

Queensland



DISASTER MANAGEMENT ACT 2003

Act No. 91 of 2003

Queensland



DISASTER MANAGEMENT ACT 2003

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Queensland



Disaster Management Act 2003

Act No. 91 of 2003

An Act to provide for matters relating to disaster management in the State, and for other purposes

[Assented to 18 November 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Division 1—Introduction

1 Short title

This Act may be cited as the *Disaster Management Act 2003*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Division 2—Objects

3 Main objects of Act

The main objects of this Act are as follows—

- (a) to help communities—
 - (i) mitigate the potential adverse effects of an event; and
 - (ii) prepare for managing the effects of an event; and
 - (iii) effectively respond to, and recover from, a disaster or an emergency situation;
- (b) to provide for effective disaster management for the State;
- (c) to establish a framework for the management of the State Emergency Service and emergency service units to ensure the effective performance of their functions.

4 How the objects are to be primarily achieved

The objects are to be achieved primarily by making provision about the following—

- (a) establishing disaster management groups for the State, disaster districts and local government areas;
- (b) preparing disaster management plans and guidelines;
- (c) ensuring communities receive appropriate information about preparing for, responding to and recovering from a disaster;
- (d) declaring a disaster situation;
- (e) establishing the State Emergency Service and emergency service units;
- (f) ensuring the State Emergency Service and emergency service units can effectively perform their functions.

Division 3—Application

5 Act binds all persons

(1) This Act binds all persons including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

(2) Subsection (1) does not make the State, the Commonwealth or another State liable for an offence.

6 Relationship to other Acts about particular declarations

(1) Nothing in this Act prevents a person declaring an emergency under another Act.

Examples of other Acts—

- *Public Safety Preservation Act 1986*
- *State Transport Act 1938.*

(2) However, the existence of a declaration mentioned in subsection (1) does not prevent the declaration of a disaster situation under this Act.

7 Public Safety Preservation Act 1986, pt 3, not affected

This Act is in addition to, and does not limit, the *Public Safety Preservation Act 1986*, part 3.¹

8 Powers under this Act and other Acts

(1) This section applies to a person exercising declared disaster powers or rescue powers under this Act.

Examples of persons who may be exercising the powers—

- an ambulance officer under the *Ambulance Service Act 1991*
- a fire officer under the *Fire Act*
- a police officer under the *Police Service Administration Act 1990*.

(2) The declared disaster powers and rescue powers are in addition to and do not limit the powers the person may have under another Act.

9 Directions about powers under other Acts during disaster situation

(1) This section applies if there is a disaster situation.

(2) The chairperson of the State group, or a relevant district disaster coordinator for the disaster situation, may give directions about the circumstances in which a power under another Act may be exercised during the period of the disaster situation.

(3) However, the chairperson or relevant district disaster coordinator must not give directions about the way in which the power may be exercised.

(4) A direction under subsection (2) may be given—

- (a) only to the person who may exercise the power under the other Act; and
- (b) only if it is necessary for effective management of the disaster for which the disaster situation is declared.

¹ *Public Safety Preservation Act 1986*, part 3 (Chemical, biological and radiological emergencies)

Examples—

- The chairperson of the State group may direct an authorised person under the *Environmental Protection Act 1994* to delay exercising particular powers until the chairperson considers it is appropriate in the circumstances for the powers to be exercised.
- If the disaster situation involves an outbreak of an exotic disease, the chairperson of the State group may direct an inspector under the *Exotic Diseases in Animals Act 1981* to delay exercising particular powers until the chairperson considers it is appropriate in the circumstances for the powers to be exercised.

(5) Also, a direction under subsection (2)—

- (a) may be general or limited to a particular class of persons; and
- (b) may be given on conditions.

(6) Before giving a direction under subsection (2) about the exercise of a power under another Act, the chairperson or relevant district disaster coordinator must take reasonable steps to consult with the chief executive of the department or other agency in which the Act is administered.

(7) A failure to consult under subsection (6) does not affect the validity of the direction.

(8) Subsection (2) does not apply to the *Police Powers and Responsibilities Act 2000* or CBR emergency powers under the *Public Safety Preservation Act 1986*.²

10 Limit on application of Act in particular circumstances

This Act does not authorise anyone to do, or make preparations to do, any of the following—

- (a) engage in armed combat against an enemy;
- (b) put down a riot or other civil disturbance;
- (c) end a strike or lock-out.

² *Public Safety Preservation Act 1986*, schedule—

“**CBR emergency powers**” means powers available to the CBRE coordinator or emergency responders under part 3.

Division 4—Interpretation***Subdivision 1—Dictionary and notes in text*****11 Definitions**

The dictionary in schedule 2 defines particular words used in this Act.

12 Notes in text

A note in the text of this Act is part of this Act.

Subdivision 2—Particular definitions**13 Meaning of “disaster”**

(1) A “**disaster**” is a serious disruption in a community, caused by the impact of an event, that requires a significant coordinated response by the State and other entities to help the community recover from the disruption.

(2) In this section—

“**serious disruption**” means—

- (a) loss of human life, or illness or injury to humans; or
- (b) widespread or severe property loss or damage; or
- (c) widespread or severe damage to the environment.

14 Meaning of “disaster management”

“**Disaster management**” means arrangements about managing the potential adverse effects of an event, including, for example, arrangements for mitigating, preventing, preparing for, responding to and recovering from a disaster.

15 Meaning of “disaster operations”

“**Disaster operations**” means activities undertaken before, during or after an event happens to help reduce loss of human life, illness or injury to

humans, property loss or damage, or damage to the environment, including, for example, activities to mitigate the adverse effects of the event.

16 Meaning of “event”

(1) An “event” means any of the following—

- (a) a cyclone, earthquake, flood, storm, storm tide, tornado, tsunami, volcanic eruption or other natural happening;
- (b) an explosion or fire, a chemical, fuel or oil spill, or a gas leak;
- (c) an infestation, plague or epidemic;

Example of an epidemic—

a prevalence of foot-and-mouth disease

- (d) a failure of, or disruption to, an essential service or infrastructure;
- (e) an attack against the State;
- (f) another event similar to an event mentioned in paragraphs (a) to (e).

(2) An “event” may be natural or caused by human acts or omissions.

PART 2—DISASTER MANAGEMENT GROUPS AND COMMITTEES

Division 1—State disaster management group

Subdivision 1—Establishment and functions

17 Establishment

The State Disaster Management Group (the “State group”) is established.

18 Functions

The State group has the following functions—

- (a) to develop a strategic policy framework for disaster management for the State;
- (b) to ensure effective disaster management is developed and implemented for the State;
- (c) to ensure arrangements between the State and the Commonwealth about matters relating to effective disaster management are established and maintained;
- (d) to identify resources, in and outside the State, that may be used for disaster operations;
- (e) to provide reports and make recommendations to the Minister about matters relating to disaster management and disaster operations;
- (f) to prepare, under section 49, the State disaster management plan;
- (g) to perform other functions given to the group under this or another Act;
- (h) to perform a function incidental to a function mentioned in paragraphs (a) to (g).

Subdivision 2—Membership

19 Membership

(1) The State group consists of the following members—

- (a) the chief executive of the department;
- (b) a number of persons, each being the chief executive of another department;
- (c) an appropriately qualified officer of the department.

(2) The members mentioned in subsection (1)(b) or (c) are to be appointed by the Governor in Council.

(3) The member mentioned in subsection (1)(c) is the executive officer of the group.

(4) In this section—

“**appropriately qualified**” includes having the qualifications, experience or standing appropriate to perform the functions of the executive officer of the State group.

Example of standing—

a person’s classification level in the public service

20 Chairperson and deputy chairperson

(1) The Governor in Council is to appoint—

- (a) a member as the chairperson of the State group; and
- (b) a member as the deputy chairperson of the group.

(2) A person may be appointed as the chairperson or deputy chairperson only if the person is a member mentioned in section 19(1)(a) or (b).

(3) A person may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a member.

(4) The deputy chairperson is to act as chairperson—

- (a) during a vacancy in the office of chairperson; and
- (b) during all periods when the chairperson is absent from duty or for another reason can not perform the functions of the office.

21 Functions of executive officer of State group

The executive officer of the State group has the following functions—

- (a) to regularly review and assess the effectiveness of disaster management by the State, including the State disaster management plan;
- (b) to regularly review and assess the effectiveness of disaster management by district groups and local groups;
- (c) to establish and maintain arrangements between the State and the Commonwealth about matters relating to effective disaster management;
- (d) to ensure that disaster management and disaster operations in the State are consistent with the group’s strategic policy framework for disaster management for the State;

- (e) to manage and coordinate the business of the group;
- (f) to coordinate State and Commonwealth assistance for disaster management and disaster operations;
- (g) to ensure that persons performing functions under this Act in relation to disaster operations are appropriately trained;
- (h) to appoint, under section 27, the executive officers of district groups;
- (i) to regularly report to the group about the performance of the executive officer's functions under paragraphs (a) to (h);
- (j) to support the group in the performance of its functions.

Division 2—District disaster management groups

Subdivision 1—Establishment and functions

22 Establishment

A District Disaster Management Group (a “**district group**”) is established for each disaster district.

23 Functions

A district group has the following functions for the disaster district for which it is established—

- (a) to ensure that disaster management and disaster operations in the district are consistent with the State group's strategic policy framework for disaster management for the State;
- (b) to develop effective disaster management for the district, including a district disaster management plan, and regularly review and assess that disaster management;
- (c) to provide reports and make recommendations to the State group about matters relating to disaster management and disaster operations in the district;
- (d) to regularly review and assess the disaster management of local groups in the district;

- (e) to ensure that any relevant decisions and policies made by the State group are incorporated in its disaster management, and the disaster management of local groups in the district;
- (f) to ensure the community is aware of ways of mitigating the adverse effects of an event, and preparing for, responding to and recovering from a disaster;
- (g) to coordinate the provision of State resources and services provided to support local groups in the district;
- (h) to identify resources that may be used for disaster operations in the district;
- (i) to make plans for the allocation, and coordination of the use, of resources mentioned in paragraph (h);
- (j) to establish and review communications systems in the group, and with and between local groups in the district, for use when a disaster happens;
- (k) to ensure information about an event or a disaster in the district is promptly given to the State group and each local group in the district;
- (l) to prepare, under section 53, a district disaster management plan;
- (m) to perform other functions given to the group under this Act;
- (n) to perform a function incidental to a function mentioned in paragraphs (a) to (m).

Subdivision 2—Membership

24 Membership

- (1) A district group consists of the following members—
- (a) the person appointed as the district disaster coordinator of the district group under section 25(1)(a);
 - (b) the person appointed as the deputy chairperson of the district group under section 25(1)(b);
 - (c) a person appointed by—
 - (i) if there is 1 local government only in the disaster district for the district group—the local government; or

- (ii) if there are 2 or more local governments in the disaster district and none of the local governments unite under section 31³—each local government; or
- (iii) if there are 2 or more local governments in the disaster district and all the local governments unite under section 31—each combined local government; or
- (iv) if there are 3 or more local governments in the disaster district and not all the local governments unite under section 31—
 - (A) each local government that does not unite; and
 - (B) each combined local government;
- (d) a number of persons, each of whom represents a department the executive officer of the State group considers appropriate to be represented on the group, having regard to effective disaster management for the disaster district;
- (e) any other person appointed by the executive officer of the State group that the executive officer considers appropriate to be a member of the district group, having regard to effective disaster management for the disaster district.

(2) Under subsection (1)(c)(ii), (iii) and (iv), each local government or combined local government is to appoint a separate person.

(3) The members mentioned in subsection (1)(d) are to be appointed by the chief executive of the department the member represents.

(4) In considering the departments that are appropriate to be represented on a district group, the executive officer of the State group must consult with the district disaster coordinator for the disaster district.

(5) Before appointing a person under subsection (1)(e), the executive officer of the State group must consult with the district disaster coordinator for the disaster district.

(6) As soon as practicable after a local government or a combined local government appoints a person under subsection (1)(c), the local government or combined local government must inform the executive officer of the State group, and the district disaster coordinator of the district group, of the appointment.

3 Section 31 (Local governments may combine)

(7) As soon as practicable after a chief executive appoints a person under subsection (3), the chief executive must inform the executive officer of the State group, and the district disaster coordinator of the district group, of the appointment.

25 District disaster coordinator and deputy chairperson

(1) The Governor in Council is to appoint—

- (a) a person as the district disaster coordinator of a district group; and

Note—

Under subsection (3), the district disaster coordinator of a district group is also the chairperson of the group.

- (b) a person as the deputy chairperson of a district group.

(2) The Minister may recommend to the Governor in Council a person for appointment as a district disaster coordinator only if satisfied the person has the necessary expertise or experience to perform the functions, and exercise the powers, of a district disaster coordinator.

(3) The district disaster coordinator of a district group is the chairperson of the group.

26 Functions of district disaster coordinator

The district disaster coordinator of a district group has the following functions—

- (a) to manage and coordinate the business of the group;
- (b) to ensure, as far as practicable, that the group performs its functions;
- (c) to coordinate disaster operations in the disaster district for the group;
- (d) to regularly report to the State group about the performance by the district group of its functions.

27 Executive officer of district group

(1) The executive officer of the State group is to appoint a member of a district group as the executive officer of the district group.

(2) The executive officer of the State group may appoint a person under subsection (1) only if satisfied the person has the necessary expertise or experience to perform the functions of the executive officer of the district group.

(3) Before appointing a person under subsection (1), the executive officer of the State group must consult with the district disaster coordinator of the district group.

28 Functions of executive officer of district group

The executive officer of a district group has the following functions—

- (a) to advise the group and district disaster coordinator of the group about matters relating to disaster management that are relevant to the disaster district for the group;
- (b) to advise and provide other support services to the group or a local group to facilitate disaster management in the district;
- (c) to regularly review and assess the district disaster management plan and local disaster management plans for the district, and ensure the plans are consistent with any relevant disaster management guidelines;
- (d) to advise the district disaster coordinator of the group during disaster operations;
- (e) to regularly report to the group about the performance of the executive officer's functions under paragraphs (a) to (d).

Division 3—Local government disaster management groups

Subdivision 1—Establishment and functions

29 Establishment

A local government must establish a Local Disaster Management Group (a “**local group**”) for the local government's area.

30 Functions

(1) A local group has the following functions for its area—

- (a) to ensure that disaster management and disaster operations in the area are consistent with the State group's strategic policy framework for disaster management for the State;
- (b) to develop effective disaster management, and regularly review and assess the disaster management;
- (c) to help the local government for its area to prepare a local disaster management plan;
- (d) to identify, and provide advice to the relevant district group about, support services required by the local group to facilitate disaster management and disaster operations in the area;
- (e) to ensure the community is aware of ways of mitigating the adverse effects of an event, and preparing for, responding to and recovering from a disaster;
- (f) to manage disaster operations in the area under policies and procedures decided by the State group;
- (g) to provide reports and make recommendations to the relevant district group about matters relating to disaster operations;
- (h) to identify, and coordinate the use of, resources that may be used for disaster operations in the area;
- (i) to establish and review communications systems in the group, and with the relevant district group and other local groups in the disaster district of the relevant district group, for use when a disaster happens;
- (j) to ensure information about a disaster in the area is promptly given to the relevant district group;
- (k) to perform other functions given to the group under this Act;
- (l) to perform a function incidental to a function mentioned in paragraphs (a) to (k).

(2) In this section—

“relevant district group”, for a local group, means the district group for the disaster district in which the area of the local group is situated.

Subdivision 2—Application of sections 29 and 30 in particular circumstances

31 Local governments may combine

Despite section 29, 2 or more local governments (the “**combined local government**”) may, with the approval of the Minister and the district disaster coordinator for the disaster district in which the local governments are situated, agree to unite for the purpose of establishing a local group.

32 Application of ss 29 and 30

(1) This section applies if 2 or more local governments agree as mentioned in section 31.

(2) Sections 29 and 30 apply to the combined local government and local group as if—

- (a) a reference to a local government were a reference to a combined local government; and
- (b) a reference to the local government’s area or the local group’s area were a reference to the area of the combined local government.

Subdivision 3—Membership

33 Membership

(1) A local group consists of the persons appointed as members of the group by the relevant local government for the group.

(2) At least 1 person appointed under subsection (1) must be a councillor of a local government.

(3) The relevant local government for a local group may appoint a person as a member only if satisfied the person has the necessary expertise or experience to be a member.

34 Chairperson and deputy chairperson of local group

(1) The relevant local government for a local group is to appoint—

- (a) a member of the group as the chairperson of the group; and
- (b) a member of the group as the deputy chairperson of the group.

(2) The member appointed as the chairperson must be a councillor of a local government.

35 Executive officer of local group

The relevant local government for a local group is to appoint a member of the group as the executive officer of the group.

36 Function of executive officer of local group

The function of the executive officer of a local group is to help the group to manage and coordinate its business.

37 Notice about membership of local group

The relevant local government for a local group must, at least once a year, give written notice of the members of the group to—

- (a) the executive officer of the State group; and
- (b) the district disaster coordinator for the disaster district in which the local group is situated.

Division 4—Business and meetings for disaster management groups**38 Conduct of business**

Subject to this division, a disaster management group may conduct its business, including its meetings, in the way it considers appropriate.

39 Times and places of meetings

(1) Disaster management group meetings must be held at least once in every 6 months at the times and places decided by the chairperson of the group.

(2) However, the chairperson of the State group must call a meeting if asked, in writing, to do so by the Minister or at least one-half of its members.

(3) Also, the chairperson of a district group must call a meeting if asked, in writing, to do so by the chairperson of the State group or at least one-half of the members of the district group.

(4) In addition, the chairperson of a local group must call a meeting if asked, in writing, to do so by—

- (a) the district disaster coordinator for the disaster district in which the local group is situated; or
- (b) at least one-half of the members of the local group.

40 Quorum

A quorum for a meeting of a disaster management group is the number equal to—

- (a) one-half of its members for the time being holding office plus 1; or
- (b) if one-half of its members for the time being holding office is not a whole number, the next highest whole number.

41 Presiding at meetings

(1) The chairperson of a disaster management group is to preside at all meetings of the group at which the chairperson is present.

(2) If the chairperson is absent from a meeting of the group, but the deputy chairperson is present, the deputy chairperson is to preside.

(3) If the chairperson and deputy chairperson are both absent from a meeting of the group—

- (a) the member of the group nominated by the chairperson is to preside; or
- (b) if the chairperson does not nominate a member under paragraph (a)—the member nominated by the deputy chairperson is to preside.

(4) If the offices of chairperson and deputy chairperson are vacant, the member of the group chosen by the members present is to preside.

42 Conduct of meetings

(1) A disaster management group may hold meetings, or allow members of the group to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

(2) A member who takes part in a meeting of a disaster management group under subsection (1) is taken to be present at the meeting.

(3) A resolution is validly made by a disaster management group, even if it is not passed at a meeting of the group, if—

- (a) a majority of the members of the group gives written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the group.

43 Minutes

A disaster management group must keep minutes of its meetings.

Division 5—Annual report, and directions about functions

Subdivision 1—Annual report

44 Annual report

(1) As soon as practicable after the end of each financial year, the State group must prepare and give to the Minister a written report about disaster management in the State.

(2) The report must include the following—

- (a) information about activities undertaken during the financial year to maintain or enhance the State's disaster management;
- (b) details of disaster operations performed during the financial year;
- (c) information about priorities for disaster management;

- (d) other matters about disaster management the Minister considers appropriate.

Subdivision 2—Directions about functions

45 Minister may give directions

(1) The Minister may give the State group a written direction about the performance of its functions if satisfied it is necessary to give the direction to ensure the functions are performed appropriately.

(2) The group must comply with the direction.

(3) However, before giving the direction, the Minister must consult with the chairperson of the group.

46 Chairperson of State group may give directions

(1) The chairperson of the State group may give a district group a written direction about the performance of the district group's functions if satisfied it is necessary to give the direction to ensure the functions are performed appropriately.

(2) The district group must comply with the direction.

(3) However, before giving the direction, the chairperson must consult with the district disaster coordinator of the district group.

47 District disaster coordinator may give directions

(1) A district disaster coordinator for a disaster district may give a local group in the district a written direction about the performance of the group's functions if satisfied it is necessary to give the direction to ensure the functions are performed appropriately.

(2) The group must comply with the direction.

(3) However, before giving the direction, the district disaster coordinator must consult with the chairperson of the local group.

*Division 6—Committees for disaster management groups***48 Committees**

(1) The Minister may establish committees to perform any of the following functions—

- (a) to help a disaster management group perform its functions;
- (b) to advise and make recommendations to the Minister or a disaster management group about matters relating to disaster management referred by the Minister or disaster management group to the committee;
- (c) to perform another function, decided by the Minister, incidental to a function mentioned in paragraph (a) or (b).

(2) The Minister may appoint an individual to a committee if satisfied the individual has the necessary expertise or experience to help the committee to perform its functions.

(3) A committee may conduct its business, including its meetings, in the way it considers appropriate.

PART 3—DISASTER MANAGEMENT PLANS AND GUIDELINES*Division 1—State disaster management plan***49 State plan for disaster management**

(1) The State group must prepare a plan (the “**State disaster management plan**”) for disaster management for the State.

(2) The plan must include provision for the following—

- (a) the group’s strategic policy framework for disaster management for the State;
- (b) the roles and responsibilities of entities involved in disaster operations and disaster management for the State;

- (c) the coordination of disaster operations and activities relating to disaster management performed by the entities mentioned in paragraph (b);
- (d) events that are likely to happen in the State;
- (e) priorities for disaster management for the State;
- (f) the matters stated in the disaster management guidelines as matters to be included in the plan;
- (g) other matters about disaster management the group considers appropriate or that are prescribed under a regulation.

(3) The chairperson of the State group must give a copy of the plan to each district group and local group.

50 Requirements of plan

The State disaster management plan must be consistent with the disaster management guidelines.

51 Reviewing and renewing plan

(1) The State group may review, or renew, the State disaster management plan when the group considers it appropriate.

(2) If the State group renews the State disaster management plan, the chairperson of the group must give a copy of the new plan to each district group and local group.

52 Plan to be available for inspection etc.

(1) The chairperson of the State group must ensure a copy of the State disaster management plan is available for inspection, free of charge, by members of the public at—

- (a) the department's head office; and
- (b) other places the chairperson of the group considers appropriate.

(2) The plan may be made available in written or electronic form.

(3) The group must, on payment of the appropriate fee, give a person a copy of the plan.

(4) In this section—

“**appropriate fee**” means the fee, decided by the chairperson of the State group, that is no more than the reasonable cost of providing the copy.

Division 2—Disaster management plans for disaster districts

53 Plan for disaster management in disaster district

(1) A district group must prepare a plan (a “**district disaster management plan**”) for disaster management in the disaster district for the group.

(2) The plan must include provision for the following—

- (a) the State group’s strategic policy framework for disaster management for the State;
- (b) the roles and responsibilities of entities involved in disaster operations and disaster management in the district;
- (c) the coordination of disaster operations and activities relating to disaster management performed by the entities mentioned in paragraph (b);
- (d) events that may be likely to happen in the district;
- (e) priorities for disaster management for the district;
- (f) the matters stated in the disaster management guidelines as matters to be included in the plan;
- (g) other matters about disaster management in the disaster district the group considers appropriate.

54 Requirements of plan

A district disaster management plan must be consistent with the disaster management guidelines.

55 Reviewing and renewing plan

(1) A district group may review, or renew, its district disaster management plan when the group considers it appropriate.

(2) However, the group must review the effectiveness of the plan at least once a year.

56 Plan to be available for inspection etc.

(1) A district group must keep a copy of its district disaster management plan available for inspection, free of charge, by members of the public at the places the district disaster coordinator of the group considers appropriate.

(2) The plan may be made available in written or electronic form.

(3) The group must, on payment of the appropriate fee, give a person a copy of the plan.

(4) In this section—

“**appropriate fee**” means the fee, decided by the district disaster coordinator of the district group, that is no more than the reasonable cost of providing the copy.

Division 3—Disaster management plans for local governments

Subdivision 1—Disaster management plans

57 Plan for disaster management in local government area

(1) A local government must prepare a plan (a “**local disaster management plan**”) for disaster management in the local government’s area.

(2) The plan must include provision for the following—

- (a) the State group’s strategic policy framework for disaster management for the State, and the local government’s policies for disaster management;
- (b) the roles and responsibilities of entities involved in disaster operations and disaster management in the area;
- (c) the coordination of disaster operations and activities relating to disaster management performed by the entities mentioned in paragraph (b);
- (d) events that are likely to happen in the area;

- (e) strategies and priorities for disaster management for the area;
- (f) the matters stated in the disaster management guidelines as matters to be included in the plan;
- (g) other matters about disaster management in the area the local government considers appropriate.

58 Requirements of plan

A local disaster management plan must be consistent with the disaster management guidelines.

59 Reviewing and renewing plan

(1) A local government may review, or renew, its local disaster management plan when the local government considers it appropriate.

(2) However, the local government must review the effectiveness of the plan at least once a year.

60 Plan to be available for inspection etc.

(1) A local government must keep a copy of its local disaster management plan available for inspection, free of charge, by members of the public at—

- (a) the local government's head office; and
- (b) other places the chief executive officer of the local government considers appropriate.

(2) The plan may be made available in written or electronic form.

(3) The local government must, on payment of the appropriate fee, give a person a copy of the plan.

(4) In this section—

“appropriate fee” means the fee, decided by the chief executive officer of the local government, that is no more than the reasonable cost of providing the copy.

Subdivision 2—Application of subdivision 1 in particular circumstances**61 Local governments may combine**

Despite section 57(1), 2 or more local governments (also the “**combined local government**”) may, with the approval of the Minister and the district group for the disaster district in which the local governments are situated, agree to unite for the purpose of preparing a local disaster management plan.

62 Application of sdiv 1

(1) This section applies if 2 or more local governments agree as mentioned in section 61.

(2) Subdivision 1 applies to the combined local government as if—

- (a) a reference to a local government were a reference to a combined local government; and
- (b) a reference to the local government’s area were a reference to the area of the combined local government; and
- (c) a reference to the local government’s head office were a reference to the head office of each local government that is a part of the combined local government; and
- (d) a reference to the chief executive officer of the local government were a reference to the chief executive officer of each local government that is a part of the combined local government.

Division 4—Guidelines**63 Guidelines about disaster management plans**

(1) The chief executive may prepare guidelines to inform the State group, district groups and local governments about matters relating to any of the following—

- (a) the preparation of disaster management plans;
- (b) the matters to be included in a disaster management plan;

- (c) other matters about the operation of a district group or local group the chief executive considers appropriate having regard to disaster management for the State.

(2) If the chief executive prepares a guideline under subsection (1), the chief executive must give a copy of the guideline to—

- (a) if the guideline relates to the State group—the State group; or
- (b) if the guideline relates to district groups—each district group; or
- (c) if the guideline relates to local governments—each local government.

(3) If the chief executive amends a guideline, the chief executive must give a copy of the amendment or the amended guideline to—

- (a) if the guideline relates to the State group—the State group; or
- (b) if the guideline relates to district groups—each district group; or
- (c) if the guideline relates to local governments—each local government.

(4) The chief executive must keep a copy of each guideline, as in force from time to time, available for inspection, free of charge, by members of the public at—

- (a) the department's head office; and
- (b) other places the chief executive considers appropriate.

(5) The guideline may be made available in written or electronic form.

PART 4—PROVISIONS FOR DECLARATIONS OF DISASTER SITUATION

Division 1—Declarations

Subdivision 1—Declaration of disaster situation by district disaster coordinator

64 Declaration

(1) A district disaster coordinator for a disaster district may, with the approval of the Minister, declare a disaster situation for the district, or a part of it, if satisfied—

- (a) a disaster has happened, is happening or is likely to happen, in the disaster district; and
- (b) it is necessary for the district disaster coordinator or a declared disaster officer to exercise declared disaster powers to prevent or minimise any of the following—
 - (i) loss of human life;
 - (ii) illness or injury to humans;
 - (iii) property loss or damage;
 - (iv) damage to the environment.

(2) Before declaring the disaster situation, the district disaster coordinator must take reasonable steps to consult with—

- (a) the district group for the disaster district; and
- (b) each local government whose area is in, or partly in, the declared area for the disaster situation.

(3) A failure to consult under subsection (2) does not affect the validity of the declaration.

65 Form and notice of declaration

(1) A declaration of a disaster situation under section 64(1) must be in the approved form.

(2) The approved form must include provision for the following—

- (a) the time and date of the Minister's approval;
- (b) the time and date of the declaration;
- (c) the declared area for the disaster situation.

(3) As soon as practicable after the disaster situation is declared, the Minister must give notice of the declaration by gazette notice.

(4) The gazette notice must include—

- (a) the time and date of the declaration; and
- (b) details of the declared area for the disaster situation.

66 Duration

The disaster situation—

- (a) starts when it is declared under section 64(1); and
- (b) unless either of the following happens, ends 7 days after the day it is declared—
 - (i) the Minister sooner ends the disaster situation under section 68(1);
 - (ii) a regulation extends, under section 67, the period of the disaster situation beyond the end of the 7 days.

67 Extending disaster situation

(1) A regulation may extend, or from time to time further extend, the period of the disaster situation.

(2) A regulation made under this section commences on the day it is made whether or not it is gazetted on that day.

(3) A regulation extending the period of the disaster situation expires 14 days after the disaster situation is declared unless it is sooner repealed or it expires under section 68(4).

(4) A regulation further extending the period of the disaster situation—

- (a) must state the period, of not more than 7 days, by which the disaster situation is extended; and

(b) expires at the end of the stated period unless it is sooner repealed or it expires under section 68(4).

(5) Subsection (2) applies despite the *Statutory Instruments Act 1992*, section 32.⁴

(6) The *Statutory Instruments Act 1992*, part 5⁵ does not apply to a regulation made under this section.

68 Ending disaster situation

(1) As soon as the Minister is satisfied it is no longer necessary for the district disaster coordinator or a declared disaster officer to exercise declared disaster powers for the disaster situation, the Minister must end the disaster situation.

(2) If the Minister ends the disaster situation under subsection (1)—

(a) the Minister must—

(i) make a written record of the time and date the disaster situation ended; and

(ii) immediately inform the chairperson of the State group and the relevant district disaster coordinator of the ending of the disaster situation; and

(b) the district disaster coordinator must, immediately after being informed under paragraph (a)(ii), inform the declared disaster officers exercising declared disaster powers for the disaster situation of the ending of the disaster situation.

(3) Also, the Minister must as soon as practicable give notice of the ending of the disaster situation, and when it ended, by gazette notice.

(4) A regulation extending or further extending a disaster situation expires when the disaster situation ends under this section.

4 *Statutory Instruments Act 1992*, section 32 (Prospective commencement)

5 *Statutory Instruments Act 1992*, part 5 (Guidelines for regulatory impact statements)

Subdivision 2—Declaration of disaster situation by Minister and Premier**69 Declaration**

The Minister and the Premier may declare a disaster situation for the State, or a part of the State, if satisfied—

- (a) a disaster has happened, is happening or is likely to happen, in the State; and
- (b) it is necessary for a district disaster coordinator or a declared disaster officer to exercise declared disaster powers to prevent or minimise any of the following—
 - (i) loss of human life;
 - (ii) illness or injury to humans;
 - (iii) property loss or damage;
 - (iv) damage to the environment.

70 Form and notice of declaration

(1) A declaration of a disaster situation under section 69 must be in the approved form.

(2) The approved form must include provision for—

- (a) the time and date of the declaration; and
- (b) the declared area for the disaster situation.

(3) As soon as practicable after the disaster situation is declared, the Minister must give notice of the declaration by gazette notice.

(4) The gazette notice must include—

- (a) the time and date of the declaration; and
- (b) details of the declared area for the disaster situation.

71 Duration

The disaster situation—

- (a) starts when it is declared under section 69; and

- (b) unless either of the following happens, ends 7 days after the day it is declared—
 - (i) the Minister and the Premier sooner end the disaster situation under section 73(1);
 - (ii) a regulation extends, under section 72, the period of the disaster situation beyond the end of the 7 days.

72 Extending disaster situation

(1) A regulation may extend, or from time to time further extend, the period of the disaster situation.

(2) A regulation made under this section commences on the day it is made whether or not it is gazetted on that day.

(3) A regulation extending the period of the disaster situation expires 14 days after the disaster situation is declared unless it is sooner repealed or it expires under section 73(4).

(4) A regulation further extending the period of the disaster situation—

- (a) must state the period, of not more than 7 days, by which the disaster situation is extended; and
- (b) expires at the end of the stated period unless it is sooner repealed or it expires under section 73(4).

(5) Subsection (2) applies despite the *Statutory Instruments Act 1992*, section 32.

(6) The *Statutory Instruments Act 1992*, part 5 does not apply to a regulation made under this section.

73 Ending disaster situation

(1) As soon as the Minister and the Premier are satisfied it is no longer necessary for a district disaster coordinator or a declared disaster officer to exercise declared disaster powers for the disaster situation, the Minister and the Premier must end the disaster situation.

(2) If the Minister and the Premier end the disaster situation under subsection (1)—

- (a) the Minister must—

- (i) make a written record of the time and date the disaster situation ended; and
 - (ii) immediately inform the chairperson of the State group of the ending of the disaster situation; and
- (b) the chairperson of the State group must, immediately after being informed under paragraph (a)(ii), inform the relevant district disaster coordinators and the declared disaster officers exercising declared disaster powers for the disaster situation of the ending of the disaster situation.

(3) Also, the Minister must as soon as practicable give notice of the ending of the disaster situation, and when it ended, by gazette notice.

(4) A regulation extending or further extending a disaster situation expires when the disaster situation ends under this section.

Division 2—Authorising persons, and powers, for disaster situations

Subdivision 1—Preliminary

74 Application of div 2

This division applies if a disaster situation is declared.

Subdivision 2—Authorising persons to exercise declared disaster powers

75 Authorisation for disaster situation

(1) The chairperson of the State group, or a relevant district disaster coordinator for the disaster situation, may authorise any of the following persons to exercise declared disaster powers for the disaster situation—

- (a) an ambulance officer;
- (b) a fire officer;
- (c) a health officer;
- (d) a person who is a member of a class of persons the chairperson or relevant district disaster coordinator is satisfied has the necessary expertise or experience to exercise the powers.

(2) Also, a police officer may exercise declared disaster powers for the disaster situation.

(3) An authorisation under subsection (1)—

- (a) may be general or limited to a particular, or a particular class of, ambulance officer, fire officer, health officer or other person; and
- (b) may be given on conditions; and
- (c) may be given orally or in writing but if given orally must be put in writing as soon as reasonably practicable.

(4) A failure to put an authorisation in writing under subsection (3)(c) does not invalidate the authorisation or anything done under the authorisation.

Note—

For a disaster situation, a police officer and a person authorised under subsection (1) to exercise declared disaster powers for the disaster situation are declared disaster officers for the disaster situation.

Subdivision 3—Powers of district disaster coordinators and declared disaster officers

76 General provision about powers

(1) A relevant district disaster coordinator, or a declared disaster officer, for the disaster situation has the powers given under this subdivision.

(2) However, a relevant district disaster coordinator or a declared disaster officer may exercise a power only—

- (a) during the period of the disaster situation; and
- (b) to do any of the following—
 - (i) ensure public safety or public order;
 - (ii) prevent or minimise loss of human life, or illness or injury to humans or animals;
 - (iii) prevent or minimise property loss or damage, or damage to the environment.

(3) Also, a declared disaster officer may exercise a power only subject to the conditions, if any, on which the person is authorised.

(4) In addition—

- (a) if a declared disaster officer is a non-government ambulance officer, the officer is subject to the directions of a government ambulance officer; and
- (b) if a declared disaster officer is a non-government fire officer, the officer is subject to the directions of a government fire officer; and
- (c) if a declared disaster officer is a non-government health officer, the officer is subject to the directions of a government doctor.

77 General powers

(1) A relevant district disaster coordinator or a declared disaster officer may do all of the following—

- (a) control the movement of persons, animals or vehicles within, into, out of or around the declared area for the disaster situation;
- (b) give a direction to a person to regulate the movement of the person, an animal or a vehicle within, into, out of or around the declared area;
- (c) evacuate persons or animals from the declared area or a part of the area;
- (d) enter a place in the declared area;
- (e) take into a place in the declared area the equipment, persons or materials the officer reasonably requires for exercising a power under this subdivision;
- (f) contain an animal or substance within the declared area;
- (g) remove or destroy an animal, vegetation or substance within the declared area;
- (h) remove, dismantle, demolish or destroy a vehicle, or a building or other structure, in the declared area;
- (i) use, close off or block a facility for drainage;
- (j) shut off or disconnect a supply of fuel, gas, electricity or water, and take and use the fuel, gas, electricity or water;
- (k) turn off, disconnect or shut down any motor or equipment;
- (l) open a container or other thing, or dismantle equipment;

- (m) excavate land or form tunnels;
- (n) build earthworks or temporary structures, or erect barriers;
- (o) close to traffic any road;
- (p) maintain, restore, or prevent destruction of, essential services;
- (q) require a person to give the relevant district disaster coordinator or declared disaster officer reasonable help to exercise the coordinator's or officer's powers under this subdivision.

(2) However, a declared disaster officer may exercise a power under subsection (1)(h) in relation to a building or other structure only with the written approval of a relevant district disaster coordinator.

(3) A relevant district disaster coordinator or a declared disaster officer may enter a place in the declared area without a warrant or the consent of the occupier of the place.

(4) Also, a relevant district disaster coordinator or a declared disaster officer may exercise a power under this subdivision with the help, and using the force, that is reasonable in the circumstances.

(5) When giving a direction or making a requirement mentioned in subsection (1)(b) or (q), a relevant district disaster coordinator or a declared disaster officer must warn the person it is an offence to fail to comply with the direction or requirement unless the person has a reasonable excuse.⁶

(6) In this section—

“**road**” means a road under the *Transport Operations (Road Use Management) Act 1995*.

78 Power to give direction about property

(1) A relevant district disaster coordinator or a declared disaster officer may direct the owner of any property, by notice in the approved form given to the owner, to put the property under the control, or at the disposal, of a person stated in the notice.

(2) However, if the property is residential premises or business premises, a declared disaster officer may give a person a direction under

⁶ For offences about failing to comply with a direction or requirement under section 77(1)(b) or (q), see sections 116 (Failure to comply with direction) and 117 (Failure to help particular persons).

subsection (1) only with the written approval of a relevant district disaster coordinator.

(3) When giving a direction under subsection (1), a relevant district disaster coordinator or a declared disaster officer must warn the person it is an offence to fail to comply with the direction unless the person has a reasonable excuse.⁷

79 Requirements for direction about property

(1) The approved form under section 78(1) must include provision for the following—

- (a) information about the nature of the disaster situation;
- (b) identifying the property to which the direction relates;
- (c) information about—
 - (i) the purpose for which the property is to be used; and
 - (ii) applying for compensation under this Act in relation to any loss or damage incurred because of the use of the property.

(2) The approved form must state—

- (a) the provision of this Act under which the direction is given; and
- (b) that the person to whom the direction is given must comply with the direction.

PART 5—FUNCTIONS OF LOCAL GOVERNMENTS

80 Functions of local government

(1) The functions of a local government under this Act are as follows—

- (a) to ensure it has a disaster response capability;
- (b) to approve its local disaster management plan prepared under part 3;

⁷ For the offence of failing to comply with a direction under section 78(1), see section 116 (Failure to comply with direction).

- (c) to ensure information about an event or a disaster in its area is promptly given to the district disaster coordinator for the disaster district in which its area is situated;
- (d) to perform other functions given to the local government under this Act.

(2) In this section—

“**disaster response capability**”, for a local government, means the ability to provide equipment and a suitable number of persons, using the resources available to the local government, to effectively deal with, or help another entity to deal with, an emergency situation or a disaster in the local government’s area.

PART 6—STATE EMERGENCY SERVICE

Division 1—Establishment and functions

81 Establishment of SES

The State Emergency Service (the “**SES**”) is established.

82 Functions

The functions of the SES are as follows—

- (a) to perform rescue or similar operations in an emergency situation;
- (b) to perform search operations in an emergency or similar situation;
- (c) to perform other operations in an emergency situation to—
 - (i) help injured persons; or
 - (ii) protect persons or property from danger or potential danger associated with the emergency;
- (d) to perform other activities to help communities prepare for, respond to and recover from an event or a disaster.

Division 2—Responsibilities of chief executive for the SES**83 Responsibilities of chief executive**

The chief executive is responsible for the following in relation to the SES—

- (a) establishing management and support services for the SES;
- (b) developing policies to help the SES perform its functions effectively and efficiently, including, for example, policies about training for SES members.

Division 3—Membership**84 Membership**

(1) The SES consists of the persons appointed by the chief executive as SES members.

(2) The chief executive may appoint a person as an SES member only if satisfied the person has the appropriate abilities to be an SES member.

85 Local controller of SES unit

(1) The chief executive is to appoint a member of an SES unit as the local controller of the unit.

(2) The member appointed as the local controller of an SES unit is to be nominated by the local government for whose area the unit performs SES functions.

(3) A person may be appointed as a local controller at the same time the person is appointed as an SES member.

86 Function of local controller

The function of a local controller of an SES unit is to maintain the operational effectiveness of the unit by ensuring—

- (a) the unit's members have the necessary skills to competently perform their roles within the unit; and

- (b) the unit's equipment is maintained in an appropriate condition; and
- (c) the unit performs its functions and other activities in a way that is consistent with departmental or local government policies about the performance of the functions and activities.

Division 4—Functions of SES units

87 Functions of SES unit

(1) The functions of an SES unit are the SES functions that the chief executive considers appropriate for the unit.

(2) To decide the functions of an SES unit, the chief executive must have regard to the following—

- (a) the needs of the community in the area of the local government in which the unit will perform the functions;
- (b) whether the members of the unit have the abilities to competently perform the functions;
- (c) the resources available to the unit;
- (d) whether the unit can appropriately maintain the equipment necessary for the unit to perform the functions.

(3) Also, before deciding the functions of an SES unit, the chief executive must consult with the local government for the area in which the unit performs the functions.

88 Notice of functions

The chief executive must, by written notice, inform each SES unit of its functions.

PART 7—EMERGENCY SERVICE UNITS

Division 1—Establishment and functions

89 Establishment of ES units

(1) The chief executive may establish an emergency service unit (an “**ES unit**”) for an area of the State (an “**emergency service area**”) if satisfied—

- (a) the area is in a remote or rural location; and
- (b) the establishment of the unit would help the community in the area to use resources available to it to provide for the effective and efficient performance of the functions mentioned in section 90(1).

(2) Before establishing an ES unit for an area, the chief executive must consult with—

- (a) each local government whose area is completely or partly in the area; and
- (b) other entities the chief executive is satisfied represent the interests of the community in the area.

90 Functions

(1) The functions of an ES unit are any of the following functions the chief executive considers appropriate for the unit—

- (a) an SES function;
- (b) fire fighting or fire prevention.

(2) To decide the functions of an ES unit, the chief executive must have regard to the following—

- (a) the needs of the community in the emergency service area for the unit;
- (b) whether the members of the unit have the abilities to competently perform the functions;
- (c) the resources available to the unit;
- (d) whether the unit can appropriately maintain the equipment necessary for the unit to perform the functions.

(3) Also, before deciding the functions of an ES unit, the chief executive must consult with the each local government whose area is completely or partly in the emergency service area in which the unit performs its functions.

91 Notice of functions

The chief executive must, by written notice, inform each ES unit of its functions.

Division 2—Responsibilities of chief executive for ES units

92 Responsibilities of chief executive

The chief executive is responsible for the following in relation to an ES unit—

- (a) establishing management and support services for the unit;
- (b) developing policies to help the unit perform its functions effectively and efficiently, including, for example, policies about training for members of the unit.

Division 3—Membership

93 Membership

(1) An ES unit consists of the persons appointed by the chief executive as members of the unit.

(2) The chief executive may appoint any of the following persons as a member—

- (a) an SES member;
- (b) an honorary ambulance officer under the *Ambulance Service Act 1991*;
- (c) a member of a group registered as a rural fire brigade under the Fire Act, section 79;⁸

8 The Fire Act, section 79 (Formation of rural fire brigade)

- (d) another person the chief executive is satisfied has the abilities to be an ESU member.

94 ES unit coordinator

(1) The chief executive is to appoint a member of an ES unit as the ES unit coordinator of the unit.

(2) The member appointed as an ES unit coordinator is to be nominated by the local government for whose area the unit performs its functions.

(3) A person may be appointed as an ES unit coordinator at the same time the person is appointed as an ESU member.

95 Function of ES unit coordinator

The function of an ES unit coordinator of an ES unit is to maintain the operational effectiveness of the unit by ensuring—

- (a) the unit's members have the necessary skills to competently perform their roles within the unit; and
- (b) the unit's equipment is maintained in an appropriate condition; and
- (c) the unit performs its functions and other activities in a way that is consistent with departmental or local government policies about the performance of the functions and activities.

Division 4—Matters about ES units with function of fire fighting or fire prevention

96 Application of div 4

This division applies to an ES unit that, under section 90(1), has the function of fire fighting or fire prevention.

97 Appointment of fire coordinator

(1) The chief executive is to appoint a member of the unit as the fire coordinator for the unit.

(2) The chief executive may appoint a person as the fire coordinator only if satisfied the person has the necessary expertise or experience to exercise the powers of the fire coordinator.

98 Powers of fire coordinator

(1) This section applies to a person appointed under section 97(1) as a fire coordinator for an ES unit.

(2) Subject to subsections (3) and (4), the person has, for controlling and extinguishing a fire in the unit's emergency service area, the powers of an authorised fire officer under the Fire Act.

(3) The commissioner of the Queensland Fire and Rescue Service under the Fire Act may impose conditions on the exercise of the powers by the person by written notice given to the person.

(4) The person may exercise the powers only subject to the conditions.

99 Particular ESU members subject to direction

(1) This section applies if an ES unit is assisting in operations under the Fire Act for controlling or extinguishing a fire.

(2) The members of the unit who are assisting in the operations are subject to the direction of the person who, under the Fire Act, is in charge of the operations.

PART 8—AUTHORISED RESCUE OFFICERS

Division 1—Appointment

100 Appointment

The chief executive may appoint a person as an authorised rescue officer if—

- (a) the person is—
 - (i) an SES member or an ESU member who is a member of an SES unit or an ES unit that the chief executive considers has

the necessary equipment to perform rescue or similar operations; or

- (ii) a person who performs emergency related functions or similar functions under a law of another State or country; or
 - (iii) a member of a class of persons prescribed under a regulation; and
- (b) the chief executive is satisfied the person has the necessary expertise or experience to be an authorised rescue officer.

101 Appointment conditions and limit on powers

(1) An authorised rescue officer holds office on any conditions stated in—

- (a) the officer’s instrument of appointment; or
- (b) a signed notice given to the officer; or
- (c) a regulation.

(2) The instrument of appointment, a signed notice given to the officer or a regulation may limit the officer’s powers under this Act.

(3) In this section—

“**signed notice**” means a notice signed by the chief executive.

102 Issue of identity card

(1) The chief executive must issue an identity card to each authorised rescue officer.

(2) The identity card must—

- (a) contain a recent photo of the officer; and
- (b) contain a copy of the officer’s signature; and
- (c) identify the person as an authorised rescue officer under this Act; and
- (d) state an expiry date for the card.

103 Production or display of identity card

(1) In exercising a power under this Act in relation to a person, an authorised rescue officer must—

- (a) produce the officer's identity card for the person's inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, subsection (1) does not apply if, having regard to the circumstances in which the power is exercised, it is not practicable for the authorised rescue officer to comply with the subsection.

104 When authorised rescue officer stops holding office

(1) An authorised rescue officer stops holding office if any of the following happens—

- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the officer stops holding office;
- (c) the officer's resignation under section 105 takes effect.

(2) Subsection (1) does not limit the ways an authorised rescue officer may stop holding office.

(3) In this section—

“condition of office” means a condition on which the officer holds office.

105 Resignation

An authorised rescue officer may resign by signed notice given to the chief executive.

106 Return of identity card

A person who stops being an authorised rescue officer must return the person's identity card to the chief executive within 21 days after the person stops being an authorised rescue officer unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

Division 2—Powers of authorised rescue officers

107 General provision about powers

(1) For the purpose of performing an emergency related function, an authorised rescue officer may take reasonable steps to protect—

- (a) a person who is trapped, or endangered in another way, in a place; or
- (b) the officer or another person from danger, potential danger or assault.

(2) If it is reasonable in the circumstances, the authorised officer may do all of the following for the purpose of giving the protection mentioned in subsection (1)—

- (a) enter a place using reasonable force;
- (b) search any part of a place;
- (c) open, using reasonable force, a container or other thing;
- (d) remove any thing from a place;
- (e) destroy or damage premises, a vehicle, container or other thing;
- (f) take into or onto a place the equipment, persons or materials the authorised rescue officer reasonably requires to exercise a power under this section;
- (g) direct a person to leave, or not to enter, an area in or near a place if the authorised rescue officer reasonably considers the direction is necessary to protect a person's life or health;
- (h) require a person at or near the place to give the authorised rescue officer reasonable help to exercise the officer's powers under paragraphs (a) to (f).

(3) When giving a direction or making a requirement mentioned in subsection (2)(g) or (h), the authorised rescue officer must warn the person it is an offence to fail to comply with the direction or requirement unless the person has a reasonable excuse.⁹

⁹ For offences about failing to comply with a direction or requirement under section 107(2)(g) or (h), see sections 116 (Failure to comply with direction) and 117 (Failure to help particular persons).

108 Provision about power of entry

(1) An authorised rescue officer may enter a place under section 107(2) without a warrant or the consent of the owner or occupier of the place.

(2) However, if the occupier is present at the place, before entering the place, the authorised rescue officer must do, or make a reasonable attempt to do, the following things—

- (a) tell the occupier the purpose of the entry;
- (b) seek the consent of the occupier to the entry;
- (c) tell the occupier the authorised rescue officer is permitted under this Act to enter the place without the occupier's consent.

(3) Subsection (2) does not require the authorised rescue officer to take a step that the officer reasonably believes may frustrate or otherwise hinder the officer's ability to give the protection mentioned in section 107(1).

109 Exercise of powers subject to direction

(1) This section applies to an authorised rescue officer who is not an SES member or an ESU member.

(2) In exercising a power under this division, the officer is subject to the directions of an authorised rescue officer who is an SES member or an ESU member.

PART 9—AUTHORISING PERSONS TO EXERCISE RESCUE POWERS IN PARTICULAR CIRCUMSTANCES*Division 1—Authorising persons to exercise rescue powers***110 Authorising persons to exercise rescue powers**

(1) This section applies if the chairperson of the State group or a district disaster coordinator is satisfied on reasonable grounds it is necessary to act as mentioned in subsection (2) to ensure the following are carried out effectively—

- (a) rescue or similar operations in an emergency situation;

(b) other operations in an emergency situation to—

- (i) help injured persons; or
- (ii) protect persons or property from danger or potential danger associated with the emergency situation.

(2) The chairperson or district disaster coordinator may authorise a person to exercise rescue powers in relation to the emergency situation if satisfied the person has the necessary expertise or experience to exercise the rescue powers.

(3) An authorisation under subsection (2)—

- (a) may be given on conditions; and
- (b) may be given orally or in writing but if given orally must be put in writing as soon as reasonably practicable.

(4) A failure to put an authorisation in writing under subsection (3)(b) does not invalidate the authorisation or anything done under the authorisation.

(5) A person authorised by the chairperson or district disaster coordinator under subsection (2) may exercise the rescue powers only—

- (a) under the authorisation; and
- (b) subject to the directions of the chairperson or district disaster coordinator.

Division 2—Powers of persons authorised under division 1

111 Power to enter places

(1) A person authorised under section 110(2) may enter a place if the person is satisfied on reasonable grounds it is necessary to enter the place to avoid an imminent risk of death or injury of a person.

(2) The person may enter the place, using reasonable force, without a warrant or the consent of the owner or occupier of the place.

(3) However, if the occupier is present at the place, before entering the place, the person must do, or make a reasonable attempt to do, the following things—

- (a) tell the occupier the purpose of the entry;

- (b) seek the consent of the occupier to the entry;
- (c) tell the occupier the person is permitted under this Act to enter the place without the occupier's consent.

(4) Subsection (3) does not require the person to take a step that the person reasonably believes may frustrate or otherwise hinder the person's ability to protect a person's life or health.

112 General powers

(1) This section applies if, under section 111(1), a person enters a place.

(2) The person may take reasonable steps to avoid the imminent risk of death or injury of a person.

(3) If it is reasonable in the circumstances, the person may do all of the following having regard to the purpose of the entry—

- (a) search any part of the place;
- (b) open, using reasonable force, a container or other thing at the place;
- (c) remove any thing from the place;
- (d) destroy or damage premises, a vehicle, container or other thing;
- (e) take into or onto the place the equipment, persons or materials the person reasonably requires to exercise a power under this section;
- (f) direct another person to leave, or not to enter, an area in or near the place if the person considers the direction is necessary to protect a person's life or health;
- (g) require someone at or near the place, to give the person reasonable help to exercise the person's powers under paragraphs (a) to (e).

(4) When giving a direction or making a requirement mentioned in subsection (3)(f) or (g), the person must warn the other person it is an offence to fail to comply with the direction or requirement unless the other person has a reasonable excuse.¹⁰

¹⁰ For offences about failing to comply with a direction or requirement under section 112(3)(f) or (g), see sections 116 (Failure to comply with direction) and 117 (Failure to help particular persons).

PART 10—OFFENCE PROVISIONS

Division 1—Preliminary

113 Definition for pt 10

In this part—

“**authorised person**” means any of the following—

- (a) a district disaster coordinator;
- (b) a declared disaster officer;
- (c) an authorised rescue officer;
- (d) a person authorised under section 110(2);
- (e) an SES member;
- (f) an ESU member.

Division 2—Offences

114 Impersonation of authorised person

A person must not pretend to be an authorised person.

Maximum penalty—100 penalty units.

115 Obstruction of authorised person

(1) A person must not obstruct an authorised person in the exercise of a power unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If a person has obstructed an authorised person and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—

- (a) it is an offence to obstruct the authorised person unless the person has a reasonable excuse; and
- (b) the authorised person considers the person’s conduct an obstruction.

(3) In this section—

“obstruct” includes assault, hinder, resist and attempt or threaten to obstruct.

116 Failure to comply with direction

A person given a direction under any of the following provisions must comply with the direction unless the person has a reasonable excuse—

- (a) section 77(1)(b);
- (b) section 78(1);
- (c) section 107(2)(g);
- (d) section 112(3)(f).

Maximum penalty—100 penalty units.

117 Failure to help particular persons

A person required to give reasonable help under any of the following provisions must comply with the requirement unless the person has a reasonable excuse—

- (a) section 77(1)(q);
- (b) section 107(2)(h);
- (c) section 112(3)(g).

Maximum penalty—100 penalty units.

118 Using names etc.

(1) A person who is not an SES member must not, without the chief executive’s written approval, use the words ‘State Emergency Service’ or ‘SES’ if the context in which the words are used suggests the person is an SES member.

Maximum penalty—40 penalty units.

(2) A person who is not an ESU member must not, without the chief executive’s written approval, use the words ‘emergency service unit’, ‘ES unit’ or ‘ESU’ if the context in which the words are used suggests the person is an ESU member.

Maximum penalty—40 penalty units.

(3) A person must not, without the chief executive's written approval, use the words 'State Emergency Service' or 'SES' to advertise or otherwise promote goods or services provided by the person.

Maximum penalty—40 penalty units.

(4) A person must not, without the chief executive's written approval, use the words 'emergency service unit', 'ES unit' or 'ESU' to advertise or otherwise promote goods or services provided by the person.

Maximum penalty—40 penalty units.

PART 11—PROVISIONS ABOUT COMPENSATION AND POLICIES OF INSURANCE

Division 1—Compensation

Subdivision 1—Preliminary

119 Entitlement to compensation

Subject to this division, a person who suffers loss or damage because of the exercise, or purported exercise, of a power under section 77, 78, 98, 107, 111 or 112 is entitled to be paid just and reasonable compensation for the loss or damage.

120 When compensation is not payable

(1) Compensation is not payable to the person for loss or damage to the extent that—

- (a) an amount for the loss or damage is recovered or recoverable by the person under a policy of insurance; or
- (b) the conduct of the person contributed to the loss or damage.

(2) Also, compensation is not payable to the person for loss or damage if the loss or damage would have happened in any event irrespective of the exercise, or purported exercise, of the power.

Subdivision 2—Application and decision about compensation**121 Applying for compensation**

(1) A person who suffers loss or damage because of the exercise, or purported exercise, of a power under section 77, 78, 98, 107, 111 or 112 may apply to the chief executive for compensation for the loss or damage.

(2) The application must be made in writing within 90 days after the person suffers the loss or damage.

(3) The application must state—

- (a) details of the person's loss or damage; and
- (b) the amount of compensation claimed and the grounds for the amount claimed.

(4) The applicant also must provide any other relevant information reasonably required by the chief executive to decide the application.

(5) Despite subsection (2), the chief executive may accept a person's application for compensation made more than 90 days after the person suffers the loss or damage if the chief executive is satisfied it would be reasonable in all the circumstances to accept the application.

122 Lapsing of application

(1) If an application for compensation is made under this division, the chief executive may make a requirement under section 121(4) for information to decide the application by giving the applicant a notice stating—

- (a) the required information; and
- (b) the time by which the information must be given to the chief executive; and
- (c) that, if the information is not given to the chief executive by the stated time, the application will lapse.

(2) The stated time must be reasonable and, in any case, at least 21 days after the requirement is made.

(3) The chief executive may give the applicant a further notice extending or further extending the time if the chief executive is satisfied it would be reasonable in all the circumstances to give the extension.

(4) A notice may be given under subsection (3) even if the time to which it relates has lapsed.

(5) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.

123 Deciding application

(1) The chief executive must consider and decide an accepted application within 60 days after the last of the following to happen—

- (a) the chief executive receives the application;
- (b) the chief executive receives all necessary information to decide the application.

(2) If the chief executive has not decided an accepted application within the period stated in subsection (1) for the application, the chief executive is taken to have refused to pay compensation.

(3) In this section—

“accepted application” means an application made under section 121(2) or an application the chief executive accepts under section 121(5).

124 Notice about decision

As soon as practicable after deciding the application, the chief executive must give the applicant a written notice stating all of the following—

- (a) the decision and the reasons for it;
- (b) if the chief executive decides to pay compensation—
 - (i) details of the amount and how the amount was assessed; and
 - (ii) if the amount is less than the amount claimed—that the applicant may appeal against the decision, and how the applicant may appeal;
- (c) if the chief executive decides not to pay compensation—that the applicant may appeal against the decision, and how the applicant may appeal.

Subdivision 3—Appeals

125 Who may appeal

An applicant for the payment of compensation under this division who is dissatisfied with the chief executive's decision to refuse to pay compensation or about the amount of compensation may appeal against the decision.

126 Starting an appeal

(1) An appeal may be started at—

- (a) the Magistrates Court nearest the place where the person lives or carries on business; or
- (b) a Magistrates Court at Brisbane.

(2) The notice of appeal under the *Uniform Civil Procedure Rules 1999* must be filed with the registrar of the court within 28 days after—

- (a) if the person is given notice of the decision under section 124—the day the person is given the notice; or
- (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.

(3) The court may, at any time, extend the time for filing the notice of appeal.

127 Hearing procedures

(1) In hearing the appeal, the court is not bound by the rules of evidence and must comply with natural justice.

(2) The appeal is by way of rehearing, unaffected by the chief executive's decision, on the material before the chief executive and any further evidence allowed by the court.

128 Powers of court on appeal

(1) In deciding the appeal, the court may confirm the chief executive's decision or substitute another decision the chief executive could have made for the chief executive's decision.

(2) The chief executive must give effect to the court's decision.

129 Appeal to District Court

An appeal lies to the District Court from a decision of a Magistrates Court under section 128, but only on a question of law.

Division 2—Policies of insurance**130 Extension of policy of insurance**

(1) This section applies to a policy of insurance for damage to property if—

- (a) damage is caused to the property because of the exercise of a power, or performance of a function, under this Act by a person, honestly and without negligence, in relation to a disaster or an emergency situation; and
- (b) the exercise of the power, or performance of the function, happens for the purpose of protecting—
 - (i) the property from damage; or
 - (ii) a person or an animal from death or injury.

(2) For the purposes of the policy of insurance, the damage is, by the operation of this section, taken to be damage caused by the happening of the event for which the policy provides insurance cover.

(3) A term of a policy of insurance that purports to vary or exclude the operation of subsection (2) is void.

PART 12—LEGAL PROCEEDINGS

Division 1—Evidence

131 Application of div 1

This division applies to a proceeding under this Act.

132 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of—
 - (i) the chairperson of the State group; or
 - (ii) a district disaster coordinator; or
 - (iii) an authorised rescue officer;
- (b) the authorisation, under section 75(1), of a person to exercise declared disaster powers;
- (c) the authorisation, under section 110(2), of a person to exercise rescue powers;
- (d) the authority of a person mentioned in paragraph (a), (b) or (c) to do anything under this Act.

133 Signatures

A signature purporting to be the signature of the chief executive, the chairperson of the State group, a district disaster coordinator or a declared disaster officer is evidence of the signature it purports to be.

134 Other evidentiary aids

A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—

- (a) a stated document is a thing as follows given, issued, kept or made under this Act—
 - (i) an appointment, authorisation, approval or decision;

- (ii) a direction, notice or requirement;
- (b) a stated document is a copy of a document mentioned in paragraph (a);
- (c) on a stated day and at a stated time a disaster situation started;
- (d) on a stated day and at a stated time a disaster situation ended;
- (e) on a stated day, or during a stated period, any of the following was, or was not, in force for a stated person—
 - (i) an authorisation for the person to exercise declared disaster powers;
 - (ii) an authorisation for the person to exercise rescue powers;
 - (iii) an appointment as an authorised rescue officer;
- (f) on a stated day, a stated person was given a stated notice or direction under this Act;
- (g) on a stated day a stated requirement was made of a stated person.

Division 2—Offence proceedings

135 Summary proceedings for offence

(1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.

(2) The proceeding must start within the later of the following periods to end—

- (a) 1 year after the commission of the offence;
- (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

136 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

PART 13—MISCELLANEOUS

Division 1—Codes of practice for SES units and ES units

137 Making code of practice

(1) The chief executive may make codes of practice to provide guidance to SES members or ESU members about the following—

- (a) the operation of SES units or ES units, including, for example, performance appraisals for local controllers of an SES unit;
- (b) appropriate conduct or practice for SES members or ESU members;
- (c) other matters the chief executive considers appropriate for the effective performance of the functions of the units.

(2) The chief executive may review a code of practice when the chief executive considers it appropriate.

(3) A code of practice is a statutory instrument within the meaning of the *Statutory Instruments Act 1992*.

138 Availability of code of practice

(1) If the chief executive makes a code of practice under section 137(1), the chief executive must as soon as practicable give a copy of the code to—

- (a) for a code relating to SES members—each SES unit; and
- (b) for a code relating to ESU members—each ES unit.

(2) If the chief executive amends a code of practice, the chief executive must give a copy of the amendment, or the amended code of practice, to—

- (a) for a code relating to SES members—each SES unit; and
- (b) for a code relating to ESU members—each ES unit.

(3) Also, the chief executive must keep a copy of each code of practice, as in force from time to time, available for inspection, free of charge, by members of the public at—

- (a) the department's head office; and
- (b) other places the chief executive considers appropriate.

(4) A code of practice may be made available in written or electronic form.

Division 2—Other matters

139 Warning device or lights on SES or ES vehicle

(1) This section applies to an SES vehicle or an ES vehicle if a warning device or warning lights are fitted to the vehicle.

(2) A person, other than an SES member or an ESU member, must not activate the warning device or warning lights.

Maximum penalty—40 penalty units.

(3) An SES member or an ESU member must not activate the warning device or warning lights unless—

- (a) the warning device or warning lights are activated by the member in relation to the performance of an SES function or an ESU function; and
- (b) the SES member or ESU member considers it necessary to activate the warning device or warning lights to ensure a person's safety.

Maximum penalty—40 penalty units.

140 Exemption from toll

(1) This section applies if—

- (a) an SES member or an ESU member is travelling in an SES vehicle or an ES vehicle in the member's capacity as an SES member or an ESU member; and
- (b) the vehicle is fitted with a warning device or warning lights that are activated.

(2) The vehicle is exempt from payment of a toll for the use of a road, bridge or ferry.

141 Protection of employment rights of SES and ESU members

The *Industrial Relations Act 1999*, section 73,¹¹ states when the dismissal of an employee, who is an SES member or an ESU member, for temporary absence from work for the purpose of performing an SES function or an ESU function in an emergency situation is unfair under that Act.

142 Chief executive to insure particular persons

(1) The chief executive must enter into a contract of insurance with WorkCover or another entity to insure—

- (a) SES members and ESU members; and
- (b) persons required to give reasonable help under section 77(1)(q), 107(2)(h) or 112(3)(g).

(2) The contract of insurance must—

- (a) cover the SES and ESU members while they are—
 - (i) performing a function under this Act in their capacity as an SES member or an ESU member; or
 - (ii) involved in another activity related to the carrying out of disaster operations, an SES function or an ESU function, including, for example, training for disaster operations; and
- (b) cover the persons mentioned in subsection (1)(b) while they are giving the reasonable help.

(3) In this section—

“**WorkCover**” means WorkCover Queensland established under the *Workers’ Compensation and Rehabilitation Act 2003*.

143 Delegations

(1) The Minister may delegate the Minister’s powers under this Act, other than a power under section 45(1), 64(1), 68(1), 69 or 73(1),¹² to the chief executive or an appropriately qualified officer of the department.

11 *Industrial Relations Act 1999*, section 73 (When is a dismissal unfair)

12 Section 45 (Minister may give directions), 64 (Declaration), 68 (Ending disaster situation), 69 (Declaration) or 73 (Ending disaster situation)

(2) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified officer of the department.

(3) The chairperson of the State group may delegate the chairperson's powers under this Act, other than a power under section 9,¹³ to an appropriately qualified other member of the group.

(4) The chairperson of the State group may delegate the chairperson's powers under section 9 to the commissioner of the police service.

Note—

Under section 9, the chairperson of the State group may give directions about the circumstances in which a person may exercise powers under another Act.

(5) The district disaster coordinator of a district group may delegate the district disaster coordinator's powers under this Act, other than a power under section 9, 64, 75, 77, 78 or 110 to an appropriately qualified other member of the group.

Note—

The powers under sections 77 and 78 are declared disaster powers.

(6) In this section—

“appropriately qualified” includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the public service

144 Protection from liability

(1) Other than as provided for under part 11, civil liability does not attach to the State, a Minister, a local government or an official because of anything done or omitted to be done under this Act in good faith without reckless disregard for the possible occurrence of the personal injury or loss or damage to property from which liability would arise, if this section did not apply.

(2) This section does not stop a person further limiting the person's liability for an act or omission by relying on a provision of the *Civil Liability Act 2003*.

13 Section 9 (Directions about powers under other Acts during disaster situation)

(3) In this section—

“official” means all of the following—

- (a) a member of the State group, a district group or a local group;
- (b) a declared disaster officer;
- (c) an authorised rescue officer;
- (d) a person authorised under this Act to exercise rescue powers;
- (e) a person required to give reasonable help under section 77(1)(q), 107(2)(h) or 112(3)(g);
- (f) an SES member or an ESU member.

145 Appointments

An appointment provided for by this Act is to be made under this Act and not under the *Public Service Act 1996*.

146 Arrangements for identification

The chief executive may make arrangements in relation to the identification of persons exercising powers under section 77, 78, 98, 111 or 112.

147 Approval of forms

The chief executive may approve forms for use under this Act.

148 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be about—

- (a) dividing the State into disaster districts for the purpose of disaster management; or
- (b) imposing a penalty of no more than 20 penalty units for contravention of a regulation.

- (3) A regulation under subsection (2)(a) must—
- (a) name the disaster districts; and
 - (b) identify the area of the disaster districts.

PART 14—REPEAL AND TRANSITIONAL PROVISIONS

Division 1—Repeal

149 Repeal of State Counter-Disaster Organisation Act 1975

The State Counter-Disaster Organisation Act 1975 No. 40 is repealed.

Division 2—Transitional provisions

Subdivision 1—Preliminary

150 Definitions for div 2

In this division—

“central control group” means the central control group established under the repealed Act, section 12(1).¹⁴

“commencement” means the day this section commences.

“disaster district coordinator” means a disaster district coordinator appointed under the repealed Act.

“former control group” means a disaster district control group established under the repealed Act, section 21(1).¹⁵

“former SES” means the State Emergency Service established under the repealed Act, section 13(1).¹⁶

14 The repealed Act, section 12 (Central control group)

15 The repealed Act, section 21 (Disaster district control groups)

16 The repealed Act, section 13 (State Emergency Service)

Subdivision 2—Transitional references**151 References to repealed Act**

A reference in an Act or other document to the repealed Act may, if the context permits, be taken as a reference to this Act.

152 References to former SES

A reference in an Act or other document to the former SES may, if the context permits, be taken as a reference to the SES.

Subdivision 3—Other transitional provisions**153 Members of central control group**

(1) This section applies to a person, other than the chief executive, who was a member of the central control group immediately before the commencement.

(2) On the commencement, the person is taken to be appointed as a member of the State group under section 19(2).

154 Chairperson of central control group

(1) This section applies to the person who, immediately before the commencement, was the chairperson of the central control group.

(2) On the commencement, the person is taken to be appointed as the chairperson of the State group under section 20(1)(a).

155 Executive officer of central control group

(1) This section applies to the person who, immediately before the commencement, was the executive officer of the central control group.

(2) On the commencement, the person is taken to be the executive officer of the State group.

156 Members of former SES

(1) This section applies to a person who, immediately before the commencement, was a member of the former SES.

(2) On the commencement, the person is taken to be appointed under section 84 as an SES member.

157 Authorised officers under the repealed Act

(1) This section applies to a person who, immediately before the commencement, was an authorised officer under the repealed Act.

(2) On the commencement, the person is taken to be appointed under section 100 as an authorised rescue officer.

158 Former disaster districts

(1) Subsection (2) applies only until a regulation under this Act first provides for disaster districts.

(2) On the commencement, a former disaster district is taken to be a disaster district under this Act.

(3) In this section—

“former disaster district” means a disaster district constituted under the repealed Act, section 20(1),¹⁷ by gazette notice in force immediately before the commencement.

159 Disaster district coordinators

(1) This section applies to a person who, immediately before the commencement, was the disaster district coordinator for a former control group.

(2) On the commencement, the person is taken to be appointed, under section 25(1)(a), as the district disaster coordinator of the district group that is established for the disaster district in relation to which the person was the disaster district coordinator.

¹⁷ The repealed Act, section 20 (Disaster districts)

160 Other members of former control groups

(1) This section applies to a person, other than a disaster district coordinator, who was a member of a former control group immediately before the commencement.

(2) On the commencement, the person is taken to be appointed, under section 24, as a member of the district group that is established for the disaster district in relation to which the person was a member of the former control group.

161 Particular local governments under the repealed Act

(1) This section applies to a local government that, immediately before the commencement, was united with another local government, under the repealed Act, section 26(2),¹⁸ for the purpose of arranging and carrying out counterdisaster measures.

(2) On the commencement, the local governments are taken to be a combined local government under parts 2 and 3 of this Act.

162 Provision about declaration under the repealed Act

(1) This section applies if a declaration, under the repealed Act, section 23 or 24,¹⁹ that a state of disaster exists is in force immediately before the commencement.

(2) Despite the repeal of the repealed Act—

- (a) the declaration continues in force; and
- (b) the repealed Act continues to apply as if this Act had not commenced.

(3) The declaration continues in force, and the repealed Act continues to apply, until the declaration is revoked by a regulation under this Act or otherwise ends under the repealed Act.

(4) For subsection (2), the *Acts Interpretation Act 1954*, section 20²⁰ applies, but does not limit the subsection.

18 The repealed Act, section 26 (Duties as to counter-disaster measures)

19 The repealed Act, section 23 (Power of disaster district coordinator to declare state of disaster) or 24 (Power of Governor in Council to declare state of disaster)

20 *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.)

163 Compensation for exercise of powers under the repealed Act

(1) This section applies if—

- (a) a declaration under the repealed Act, section 23 or 24, is continued in force under section 162; and
- (b) a person suffers loss or damage to the person's property because of the exercise, or purported exercise, of a power under the repealed Act, section 25(2)(a)(i) or (b)(iii)²¹ in relation to the declaration.

(2) Despite the repealed Act, section 25(4) and (5), the person may apply for compensation for the loss or damage under section 121²² of this Act.

(3) Part 11, division 1, applies to the application as if it were an application for loss or damage because of the exercise, or purported exercise, of a power under section 77(1)(h) or 78(1).

(4) The repealed Act, section 25(4) and (5), does not apply in relation to an application for compensation for the loss or damage.

164 Application for compensation under the repealed Act

(1) This section applies if, immediately before the commencement—

- (a) a person is entitled to apply for compensation under the repealed Act, section 25(4), for loss or damage to the person's property; and
- (b) section 163 of this Act does not apply to the loss or damage.

(2) The person may apply for compensation under the repealed Act as if this Act had not commenced.

165 Local controllers under the repealed Act

(1) This section applies to a person who, immediately before the commencement, was the local controller, under the repealed Act, section 26(5), of a local emergency service under that Act.

(2) On the commencement, the person is taken to be appointed under section 85(1) as the local controller of the SES unit for—

21 The repealed Act, section 25 (Powers upon declaration of state of disaster)

22 Section 121 (Applying for compensation)

- (a) the area of the local government for which the local emergency service was established under the repealed Act; or
- (b) if the local emergency service was established under the repealed Act, section 26(3)—the area of each local government in the combined areas for which the service was established under that Act.

166 Transitional regulation-making power

(1) A regulation (a “**transitional regulation**”) may make provision of a saving or transitional nature for which—

- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the repealed Act to the operation of this Act; and
- (b) this Act does not make provision or sufficient provision.

(2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.

(3) A transitional regulation must declare it is a transitional regulation.

(4) This section and any transitional regulation expire 1 year after the commencement.

PART 15—AMENDMENTS

Division 1—Amendment of Fire and Rescue Service Act 1990

167 Act amended in div 1

This division amends the *Fire and Rescue Service Act 1990*.

168 Amendment of s 35 (Functions of council)

Section 35(2), ‘section 49(a) and (b)’—

omit, insert—

‘section 49’.

169 Replacement of pt 5 (The Rural Fire Council)

Part 5—

omit, insert—

‘PART 5—RURAL FIRE ADVISORY COUNCIL**‘47 Definition for pt 5**

‘In this part—

“**council**” means the Rural Fire Advisory Council.

‘48 Rural Fire Council continued in existence

‘The Rural Fire Council previously established under this Act is continued in existence under the name the Rural Fire Advisory Council.

‘49 Functions of council

‘The council’s function is to advise the Minister about the following matters—

- (a) preparing for, and responding to, fire in rural areas including the operation of rural fire brigades and the fire fighting or fire prevention function of emergency service units;
- (b) fire safety, fire prevention and the reduction of fire danger in rural areas;
- (c) using fire as a means of sustainable land management in rural areas;
- (d) the extent to which the delivery of rural fire services in rural areas—
 - (i) meets community needs; and
 - (ii) contributes to the achievement of the government’s desired outcomes for the community; and
 - (iii) meets community expectations about the use of fire as a means of hazard reduction and sustainable land management; and

- (iv) impacts on the environment;
- (e) other matters referred to it by the Minister.

‘50 Membership of council

‘(1) The council is to consist of not more than 12 members appointed by the Governor in Council by gazette notice.

‘(2) The Minister may nominate a person for membership of the council only if the Minister considers the person is competent to assist the council to perform its function.

‘(3) An appointment starts on the later of the following—

- (a) the day the gazette notice is published;
- (b) the day, if any, stated in the gazette notice.

‘51 Term of appointment

‘A member of the council holds office for the term, not more than 3 years, stated in the member’s instrument of appointment.

‘52 Vacation of office

‘The office of a member of the council becomes vacant if the member—

- (a) resigns office by signed notice given to the Minister; or
- (b) is removed from office as a member under section 52A.

‘52A Removal from office

‘The Governor in Council may remove a member of the council from office if—

- (a) the member has become mentally or physically incapable of performing the member’s duties; or
- (b) the Minister is satisfied the member has neglected the member’s duties or performed the member’s duties incompetently or inefficiently.

‘52B Chairperson of council

‘(1) The Governor in Council is to appoint, by gazette notice, a member of the council as the chairperson of the council.

‘(2) The appointment of a member as chairperson starts on the later of the following—

- (a) the day the gazette notice is published;
- (b) the day, if any, stated in the gazette notice.

‘(3) A person may be appointed as chairperson by the same gazette notice that appoints the person as a member of the council.

‘(4) The chairperson is to preside at all council meetings at which the chairperson is present.

‘(5) If the chairperson is not present at a council meeting, a member chosen by the members present at the meeting is to preside.

‘(6) If appointed as a member of the council, the following are not eligible to be appointed chairperson—

- (a) the commissioner;
- (b) the chief executive;
- (c) a public service officer.

‘52C Quorum

‘A quorum for the council is the number equal to one-half of the number of its members for the time being holding office or, if one-half is not a whole number, the next higher whole number.

‘52D Conduct of business

‘Subject to this part, the council may conduct its business, including its meetings, in the way it considers appropriate.

‘52E Minutes

‘The council must keep minutes of its meetings.

‘52F Remuneration of members

‘A member of the council is entitled to be paid the fees and allowances decided by the Governor in Council.’

170 Insertion of new pt 12, div 4

After section 188—

insert—

‘Division 4—Provision for Disaster Management Act 2003

‘189 Existing council members to remain in office

‘(1) This section applies to a person who, immediately before the commencement of this section, was a member of the Rural Fire Council.

‘(2) On the commencement, the person is taken to be a member of the Rural Fire Advisory Council.

‘(3) The person’s term of appointment ends on the earlier of the following days—

- (a) the day the appointment would have ended under the person’s instrument of appointment if the *Disaster Management Act 2003* had not commenced;
- (b) if the person vacates office other than under paragraph (a), the day of that vacation.’

171 Omission of sch 4 (Matters concerning operation of the rural fire council)

Schedule 4—

omit.

172 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

‘**“council”**, for part 5, see section 47.’

Division 2—Amendment of Industrial Relations Act 1999**173 Act amended in div 2**

This division amends the *Industrial Relations Act 1999*.

174 Amendment of s 73 (When is a dismissal unfair)

Section 73(2)—

insert—

‘(aa) temporary absence from work if—

(i) the absence is—

(A) by an SES member or an ESU member under the *Disaster Management Act 2003* and for the purpose of performing an SES function or an ESU function under that Act in an emergency situation; or

(B) by a member of a rural fire brigade under the *Fire and Rescue Service Act 1990* and for the purpose of performing a function of a rural fire brigade under that Act in an emergency situation; or

(C) by an honorary ambulance officer under the *Ambulance Service Act 1991* and for the purpose of performing a function of an honorary ambulance officer under that Act in an emergency situation; or

(D) by a hazmat advisor under the *Dangerous Goods Safety Management Act 2001* and for the purpose of performing a function of a hazmat advisor under that Act in an emergency situation; and

(ii) having regard to all the circumstances, the period of absence is reasonable;’.

Division 3—Consequential amendments**175 Amendments in sch 1**

Schedule 1 amends the Acts mentioned in it.

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

section 175

ENVIRONMENTAL PROTECTION ACT 1994

- 1 Section 23(2), ‘State Counter-Disaster Organisation Act 1975’—**
omit, insert—
‘Disaster Management Act 2003’.

FIRE AND RESCUE SERVICE ACT 1990

- 1 Section 19(1), after ‘brigade,’—**
insert—
‘a fire coordinator,’
- 2 Section 67(b), after ‘brigade,’—**
insert—
‘a member of an emergency service unit,’.
- 3 Section 68(4), definition “prescribed person”, after ‘brigade,’—**
insert—
‘a fire coordinator,’
- 4 Section 138, heading, ‘brigade’—**
omit.

SCHEDULE 1 (continued)

5 Section 138(a) and (b), after ‘brigade’—

insert—

‘or an emergency service unit’.

6 Section 138—

insert—

‘(2) For subsection (1)(a), training purposes in relation to an emergency service unit only includes training for the purposes of fire fighting or fire prevention.’.

7 Schedule 6—

insert—

‘**“emergency service unit”** means an emergency service unit under the *Disaster Management Act 2003*.

“fire coordinator” means a fire coordinator under the *Disaster Management Act 2003*.’.

POLICE POWERS AND RESPONSIBILITIES ACT 2000**1 Schedule 1, ‘State Counter-Disaster Organisation Act 1975’—**

omit, insert—

‘*Disaster Management Act 2003*’.

SCHEDULE 1 (continued)

PUBLIC SAFETY PRESERVATION ACT 1986**1 Section 6, heading—**

omit, insert—

‘6 Disaster Management Act 2003’.**2 Section 6(1), ‘state of disaster declared pursuant to the *State Counter-Disaster Organisation Act 1975*’—**

omit, insert—

‘disaster situation under the *Disaster Management Act 2003*’.

3 Section 6(2), ‘state of disaster is declared pursuant to the *State Counter-Disaster Organisation Act 1975*’—

omit, insert—

‘disaster situation is declared under the *Disaster Management Act 2003*’.

4 Section 10(2), example, ‘*State Counter-Disaster Organisation Act 1975*’—

omit, insert—

‘*Disaster Management Act 2003*’.

SCHEDULE 1 (continued)

**WORKERS' COMPENSATION AND REHABILITATION
ACT 2003****1 Section 13, heading—**

omit, insert—

'13 Particular persons under Disaster Management Act 2003'.**2 Section 13(1), 'State Counter-Disaster Organisation Act 1975'—**

omit, insert—

'Disaster Management Act 2003'.

3 Section 13(2), from 'cover'—

omit, insert—

'cover—

- (a) a member of the State Emergency Service or an emergency service unit under the *Disaster Management Act 2003*; or
- (b) a person required to give reasonable help under section 77(1)(q), 107(2)(h) or 112(3)(g)²³ of that Act; or
- (c) another person performing a function or exercising a power under that Act.'

4 Section 13(3), 'a counterdisaster operation or an emergency related function'—

omit, insert—

'disaster operations or performing an emergency function'.

²³ *Disaster Management Act 2003*, section 77 (General powers), 107 (General provision about powers) or 112 (General powers)

SCHEDULE 1 (continued)

5 Section 13(3), from ‘training,’—

omit, insert—

‘training.’.

6 Section 13(4)—

omit, insert—

(4) In this section

“disaster operations” see the *Disaster Management Act 2003*, section 15.

“emergency function” means a function of the State Emergency Service or an emergency service unit under the *Disaster Management Act 2003*.’.

SCHEDULE 2

DICTIONARY

section 11

“ambulance officer” means—

- (a) a government ambulance officer; or
- (b) a non-government ambulance officer.

“area”, of a combined local government, means the areas of the local governments that are a part of the combined local government.

“area”, of a local group, means—

- (a) if the local group is established by a local government—the area of the local government; or
- (b) if the local group is established by a combined local government—the area of the combined local government.

“authorised person”, for part 10, see section 113.

“authorised rescue officer” means a person appointed as an authorised rescue officer under section 100.

“central control group”, for part 14, division 2, see section 150.

“chairperson”, of the State group, means the person appointed or acting as the chairperson of the group under section 20.

“combined local government”—

- (a) for part 2—see section 31; and
- (b) for part 3—see section 61.

“commencement”, for part 14, division 2, see section 150.

“declared area” means—

- (a) for a disaster situation declared under section 64(1)—the disaster district, or the part of the disaster district, for which the disaster situation is declared; or
- (b) for a disaster situation declared under section 69—the State or, if the disaster situation is declared for a part of the State, the part.

SCHEDULE 2 (continued)

“declared disaster officer”, for a disaster situation, means—

- (a) a police officer; or
- (b) a person authorised under section 75(1) to exercise declared disaster powers for the disaster situation.

“declared disaster powers” means the powers of a district disaster coordinator or a declared disaster officer under sections 77 and 78.

“disaster” see section 13.

“disaster district” means a part of the State prescribed under a regulation as a disaster district.

“disaster district coordinator”, for part 14, division 2, see section 150.

“disaster management” see section 14.

“disaster management group” means the State group, a district group or a local group.

“disaster management guidelines” means the guidelines prepared by the chief executive under section 63(1).

“disaster management plan” means a plan prepared under part 3.

“disaster operations” see section 15.

“disaster situation” means a disaster situation declared under section 64(1) or 69.

“district disaster coordinator” means a person appointed as a district disaster coordinator under section 25.

“district disaster management plan” see section 53(1).

“district group” see section 22.

“emergency related function” means a function of a type mentioned in section 82(a), (b) or (c) for the SES.

“emergency service area” see section 89(1).

“emergency service unit” means an emergency service unit established under section 89(1).

“ESU function” means a function of an ES unit under section 90(1).

“ESU member” means a member of an ES unit.

“ES unit” see section 89(1).

SCHEDULE 2 (continued)

“ES unit coordinator” means a person appointed as an ES unit coordinator under section 94(1).

“ES vehicle” means a vehicle of an ES unit.

“event” see section 16.

“executive officer”, of the State group, means the person who is the executive officer of the group under section 19(3).

“Fire Act” means the *Fire and Rescue Service Act 1990*.

“fire coordinator”, for an ES unit, means the person appointed as the fire coordinator of the unit under section 97(1).

“fire officer” means—

- (a) a government fire officer; or
- (b) a non-government fire officer.

“fire prevention” includes taking measures in readiness for fire to reduce potential danger to persons, property or the environment.

“former control group”, for part 14, division 2, see section 150.

“former SES”, for part 14, division 2, see section 150.

“government ambulance officer” means an ambulance officer under the *Ambulance Service Act 1991*.

“government doctor” means a registrant under the *Medical Practitioners Registration Act 2001* who is employed in the department within which that Act is administered.

“government fire officer” means a fire officer under the Fire Act.

“government health officer” means—

- (a) a government doctor; or
- (b) a government nurse.

“government nurse” means a registered nurse under the *Nursing Act 1992* who is employed in the department within which that Act is administered.

“health officer” means—

- (a) a government health officer; or
- (b) a non-government health officer.

SCHEDULE 2 (continued)

“local controller”, of an SES unit, means the person appointed as the local controller of the unit under section 85(1).

“local disaster management plan” see section 57(1).

“local group” see section 29.

“non-government ambulance officer” means a person performing functions of an ambulance officer for an ambulance service other than the Queensland Ambulance Service.

“non-government doctor” means—

- (a) a registrant under the *Medical Practitioners Registration Act 2001* who is not a government doctor; or
- (b) a person who is a medical practitioner under a law of another State.

“non-government fire officer” means a person performing functions of a fire officer for a fire authority, brigade or service other than the Queensland Fire and Rescue Service.

“non-government health officer” means—

- (a) a non-government doctor; or
- (b) a non-government nurse.

“non-government nurse” means—

- (a) a registered nurse under the *Nursing Act 1992* who is not a government nurse; or
- (b) a person registered as a nurse under a law of another State.

“period”, of a disaster situation, means the period the declaration of the disaster situation is in force under this Act.

“place” includes—

- (a) land or premises; and
- (b) a vehicle.

“premises” includes a building or structure, or part of a building or structure, of any type.

SCHEDULE 2 (continued)

“relevant district disaster coordinator” means—

- (a) for a disaster situation declared under section 64(1) for a disaster district or part of a district—the district disaster coordinator for the district; or
- (b) for a disaster situation declared under section 69—a district disaster coordinator for a disaster district that is in, or partly in, the declared area for the disaster situation.

“relevant local government”, for a local group, means the local government or combined local government that establishes the group under section 29.

Note—

A combined local government may establish a local group under section 29 as applied by section 32(2).

“repealed Act” means the *State Counter-Disaster Organisation Act 1975*.

“rescue powers” means the powers under sections 111 and 112.

“SES” see section 81.

“SES function” means a function of the SES under section 82.

“SES member” means a person who is appointed, under section 84(1), as an SES member.

“SES unit” means a group of SES members that performs SES functions in the area of a local government.

“SES vehicle” means a vehicle of the SES.

“State disaster management plan” see section 49(1).

“State Emergency Service” means the State Emergency Service established under section 81.

“State group” see section 17.

“vehicle” means anything used for carrying anything or any person by land, water or air.