

# Emergency Management Bill

No.

## TABLE OF PROVISIONS

### PART 1—PRELIMINARY

*Clause*

1. Purpose.
2. Commencement.
3. Repeal.
4. Definitions.

### PART 2—ADMINISTRATION

5. Co-ordinator in Chief and Deputy.
6. Role of Co-ordinator in Chief.
7. Delegation by Co-ordinator in Chief.
8. State Disasters Council.
9. Committees established by Co-ordinator in Chief.

### PART 3—DISPLAN

10. Co-ordinator in Chief to prepare DISPLAN.
11. State Co-ordinator and Deputy.
12. Delegation by State Co-ordinator.
13. Zone and Regional Co-ordinators.
14. DISPLAN Committees.
15. DISPLAN.
16. Control of response to emergencies.
17. Publication.

### PART 4—ROLE OF MUNICIPALITIES

18. Application of this Part.
19. Responsibility of municipal councils.
20. Management and planning bodies.
21. Use of all municipal resources.

### PART 5—STATE OF DISASTER

22. Definitions.
23. Power of Premier to declare state of disaster.
24. Powers and duties of Co-ordinator in Chief.

### PART 6—COMPENSATION OF REGISTERED EMERGENCY WORKERS

25. Definitions.
26. Registration of emergency workers.
27. Injury, &c. for which compensation is payable.
28. Compensation for personal injuries.
29. Compensation for loss of or damage to property.
30. Jurisdiction of Tribunal.
31. Commission to represent Crown.
32. Commission entitled to costs and expenses.
33. Power to make rules.
34. Entitlement where damages otherwise payable.

35. Funding of compensation scheme.

**PART 7—MISCELLANEOUS**

- 36. Offence of obstructing, &c. emergency worker.
- 37. Immunity of registered emergency workers.
- 38. Offence of making false compensation claim.
- 39. Regulations.

# LEGISLATIVE ASSEMBLY

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Read 1<sup>o</sup> 26 March 1986

*(Brought in by Mr Mathews and Mr McCutcheon)*

## A BILL

to provide for the management and organization of the prevention of, response to and recovery from emergencies, to repeal the *State Disasters Act* 1983 and for other purposes.

## Emergency Management Act 1986

The Parliament of Victoria enacts as follows:

### PART 1—PRELIMINARY

#### **Purpose.**

- 5     **1.** The purpose of this Act is to provide for the management and organization of the prevention of, response to and recovery from emergencies.

#### **Commencement.**

2. This Act comes into operation on a day or days to be proclaimed.

#### **Repeal.**

- 10     **3.** The *State Disasters Act* 1983 is repealed.

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No 10010

**Definitions.****4. In this Act—**

- “**Agency**” means a government agency or a non-government agency.
- “**Co-ordinator in Chief**” means the Co-ordinator in Chief of Disaster Control. 5
- “**Council**” means the State Disasters Council established under section 8.
- “**Deputy Co-ordinator in Chief**” means the Deputy Co-ordinator in Chief of Disaster Control. 10
- “**DISPLAN**” means the state disaster response plan referred to in section 10.
- “**Emergency**” means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria, including, without limiting the generality of the foregoing— 15
- (a) an earthquake, flood, wind-storm or other natural event; and 20
- (b) a fire; and
- (c) an explosion; and
- (d) a road accident or any other accident; and
- (e) a plague or an epidemic; and
- (f) a warlike act, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth. 25
- “**Government agency**” means—
- (a) any body corporate or unincorporate constituted by or under any Act for a public purpose; and 30
- (b) any member or officer of such a body; and
- (c) any person in the service of the Crown in the right of the State of Victoria upon whom any function, power, duty or responsibility is conferred by or under any Act.
- “**Non-government agency**” means a voluntary organization or any other person or body other than a government agency. 35
- “**Region**” means a region as defined by DISPLAN.
- “**State Co-ordinator**” means the State Co-ordinator of DISPLAN referred to in section 11.
- “**Zone**” means a zone as defined by DISPLAN. 40

**PART 2—ADMINISTRATION****Co-ordinator in Chief and Deputy.**

5. (1) The Minister is the Co-ordinator in Chief of Disaster Control for the purposes of this Act.

5 (2) The Co-ordinator in Chief may appoint a Deputy Co-ordinator in Chief of Disaster Control.

**Role of Co-ordinator in Chief.**

6. The role of the Co-ordinator in Chief is to—

- 10 (a) ensure that adequate measures are taken by government agencies to prevent and respond to emergencies and to assist in the recovery by a person or persons or a community from the effects of an emergency; and
- (b) co-ordinate the activities of government agencies in taking such measures.

**15 Delegation by Co-ordinator in Chief.**

7. The Co-ordinator in Chief may, by instrument, delegate to the Deputy Co-ordinator in Chief or any other person any power or function of the Co-ordinator in Chief under this Act or the regulations, except this power of delegation.

**20 State Disasters Council.**

8. (1) There is hereby established a council to be called the State Disasters Council to advise the Co-ordinator in Chief on all matters, including the co-ordination of activities of government and non-government agencies, relating to the prevention of, response to and recovery from emergencies.

(2) The Council is to consist of—

- 30 (a) the Co-ordinator in Chief as chairman; and
- (b) to represent each of those agencies referred to in sub-section (1) which the Co-ordinator in Chief considers should be so represented, a person nominated—
- (i) in the case of a government agency, by the responsible Minister; and
- (ii) in the case of a non-government agency, by the agency.

35 (3) The procedures of the Council are to be as determined by the Co-ordinator in Chief.

**Committees established by Co-ordinator in Chief.**

9. The Co-ordinator in Chief, after considering the advice of the Council, may establish such committees as are necessary to ensure comprehensive and integrated emergency management.

**PART 3—DISPLAN****Co-ordinator in Chief to prepare DISPLAN.**

10. The Co-ordinator in Chief must arrange for the preparation and review from time to time of a state disaster response plan, to be called DISPLAN, for the co-ordinated response to emergencies by all agencies having roles or responsibilities in relation to the response to emergencies. 5

**State Co-ordinator and Deputy.**

11. (1) The State Co-ordinator of DISPLAN is to be the Chief Commissioner of Police who is to be responsible under DISPLAN for the co-ordination of the activities of agencies having roles or responsibilities in relation to the response to emergencies. 10

(2) The State Co-ordinator must appoint a Deputy State Co-ordinator of DISPLAN to assist the State Co-ordinator.

**Delegation by State Co-ordinator. 15**

12. The State Co-ordinator may, by instrument, delegate to the Deputy State Co-ordinator of DISPLAN or any other person any power or function of the State Co-ordinator under this Act or the regulations, except this power of delegation.

**Zone and Regional Co-ordinators. 20**

13. The State Co-ordinator must appoint a Co-ordinator of DISPLAN for each zone and for each region within every zone.

**DISPLAN Committees.**

14. The State Co-ordinator may establish, at State, zone and regional levels, such committees as are necessary to plan the co-ordinated response to emergencies by all agencies having roles or responsibilities in relation to the response to emergencies. 25

**DISPLAN.**

15. DISPLAN is to contain provisions—

- (a) identifying, in relation to each form of emergency specified, the agency primarily responsible for responding to the emergency (referred to in this section as the “responsible agency”); and 30
- (b) relating to the co-ordination of the activities of other agencies in support of a responsible agency in the event of an emergency; and 35
- (c) specifying the tasks to be performed by all agencies in the event of an emergency.

**Control of response to emergencies.**

16. In the event of an emergency, directions concerning—

- 5 (a) the overall control of response activities in relation to that emergency, including the transfer of such control in the case of an emergency which crosses the jurisdictional boundaries of agencies engaged in responding to the emergency; and
- (b) the allocation of resources in responding to that emergency—  
may be given to all relevant agencies having roles or responsibilities in relation to the response to emergencies by—
- 10 (c) in the case of an emergency which affects one region only, the co-ordinator appointed under section 13 for that region; or
- (d) in the case of an emergency which affects more than one region within a zone, the co-ordinator appointed under section 13 for that zone; or
- 15 (e) in the case of an emergency which affects more than one zone, the State Co-ordinator.

**Publication.**

17. As soon as practicable after DISPLAN is prepared or reviewed the Co-ordinator in Chief must—

- 20 (a) in such manner as the Co-ordinator in Chief determines, publish DISPLAN or details of the results of the review (as the case requires); and
- 25 (b) forward a copy of DISPLAN or details of the results of the review (as the case requires) to every agency to which DISPLAN applies.

**PART 4—ROLE OF MUNICIPALITIES**

**Application of this Part.**

18. (1) Subject to this section, a reference in this Part to an emergency is a reference to an emergency occurring entirely within the boundaries of a municipality.

(2) Two or more municipal councils may, with the approval of the Co-ordinator in Chief, arrange to co-operate in relation to emergency management, appointing one of their number to be the principal council for the purposes of the arrangement, and a reference in this Part to—

- 35 (a) a **municipality** includes a reference to the combined area of the municipalities whose councils have made such an arrangement; and
- 40 (b) the **council of a municipality** includes a reference to the principal council appointed under such an arrangement.

**Responsibility of municipal councils.**

19. The council of a municipality is responsible for planning for the best use of municipal resources in emergency management.

**Management and planning bodies.**

20. (1) The council of a municipality must establish— 5  
 (a) an emergency management group; and  
 (b) an emergency management planning committee.

(2) A municipal emergency management group is to be responsible for the co-ordination of municipal resources in responding to emergencies and in enabling the recovery by a person or persons or a community within the municipality from the effects of an emergency. 10

(3) The function of a municipal emergency management planning committee is, after consultation with and subject to any direction given by the Co-ordinator in Chief, to formulate a plan for the council's consideration in relation to the prevention of, response to and recovery from emergencies. 15

(4) Membership of a group or committee established by a municipal council is to be as determined by the council.

(5) The procedures of a group or committee established by a municipal council are to be as determined by the group or committee (as the case requires). 20

**Use of all municipal resources.**

21. The council of a municipality may, for the purpose of discharging its responsibilities under this Part, make use of any resources of the municipality. 25

**PART 5—STATE OF DISASTER****Definitions.**

22. In this Part—

“Disaster area” means that part or those parts of Victoria in which a state of disaster is declared under section 23 (1) to exist. 30

“Subordinate instrument” has the same meaning as it has in the *Interpretation of Legislation Act 1984*.

**Power of Premier to declare state of disaster.**

23. (1) If there is an emergency which, in the opinion of the Premier of Victoria, constitutes or is likely to constitute a significant and widespread danger to life or property in Victoria, the Premier may 35



declare a state of disaster to exist in the whole or in any part or parts of Victoria.

(2) The Premier may at any time revoke or vary a declaration under this section.

5 (3) Immediately upon the making, revocation or variation of a declaration under this section, a state of disaster exists, ceases to exist or exists as so varied (as the case requires) for the purposes of this Part.

10 (4) As soon as practicable after the making, revocation or variation of a declaration under this section the Premier must cause notice of the making, revocation or variation of the declaration to be broadcast from a broadcasting station in Victoria and to be published (with, in the case of the making or variation of a declaration, a copy of the declaration) in the *Government Gazette*.

(5) Production of a *Government Gazette* purporting to contain—

- 15 (a) notice of the making, revocation or variation of a declaration under this section is evidence of that making, revocation or variation (as the case requires); and
- (b) a copy of a declaration under this section is evidence of the terms of the declaration.

20 (6) A declaration under this section remains in force for not more than one month, but another declaration may be made before, at or after the end of that period.

#### **Powers and duties of Co-ordinator in Chief.**

25 24. (1) In a state of disaster, the Co-ordinator in Chief is responsible for directing and co-ordinating the activities of all government agencies, and the allocation of all available resources of the Government, which the Co-ordinator in Chief considers necessary or desirable for responding to the disaster.

30 (2) In addition to and without in any way limiting the generality of sub-section (1), in a state of disaster the Co-ordinator in Chief may—

- (a) direct any government agency to do or refrain from doing any act, or to exercise or perform or refrain from exercising or performing any function, power, duty or responsibility; and
- 35 (b) if it appears to the Co-ordinator in Chief that compliance by a government agency with an Act or subordinate instrument, which prescribes the functions powers duties and responsibilities of that agency, would inhibit response to or recovery from the disaster, declare that the operation of that Act or subordinate instrument is suspended; and
- 40 (c) take possession and make use of any person's property as the Co-ordinator in Chief considers necessary or desirable for responding to the disaster; and

- (d) control and restrict entry into, movement within and departure from the disaster area or any part of it; and
- (e) compel the evacuation of any or all persons from the disaster area or any part of it.
- (3) If a direction is given to a government agency under sub-section (2) (a)— 5
- (a) the government agency must comply with the direction; and
- (b) the direction prevails over anything to the contrary in any Act or law. 10
- (4) A declaration made under sub-section (2) (b) has effect according to its tenor until a further declaration is made by the Co-ordinator in Chief reviving the operation of the Act or subordinate instrument.
- (5) If the property of a person is taken or used under sub-section (2) (c) that person may receive such compensation as is determined by the Co-ordinator in Chief. 15
- (6) A person referred to in sub-section (5) may apply to the Administrative Appeals Tribunal established under the *Administrative Appeals Tribunal Act* 1984 for a review of any determination made by the Co-ordinator in Chief under that sub-section. 20
- (7) The power of the Co-ordinator in Chief under sub-section (2) (e) may not be exercised so as to compel the departure of a person from property which is occupied by that person and which is affected or threatened by fire.

## PART 6—COMPENSATION OF REGISTERED EMERGENCY WORKERS 25

### Definitions.

#### 25. In this Part—

“**Commission**” means the Accident Compensation Commission under the *Accident Compensation Act* 1985. 30

“**Registered emergency worker**” means a person registered under section 26.

“**Tribunal**” means the Accident Compensation Tribunal under the *Accident Compensation Act* 1985.

### Registration of emergency workers. 35

26. (1) The chief officer (however designated) of any agency to which DISPLAN applies may apply to the Co-ordinator in Chief for registration of any or all members, officers and volunteer workers of the agency.

(2) On receiving an application for registration of a person under this section, the Co-ordinator in Chief, if satisfied that the person should be registered, must register the person.

**Injury, &c. for which compensation is payable.**

5 27. If a registered emergency worker suffers personal injury (including death) or loss of or damage to property belonging to the worker or in the worker's possession or control while—

10 (a) engaging in any activity as a member officer or volunteer worker of an agency performing a role or discharging a responsibility in accordance with DISPLAN; or

(b) training or practising for any such activities; or

(c) travelling to or from any place where any such activities or training or practice have occurred or are to occur—

compensation is payable under this Part.

15 **Compensation for personal injuries.**

28. (1) Compensation for personal injury (including death) is to be paid in accordance with and subject to the *Accident Compensation Act* 1985 to, or for the benefit of, those persons to whom, or for whose benefit, compensation would be payable under that Act if—

20 (a) the registered emergency worker had been, at the time the personal injury was suffered, a worker employed by the Crown; and

(b) the personal injury had arisen out of or in the course of that employment—

25 within the meaning of that Act.

(2) For the purpose of assessing the amount of any compensation payable under this section, the average weekly earnings of a registered emergency worker are to be computed by reference to the worker's employment during the relevant period before the personal injury was suffered or (if the worker was not then working under a contract of service) upon such basis as is best calculated to give the appropriate compensation for loss of earning capacity, but so that any relevant maximum limits imposed by the *Accident Compensation Act* 1985 are not exceeded.

35 **Compensation for loss of or damage to property.**

29. Compensation for loss of or damage to property is to be such as the Minister considers reasonable in the circumstances and is to be paid to the owner of the property or to any person interested in it.

**Jurisdiction of Tribunal.**

30. (1) If any question or matter arises under this Part, including any question as to the amount of any compensation payable, or the existence and extent of dependency, the Tribunal has exclusive jurisdiction to hear and determine the question or matter as if it arose under the *Accident Compensation Act 1985*. 5

(2) If the Tribunal exercises that jurisdiction such of the provisions of that Act as are applicable apply with such adaptations and modifications as are necessary.

**Commission to represent Crown.** 10

31. In all proceedings before the Tribunal and generally in regard to claims for compensation and the payment of compensation under this Part, the Commission represents the Crown and, subject to any rules made by the Tribunal pursuant to this Part, has the same powers, rights and authorities as an employer has under the *Accident Compensation Act 1985* in regard to the corresponding matter relating to a worker under that Act. 15

**Commission entitled to costs and expenses.**

32. (1) If the Commission represents the Crown in any proceedings before the Tribunal under this Part, it is entitled to such amount as the Tribunal thinks proper for its costs and expenses in that behalf. 20

(2) The amount is to be paid to the Commission from the Consolidated Fund upon the certificate of the Tribunal and must be paid by the Commission into the Accident Compensation Fund under the *Accident Compensation Act 1985*. 25

**Power to make rules.**

33. The Tribunal may make rules for the purpose of carrying into effect the provisions of this Part relating to compensation.

**Entitlement where damages otherwise payable.**

34. (1) A person is not entitled to recover, in respect of personal injury or loss of or damage to property, both compensation under this Part and damages and if a person so recovers both compensation and damages the amount of the compensation may be recovered from the person by the Minister in a Court of competent jurisdiction as a debt due by that person to the Crown. 30  
35

(2) If compensation has been paid under this Part and the personal injury, loss or damage in respect of which it was paid was caused under circumstances creating a liability in some person other than the registered emergency worker to pay damages in respect thereof, the Minister may take proceedings against that person in a Court of competent jurisdiction to recover— 40

- (a) the amount of compensation; or
  - (b) the amount of the damages—
- whichever is less.

**Funding of compensation scheme.**

- 5     **35.** Any compensation payable under section 24 or this Part and any expenses incurred in the administration of section 24 or this Part are to be paid out of the Consolidated Fund, which is hereby to the necessary extent appropriated accordingly.

**PART 7—MISCELLANEOUS**

10   **Offence of obstructing, &c. emergency worker.**

**36.** A person must not obstruct, hinder or in any way interfere with a person engaging in any activity as a member officer or volunteer worker of an agency performing a role or discharging a responsibility in accordance with DISPLAN.

- 15     Penalty: 10 penalty units.

**Immunity of registered emergency workers.**

**37.** A person registered under section 26 is not liable in respect of any loss or injury sustained by any other person as a result of the engagement by the registered person in—

- 20     (a) any activity as a member, officer or volunteer worker of an agency performing a role or discharging a responsibility in accordance with DISPLAN; or
- (b) training or practising for any such activity; or
- 25     (c) travelling to or from a place where any such activity or training or practice is to occur or has occurred—

unless the loss or injury is caused by the negligence or wilful default of the registered person.

**Offence of making false compensation claim.**

- 30     **38.** A person must not, in or in connexion with any claim for compensation under Part 5 or 6, wilfully make any false or misleading statement to or otherwise wilfully mislead or attempt to mislead the Co-ordinator in Chief, the Tribunal under Part 6 or any other person.

Penalty: 10 penalty units.

**Regulations.**

- 35     **39.** The Governor in Council may make regulations for or with respect to—
- (a) the registration of persons under section 26; and

- (b) the training of members and officers of non-government agencies for which a role is defined, or on which a responsibility is conferred, by DISPLAN; and
- (c) prescribing conditions of issue and use of property issued to municipal councils for the purpose of emergency management; and 5
- (d) prescribing fees for training courses conducted by the Co-ordinator in Chief; and
- (e) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act. 10