part of a disaster area and remove or cause to be removed to such place as he thinks fit any person who is found within that disaster area, or that part of the disaster area.

(3) Subject to the regulations, an authorized officer may, within a disaster area, for the purpose of carrying out a direction of the State Co-ordinator—

(a) enter, and if necessary break into, any land, building, structure or vehicle;

(b) take possession of any land, building, structure or vehicle;

(c) remove or destroy any building, structure or vehicle;

(d) shut off, or cut off, any supply of fuel, gas or electricity;

(e) prohibit the movement of persons, vehicles or animals;

(f) remove or cause to be removed to such place as he thinks proper any person who obstructs or threatens to obstruct counter-disaster operations;

and

PART IV

(g) give directions to any person whose responsibilities require him to engage in counter-disaster operations, or who is so engaged.

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

(a) that arises in consequence of the exercise of powers under this section (apart from subsection (3) (f));
and

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

(5) In assessing compensation under subsection (4) a court shall take into account—

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

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

Offences.

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

Penalty: Five thousand dollars.

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

Penalty: Five thousand dollars.

PART V

PART V

MISCELLANEOUS

Immunity from liability of persons acting under this Act.

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

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

Protection of employment rights.

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

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

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

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

Workers
compensation.

(a) as if—

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

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

and

(iii) his employer were the Minister:

and

(b) with any other prescribed modifications.

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

Evidentiary
provision.

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

or

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

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

21. (1) Proceedings for an offence against this Act shall be disposed of summarily.

Summary
proceedings.

(2) Proceedings for an offence against this Act shall not be commenced without the authorization of the Attorney-General.

(3) An apparently genuine document purporting to be under the hand of the Attorney-General and to authorize the commencement of proceedings for an offence against this Act shall, in the absence of proof to the contrary, be proof of that authorization.

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

Offences by
bodies
corporate.

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

Money required
for the purposes
of this Act.

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

Regulations.

PART V

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

- (a) apply generally or to a particular case or class of case;
- (b) apply throughout the State or within a particular part of the State;
and
- (c) prescribe penalties, not exceeding five hundred dollars, for breach of or non-compliance with, a regulation.

(3) The State Disaster Plan, or amendments to the State Disaster Plan, may, if the Governor thinks fit, be promulgated in the form of regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor