

TASMANIA

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**EMERGENCY MANAGEMENT BILL 2006**

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## **EMERGENCY MANAGEMENT BILL 2006**

*(Brought in by the Minister for Police and Emergency Management, the Honourable David Edward Llewellyn)*

### **A BILL FOR**

**An Act to provide for the protection of life, property and the environment in the event of an emergency, to establish emergency management arrangements, to provide for certain rescue and retrieval operations, to repeal the *Emergency Services Act 1976*, to consequentially rescind certain statutory rules, to consequentially amend certain Acts and for related purposes**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART 1 – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *Emergency Management Act 2006*.

#### **2. Commencement**

This Act commences on a day to be proclaimed.

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### 3. Interpretation

In this Act, unless the contrary intention appears –

**“affiliated organisation”** means an organisation, other than a statutory service, that is registered as an affiliated organisation under section 28(2)(c);

**“authorised officer”** has the meaning given by section 31;

**“civil defence measures”** means the humanitarian measures necessary –

- (a) to protect the civilian population of the State against the dangers of, and to help it recover from the immediate effects of, enemy attack or hostilities; and
- (b) to provide the conditions needed for the survival of the civilian population of the State during and following enemy attack or hostilities;

**“combined area”** means 2 or more municipal areas determined by the Minister to be a combined area under section 19;

**“community risk”** means the likelihood of harmful consequences to the community that may result from the interaction of hazards, the community and the environment;

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**“Deputy Municipal Coordinator”** means the Deputy Municipal Emergency Management Coordinator appointed under section 23;

**“Deputy Regional Controller”** means the Deputy Regional Emergency Management Controller appointed under section 17;

**“Deputy State Controller”** means the Deputy State Emergency Management Controller appointed under section 10;

**“Director SES”** means the Director of the State Emergency Service appointed under section 27;

**“emergency”** means –

(a) an event that –

(i) endangers, destroys or threatens to endanger or destroy human life, property or the environment, or causes or threatens to cause injury or distress to persons; and

(ii) requires a significant response from one or more of the statutory services; or

(b) a significant threat of the occurrence of an event of a kind

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referred to in paragraph (a) in respect of which it is appropriate to take measures –

- (i) to prevent that possible resulting event; or
- (ii) to mitigate the risks associated with that threat and that possible resulting event;

**“emergency management”** means –

- (a) the planning, organisation, coordination and implementation of measures that are necessary or desirable to prevent, mitigate, respond to, overcome and recover from an emergency; or
- (b) the planning, organisation, coordination and implementation of civil defence measures; or
- (c) the conduct of, or participation in, research and training for any measures specified in paragraph (a) or (b); or
- (d) the development of policy and procedures relating to any measures or actions specified in paragraph (a), (b) or (c);

**“emergency management plan”** means the Tasmanian Emergency Management



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Plan, a Regional Emergency Management Plan, a Municipal Emergency Management Plan or a Special Emergency Management Plan;

**“emergency management worker”** means –

- (a) a member of a statutory service, whether for payment or other consideration or as a volunteer; or
- (b) an authorised officer; or
- (c) a person who does or omits to do any act in the assistance of, or under the direction or control of, an authorised officer; or
- (d) a person prescribed by the regulations to be an emergency management worker; or
- (e) any other person who, in good faith –
  - (i) participates in emergency management or rescue and retrieval operations; or
  - (ii) performs or exercises, or purportedly performs or exercises, functions or powers under this Act; or
  - (iii) is involved in the administration or

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execution, or the  
purported administration  
or execution, of this Act;

**“emergency power”** means a power specified  
in Schedule 1;

**“environment”** includes the following  
components:

- (a) land, air and water;
- (b) organic matter and inorganic  
matter;
- (c) living organisms;
- (d) human-made or modified  
structures and areas;
- (e) interacting natural ecosystems  
that include components referred  
to in paragraphs (a), (b) and (c);
- (f) all other components of the earth;

**“executive officer”** means a person who is  
responsible for providing administrative  
and secretariat services;

**“Government agency”** means –

- (a) an Agency, within the meaning of  
the *State Service Act 2000*; or
- (b) a statutory authority;

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**“hazard”** means a place, structure, source or situation, that may potentially endanger, destroy or threaten to endanger or destroy human life, property or the environment;

**“Head of Agency”** has the same meaning as in the *State Service Act 2000*;

**“Municipal Chairperson”** means the person determined under section 21(2) by a council to be the Municipal Chairperson;

**“Municipal Committee”** means a Municipal Emergency Management Committee established under section 20;

**“Municipal Coordinator”** means a person appointed as a Municipal Emergency Management Coordinator under section 23;

**“Municipal Emergency Management Plan”** means a plan approved by the State Controller for a Municipal Committee area under section 34, as amended or substituted from time to time with the approval of the State Controller under that section;

**“municipal volunteer SES unit”** means a volunteer unit established under sections 47 and 48;

**“occupier”**, in relation to premises or a vehicle, means the person who is apparently in charge of the premises or vehicle at the relevant time;

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**“officer”**, in relation to a council, means –

- (a) an elected member of the council;  
or
- (b) an employee of the council who complies with any description or conditions, or holds a position or a position of a class, determined by the Minister;

**“owner”** includes a lessee;

**“premises”** includes land, any structure and a part of premises;

**“property”** includes –

- (a) an animal and any part of an animal, whether alive or dead;  
and
- (b) a plant and any part of a plant, whether alive or dead; and
- (c) any egg, sperm, seed, flower, fruit or other material obtained from an animal or plant, whether alive or dead;

**“region”** means the northern region, the north-western region or the southern region;

**“Regional Committee”** means a Regional Emergency Management Committee established under section 14;

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**“Regional Controller”** means the Regional Emergency Management Controller appointed under section 17;

**“Regional Emergency Management Plan”** means a plan approved by the State Controller for a region under section 33, as amended or substituted from time to time with the approval of the State Controller under that section;

**“regional SES volunteer unit”** means a volunteer unit of the State Emergency Service established by the Director SES for the purposes of a region under section 28(2)(a);

**“rescue and retrieval operation”** means –

- (a) the planning, organisation, coordination and implementation of measures that are necessary or desirable to rescue or retrieve any person, animal, property, human remains or carcass during or after the occurrence of an incident, or other event, that is not an emergency; or
- (b) the conduct of, or participation in, research and training for the measures specified in paragraph (a);

**“resources”** includes any plant, vehicle, animal, apparatus, implement, earthmoving equipment, construction

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equipment, other equipment of any kind, persons, agency, authority, organisation or other requirement necessary for emergency management;

**“risk”** means the likelihood of harmful consequences arising from the interaction of hazards, communities and the environment;

**“Special Emergency Management Plan”** means a plan approved by the approving authority under section 35, as amended or substituted from time to time;

**“special emergency power”** means a power specified in Schedule 2;

**“State Committee”** means the State Emergency Management Committee established under section 7;

**“State Controller”** means the State Emergency Management Controller appointed under section 10;

**“State Emergency Service”** means the body continued by section 25;

**“state of emergency”** means a state of emergency declared under section 42;

**“statutory authority”** means a body or authority, whether incorporated or not, which is established or constituted by or under an Act or under the royal prerogative, being a body or authority

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which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority, but does not include a Government department;

**“statutory service”** means –

- (a) the SES; or
- (b) the Tasmanian Ambulance Service established under the *Ambulance Service Act 1982*; or
- (c) the Tasmania Fire Service established under the *Fire Service Act 1979*; or
- (d) the Police Service established under the *Police Service Act 2003*; or
- (e) a council; or
- (f) another body constituted under an Act or a Commonwealth Act, a Government agency or a part of a Government agency –
  - (i) whose role usually includes emergency management; or
  - (ii) which is, or may be, in a particular emergency, required to participate in

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emergency management;  
or

(g) a prescribed body;

**“Tasmanian Emergency Management Plan”** means the plan approved by the Minister under section 32, as amended or substituted from time to time with the approval of the Minister under that section;

**“vehicle”** means –

- (a) a car, truck, bus or other motor vehicle; or
- (b) a ship, boat or other vessel; or
- (c) an aeroplane or other aircraft; or
- (d) a bicycle; or
- (e) a trailer or wagon; or
- (f) any other means of transport, however propelled, other than an animal;

**“wildlife”** means –

- (a) any animal or plant living or growing in the wild, including a feral animal; or
- (b) any carcass, dead remains or part of any wildlife referred to in paragraph (a); or



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- (c) any egg, sperm, seed, flower, fruit or material obtained from any wildlife referred to in paragraph (a) or (b); or
- (d) any prescribed thing.

**4. Non-application of Act**

This Act does not authorise the taking of measures amounting to, or making preparations for –

- (a) actual combat against an enemy; or
- (b) the putting down of a riot or other civil disturbance; or
- (c) the bringing to an end of a strike or lock-out.

**5. Relationship of this Act with other emergency laws**

- (1) Except as provided in subsection (2), this Act does not affect –
  - (a) the performance or exercise of a function or power under any other Act that has effect in relation to emergency management; or
  - (b) an obligation to comply with any such Act or a direction, order, requirement or other similar demand made under any such Act.

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- (2) If a provision of this Act is inconsistent with a provision of any other Act which has effect in relation to emergency management, this Act prevails.

**6. Act binds Crown**

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

**PART 2 – ADMINISTRATION**

*Division 1 – Administration at State level*

**7. State Emergency Management Committee**

The State Emergency Management Committee is established.

**8. Membership of State Committee**

- (1) The State Committee consists of –
  - (a) the State Controller; and
  - (b) each person holding a position or office determined by the State Controller; and
  - (c) any other persons the State Controller considers appropriate.
- (2) A member of the State Committee referred to in subsection (1)(c) is appointed by the State Controller for the period specified in the instrument of appointment.
- (3) In determining a position or office under subsection (1)(b) or appointing a person under subsection (2), the State Controller is to comply with any directions given by the Minister.
- (4) The State Controller is the chairperson of the State Committee.
- (5) The executive officer of the State Committee is –

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- (a) a member of the State Committee appointed to be executive officer by the State Controller; or
  - (b) if there is no appointment under paragraph (a) in effect, the Director SES.
- (6) If the Director SES is not a member of the State Committee referred to in subsection (1)(b) or (c) but is the executive officer by reason of subsection (5)(b), the Director SES is taken to be a member of the State Committee.
- (7) If the State Controller considers that it would be helpful for the Committee to have the advice of any person in respect of any matter under the Committee's consideration, he or she may invite, allow or require that person to attend a meeting of the Committee to give advice and opinions on that matter.
- (8) Schedule 3 has effect with respect to the membership and meetings of the State Committee.

**9. Functions and powers of State Committee**

- (1) The State Committee has the following functions:
- (a) to institute and coordinate, and to support the institution and coordination of, emergency management, including the preparation and review of the Tasmanian Emergency Management Plan and

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Special Emergency Management Plans that relate to emergency management for the State;

- (b) to determine and review emergency management policy;
  - (c) to review the management of emergencies that involve more than one region, and other emergencies as the State Committee considers appropriate, and to identify and promote opportunities for improvement in emergency management;
  - (d) at the direction of the State Controller, to assist him or her in the performance and exercise of his or her functions and powers;
  - (e) other emergency management functions imposed by the Minister;
  - (f) other functions imposed by this or any other Act;
  - (g) prescribed functions.
- (2) The State Committee has the following powers:
- (a) to impose functions on a Regional Committee from time to time;
  - (b) to establish subcommittees for the purpose of assisting it in the performance and exercise of its functions and powers;

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- (c) to do all other things necessary or convenient to be done in connection with the performance of its functions.

**10. State Emergency Management Controller and Deputy**

- (1) The Minister may appoint a person to be the State Emergency Management Controller but, if no such appointment is in effect, the Head of Agency for the Department is the State Emergency Management Controller.
- (2) The Minister may appoint a person to be the Deputy State Emergency Management Controller but, if no such appointment is in effect, the Deputy for the Head of Agency for the Department is the Deputy State Emergency Management Controller.
- (3) The State Controller and Deputy State Controller may hold that office in conjunction with any other appointment, position or office.
- (4) The State Controller and Deputy State Controller appointed by the Minister each holds office for the period, and on the terms and conditions, specified in his or her instrument of appointment.
- (5) The Deputy State Controller may act in the office of State Emergency Management Controller if –

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- (a) the State Controller is absent from Tasmania or from duty as State Controller; or
  - (b) the State Controller is otherwise unable to perform the functions of the office of State Emergency Management Controller; or
  - (c) the State Controller has died, resigned or been removed from office and a new State Controller has not been appointed.
- (6) While the Deputy State Controller is acting in the office of State Emergency Management Controller he or she –
- (a) is taken to be the State Controller; and
  - (b) is the chairperson of the State Committee.

**11. Functions and powers of State Controller**

- (1) The State Controller has the following functions:
- (a) to assist and advise the Minister in relation to all matters with respect to emergency management;
  - (b) prior to, during or subsequent to the occurrence of an emergency, to –
    - (i) direct the use of resources for emergency management as he or she considers appropriate; and

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- (ii) ensure that his or her instructions and decisions and the instructions and decisions of the Premier, the Minister, a committee established under section 12 and the State Committee are transmitted to, and adequately carried out by, the bodies and other persons to whom they are directed or relate;
  - (c) if the State Controller considers that resources of the Commonwealth or of another State or a Territory are necessary for emergency management, to request those resources;
  - (d) other functions in respect of emergency management imposed by the Minister;
  - (e) other functions imposed by this or any other Act;
  - (f) prescribed functions.
- (2) The State Controller has the following powers:
- (a) to impose functions on a Regional Committee or Regional Controller;
  - (b) to do all other things necessary or convenient to be done in connection with the performance of his or her functions.



**12. Ministerial committee**

- (1) For the purposes of emergency management, the Premier may establish a committee consisting of the State Controller and such Ministers and other persons as the Premier considers necessary or appropriate.
- (2) The Premier is the chairperson of the committee.
- (3) The committee has the functions and powers determined by the Premier.

*Division 2 – Administration at regional level*

**13. Regions**

For the purposes of the administration of this Act, the State is divided into the northern region, the north-western region and the southern region.

**14. Regional Emergency Management Committees**

A Regional Emergency Management Committee is established in respect of each region.

**15. Membership of Regional Committees**

- (1) A Regional Committee for a region consists of –
  - (a) the Regional Controller for that region;
  - and

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- (b) each person holding a position or office determined by the Regional Controller; and
  - (c) any other persons the Regional Controller considers appropriate.
- (2) A member referred to in subsection (1)(c) is appointed by the Regional Controller for the period specified in the instrument of appointment.
- (3) In determining a position or office under subsection (1)(b) or appointing a person under subsection (2), the Regional Controller is to comply with any directions given by the State Controller.
- (4) The Regional Controller for a region is the chairperson of the Regional Committee for that region.
- (5) The executive officer of a Regional Committee is –
  - (a) a member of the Regional Committee appointed to be executive officer by the Regional Controller; or
  - (b) if there is no appointment under paragraph (a) in effect, a member of the State Emergency Service determined by the Director SES.
- (6) If a member of the State Emergency Service who is not a member of the Regional Committee referred to in subsection (1)(b) or (c) is

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determined by the Director SES to be the executive officer under subsection (5)(b), while that member is the executive officer he or she is a member of the Regional Committee.

- (7) If the Regional Controller considers that it would be helpful for the Regional Committee to have the advice of any person in respect of any matter under the Committee's consideration, the chairperson may invite, allow or require that person to attend a meeting of the Committee to give advice and opinions on that matter.
- (8) Schedule 3 has effect with respect to the membership and meetings of each Regional Committee.

**16. Functions and powers of Regional Committees**

- (1) Each Regional Committee has the following functions:
  - (a) to institute and coordinate, and to support the institution and coordination of, emergency management in the region, including the preparation and review of the Regional Emergency Management Plan and Special Emergency Management Plans that relate to emergency management in the region;
  - (b) to determine and review emergency management policy for the region;

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- (c) to review the management of emergencies that have occurred in the region and identify and promote opportunities for improvement in emergency management;
  - (d) to report to the State Controller on any regional matters that relate to the functions of the State Controller or State Committee;
  - (e) at the direction of the Regional Controller, to assist him or her in the performance and exercise of his or her functions and powers;
  - (f) other functions imposed from time to time by the State Committee or the State Controller;
  - (g) other functions imposed by this or any other Act;
  - (h) prescribed functions.
- (2) A Regional Committee has the power to –
- (a) impose functions on a Municipal Committee in the region from time to time; and
  - (b) do all other things necessary or convenient to be done in connection with the performance of its functions.

**17. Regional Emergency Management Controllers and Deputies**

- (1) The Minister may appoint, in respect of each region, a person to be the Regional Emergency Management Controller for that region but, if no such appointment is in effect, a commander in the Police Service determined by the Commissioner of Police in consultation with the State Controller is the Regional Emergency Management Controller for that region.
- (2) The Minister may appoint, in respect of each region, a person to be the Deputy Regional Emergency Management Controller for that region but, if there is no such appointment in effect, a police officer determined by the Commissioner of Police in consultation with the State Controller is the Deputy Regional Emergency Management Controller for that region.
- (3) Each Regional Controller and Deputy Regional Controller may hold that office in conjunction with any other appointment, position or office.
- (4) Each Regional Controller and Deputy Regional Controller appointed by the State Controller holds office for the period, and on the terms and conditions, specified in his or her instrument of appointment.
- (5) A Deputy Regional Controller for a region may act in the office of Regional Emergency Management Controller for that region if –

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- (a) the Regional Controller is absent from Tasmania or from duty as Regional Controller; or
  - (b) the Regional Controller is otherwise unable to perform the functions of the office of Regional Emergency Management Controller; or
  - (c) the Regional Controller has died, resigned or been removed from office and a new Regional Controller has not been appointed.
- (6) While the Deputy Regional Controller is acting in the office of Regional Emergency Management Controller, he or she –
- (a) is taken to be the Regional Controller; and
  - (b) is the chairperson of the relevant Regional Committee.

**18. Functions and powers of Regional Controllers**

- (1) A Regional Controller has the following functions:
- (a) to assist and advise the State Controller on all matters with respect to emergency management in the region;
  - (b) prior to, during or subsequent to the occurrence of an emergency in the region, to ensure that his or her

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instructions and decisions and the instructions and decisions of the Regional Committee, State Committee and State Controller are transmitted to, and adequately carried out by, the bodies and other persons to whom they are directed or relate;

- (c) to consider whether any powers or declarations under this Act need to be exercised or made for the purposes of emergency management in respect of an emergency in the region and, if so, to advise the State Controller of that need;
  - (d) if the Regional Controller considers that resources of another region are necessary for emergency management in the region, to request those resources;
  - (e) other functions in respect of emergency management imposed by the State Committee or State Controller;
  - (f) other functions imposed by this or any other Act;
  - (g) prescribed functions.
- (2) A Regional Controller has the power to –
- (a) impose functions on a Municipal Committee, and Municipal Coordinator, within the region from time to time; and

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- (b) determine powers that may be exercised by a Municipal Coordinator within the region from time to time; and
- (c) do all other things necessary or convenient to be done in connection with the performance of his or her functions.

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**19. Combined areas**

- (1) On the written application of 2 or more councils, the Minister may determine that the municipal areas governed by those councils are a combined area for the purpose of the establishment of a Municipal Emergency Management Committee in respect of the combined area.
- (2) An application is to specify which council is responsible for providing the Municipal Chairperson for the proposed combined area.
- (3) The Minister must not determine that municipal areas are a combined area if all the municipal areas are not within the same region.

**20. Municipal Emergency Management Committees**

A Municipal Emergency Management Committee is established in respect of –

- (a) each municipal area that is not a combined area; and



- (b) each combined area.

## **21. Membership of Municipal Committees**

- (1) A Municipal Committee consists of –
  - (a) the Municipal Chairperson; and
  - (b) the Municipal Coordinators for the municipal areas in respect of which the Municipal Committee has the responsibility of instituting and coordinating emergency management; and
  - (c) each person holding a position or office determined by the Municipal Chairperson; and
  - (d) such other persons as the Municipal Chairperson or a Municipal Coordinator considers appropriate.
- (2) The council for the municipal area or, in the case of a combined area, the council specified in the application made under section 19 as being responsible for providing the Municipal Chairperson must determine who is to be the Municipal Chairperson.
- (3) A member referred to in subsection (1)(d) is appointed by the Municipal Chairperson or the Municipal Coordinator for the period specified in the instrument of appointment.

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- (4) The Municipal Chairperson is the chairperson of the Municipal Committee.
- (5) The executive officer of the Municipal Committee is –
  - (a) if only one Municipal Coordinator is a member of the Municipal Committee, that Municipal Coordinator; or
  - (b) if 2 or more Municipal Coordinators are members of the Municipal Committee, a Municipal Coordinator appointed by the Municipal Committee.
- (6) If the Municipal Chairperson or a Municipal Coordinator considers that it would be helpful for the Municipal Committee to have the advice of any person in respect of any matter under the Committee's consideration, the Municipal Chairperson or Municipal Coordinator may invite, allow or require that person to attend a meeting of the Committee to give advice and opinions on that matter.
- (7) Schedule 3 has effect with respect to the membership and meetings of each Municipal Committee.

**22. Functions and powers of Municipal Committees**

- (1) Each Municipal Committee has the following functions:
  - (a) to institute and coordinate, and to support the institution and coordination of,

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emergency management in the municipal area or, in the case of a combined area, in the municipal areas that constitute the combined area, including the preparation and review of the Municipal Emergency Management Plan and Special Emergency Management Plans that relate to emergency management in that municipal area or any one or more of those municipal areas;

- (b) to determine and review emergency management policy for the municipal area, or the municipal areas, referred to in paragraph (a);
- (c) to review the management of emergencies that have occurred in the municipal area, or the municipal areas, referred to in paragraph (a) and identify and promote opportunities for improvement in emergency management;
- (d) to report to the Regional Controller on any municipal matters that relate to the functions of the Regional Controller or Regional Committee;
- (e) at the direction of the Municipal Chairperson or a Municipal Coordinator, to assist him or her or a council in the performance and exercise of his, her or its functions and powers under this Act;

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- (f) other functions imposed from time to time by the Regional Committee or Regional Controller;
  - (g) other functions imposed by this or any other Act;
  - (h) prescribed functions.
- (2) A Municipal Committee has the power to do all things necessary or convenient to be done in connection with the performance of its functions.

**23. Municipal Emergency Management Coordinators and Deputies**

- (1) The Minister is to appoint a Municipal Emergency Management Coordinator and a Deputy Municipal Emergency Management Coordinator for each municipal area.
- (2) The Minister is to appoint as Municipal Emergency Management Coordinator, or Deputy Municipal Emergency Management Coordinator, for a municipal area a person nominated by the council in that municipal area.
- (3) Each Municipal Coordinator and Deputy Municipal Coordinator may hold that office in conjunction with any other appointment, position or office.
- (4) Each Municipal Coordinator and Deputy Municipal Coordinator holds office for the period, and on the terms and conditions,

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specified in his or her instrument of appointment.

- (5) A Deputy Municipal Coordinator for a municipal area may act in the office of Municipal Coordinator if –
- (a) the Municipal Coordinator is absent from Tasmania or from duty as Municipal Coordinator; or
  - (b) the Municipal Coordinator is otherwise unable to perform the functions of the office of Municipal Emergency Management Coordinator; or
  - (c) the Municipal Coordinator has died, resigned or been removed from office and a new Municipal Coordinator has not been appointed.
- (6) While the Deputy Municipal Coordinator is acting in the office of Municipal Emergency Management Coordinator, he or she is taken to be the Municipal Coordinator.
- (7) The Minister, by written notice provided to a council, may require the council to nominate persons for the positions of Municipal Emergency Management Coordinator and Deputy Municipal Emergency Management Coordinator by providing that nomination to the Minister within the time specified in the notice.
- (8) A council may only nominate a person for the position of Municipal Emergency Management Coordinator or Deputy Municipal Emergency

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Management Coordinator if the person, once appointed to the position, would have the authority and ability to make decisions relating to the coordination of emergency management in the municipal area during an emergency without first seeking the approval of the council.

- (9) On receipt of the nomination, the State Controller is to provide the nomination, together with his or her recommendations, to the Minister.
- (10) If a council fails to comply with a notice provided under subsection (7), the Minister may appoint a person he or she considers suitable to be Municipal Emergency Management Coordinator or Deputy Municipal Emergency Management Coordinator for the municipal area.
- (11) If a council fails to nominate a Municipal Coordinator or Deputy Municipal Coordinator, the Minister may appoint a person he or she considers suitable to be Municipal Emergency Management Coordinator or Deputy Municipal Emergency Management Coordinator for the municipal area governed by that council.

**24. Functions and powers of Municipal Coordinators**

- (1) A Municipal Coordinator has the following functions in respect of the municipal area for which he or she is the Municipal Coordinator:
  - (a) to assist and advise the Municipal Chairperson and the relevant council on

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- all matters with respect to emergency management in the municipal area or combined area;
- (b) if the Regional Controller requires it, to assist and advise the Regional Controller on matters with respect to emergency management in the municipal area;
- (c) prior to, during or subsequent to the occurrence of an emergency in the municipal area, to ensure that –
- (i) the resources of the relevant council are coordinated and used as required by section 46; and
  - (ii) his or her instructions and decisions and the instructions and decisions of the Municipal Committee, Municipal Chairperson and Regional Controller are transmitted to, and adequately carried out by, the bodies and other persons to whom they are directed or relate;
- (d) to consider whether any powers or declarations under this Act need to be used or made for the purposes of emergency management in respect of an emergency in the municipal area and, if so, to advise the Regional Controller of that need;
- (e) if the Municipal Coordinator considers that resources of another municipal area

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are necessary to make better provision for emergency management in the municipal area, to request those resources;

- (f) to assist the Unit Managers of the municipal volunteer SES units with the supply and coordination of equipment and facilities provided by the council and the maintenance of such equipment and facilities;
  - (g) other functions in respect of emergency management imposed by the Regional Committee or the Regional Controller;
  - (h) other functions imposed by this or any other Act;
  - (i) prescribed functions.
- (2) A Municipal Coordinator has the following powers:
- (a) to utilise the resources of the municipal volunteer SES units in support of statutory services for emergency purposes within the municipal area;
  - (b) to advise the council and councillors in the municipal area in respect of the facilities required for effective operation of the municipal volunteer SES units;
  - (c) powers determined by the Regional Controller by notice provided to the Municipal Coordinator;



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- (d) prescribed powers;
- (e) the power to do all other things necessary or convenient to perform his or her functions.

***Division 4 – State Emergency Service***

**25. Continuation of State Emergency Service**

- (1) The State Emergency Service constituted under the *Emergency Services Act 1976* continues.
- (2) The State Emergency Service consists of –
  - (a) the Director SES; and
  - (b) all other persons appointed under section 27; and
  - (c) volunteer members registered under section 28(2)(b).

**26. Functions of State Emergency Service**

The State Emergency Service has the following functions:

- (a) the provision of advice and services relating to emergency management in accordance with emergency management plans or as otherwise authorised by the State Controller or Minister in writing provided to the Director SES, other than

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- the provision of a service provided by another statutory service;
- (b) the provision of services relating to rescue and retrieval operations as authorised by the Minister or State Controller;
  - (c) the provision of administrative services for the State Committee and each Regional Committee, including support in the preparation and review of emergency management plans as required by the State Committee and Regional Committees;
  - (d) the recruitment, training and support of volunteer members of the State Emergency Service;
  - (e) in time of enemy action or hostilities against the State, to coordinate civil defence measures;
  - (f) other functions imposed on it by the Minister;
  - (g) other functions imposed on it by this or any other Act.

**27. Director SES and officers of State Emergency Service**

Subject to and in accordance with the *State Service Act 2000*, a Director of the State

Emergency Service and other persons may be appointed for the purposes of this Act.

**28. Functions and powers of Director SES**

- (1) The Director SES has the following functions:
  - (a) to manage the State Emergency Service;
  - (b) other functions imposed by this or any other Act;
  - (c) prescribed functions.
- (2) The Director SES has the following powers:
  - (a) to establish and maintain for the purposes of the regions such volunteer units of the State Emergency Service and training facilities as the Director SES considers appropriate;
  - (b) to register suitable persons as volunteer members of the State Emergency Service;
  - (c) to register, subject to any conditions the Director SES considers appropriate, suitable organisations as affiliated organisations of the State Emergency Service;
  - (d) to issue identification to volunteer members of the State Emergency Service;

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- (e) to inspect the facilities and resources of regional SES volunteer units and municipal volunteer SES units;
  - (f) to do all other things necessary or convenient to perform his or her functions.
- (3) If the Director SES establishes a regional SES volunteer unit, the Director SES is to appoint a Unit Manager for the unit.

*Division 5 – Miscellaneous*

**29. Delegation by Premier and Minister**

- (1) The Premier may delegate any of his or her functions or powers under this Act other than this power of delegation.
- (2) The Minister may delegate any of his or her functions or powers under this Act other than this power of delegation.

**30. Delegation by committees and persons**

Each of the following committees and persons may delegate any of its, his or her functions or powers under this or any other Act other than this power of delegation:

- (a) the State Committee;
- (b) the State Controller;

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- (c) a Regional Committee;
- (d) a Regional Controller;
- (e) a Municipal Committee;
- (f) a Municipal Chairperson;
- (g) a Municipal Coordinator;
- (h) the Director SES;
- (i) an executive officer of the State Committee, a Regional Committee or a Municipal Committee.

**31. Authorised officers**

- (1) Each of the following persons is an authorised officer:
  - (a) the State Controller;
  - (b) a Regional Controller;
  - (c) a Municipal Coordinator;
  - (d) the Director SES;
  - (e) the Commissioner of Police;
  - (f) the Chief Officer within the meaning of the *Fire Service Act 1979*;
  - (g) the Director of the Ambulance Service within the meaning of the *Ambulance Service Act 1982*;

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- (h) a member of a statutory service;
  - (i) any other person authorised to act as an authorised officer under this section.
- (2) Each of the following persons may authorise another person to act as an authorised officer by written notice provided to the other person:
- (a) the State Controller;
  - (b) a Regional Controller;
  - (c) a Municipal Coordinator;
  - (d) the Director SES;
  - (e) the Commissioner of Police;
  - (f) the Chief Officer within the meaning of the *Fire Service Act 1979*;
  - (g) the Director of the Ambulance Service within the meaning of the *Ambulance Service Act 1982*.
- (3) The State Controller, in writing, may authorise persons of a class of persons to be authorised officers.
- (4) An authorisation may be limited –
- (a) to the performance or exercise of the functions and powers specified in the authorisation; or
  - (b) in any other way specified in the authorisation.

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- (5) On making an authorisation under subsection (3), the State Controller is to publish the authorisation in the *Gazette* or in such other manner as he or she considers appropriate.

## **PART 3 – EMERGENCY MANAGEMENT**

### *Division 1 – Emergency management plans*

#### **32. Tasmanian Emergency Management Plan**

- (1) The State Committee is to prepare a plan for emergency management in Tasmania.
- (2) The State Committee is to submit the plan to the Minister for approval.
- (3) When a plan is submitted to him or her, the Minister may –
  - (a) approve the plan; or
  - (b) require the plan to be amended and then resubmitted for approval under this subsection.
- (4) The Tasmanian Emergency Management Plan is to –
  - (a) provide the broad policies for emergency management in Tasmania; and
  - (b) provide details of the arrangements and responsibilities for the governance and coordination of emergency management.
- (5) The State Committee is to review the Tasmanian Emergency Management Plan at least once every 2 years.
- (6) At any time, the State Committee may submit to the Minister any suggested amendments to the



Tasmanian Emergency Management Plan or a substitute plan.

- (7) On the submission to him or her of any suggested amendments or a substitute plan, the Minister may approve or reject the amendments to, or the substitution of, the Tasmanian Emergency Management Plan.

### **33. Regional Emergency Management Plans**

- (1) Each Regional Committee is to prepare a plan for emergency management in its region.
- (2) The Regional Committee is to submit the plan to the State Controller for approval.
- (3) When a plan is submitted to him or her, the State Controller may –
- (a) approve the plan; or
  - (b) require the plan to be amended and then resubmitted for approval under this subsection.
- (4) A Regional Emergency Management Plan is to provide details of the arrangements and responsibilities for the governance and coordination of emergency management within the region.
- (5) Each Regional Committee is to review its Regional Emergency Management Plan at least once every 2 years.

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- (6) At any time, a Regional Committee may submit to the State Controller any suggested amendments to its Regional Emergency Management Plan or a substitute plan.
- (7) On the submission to him or her of suggested amendments or a substitute plan, the State Controller may approve or reject the amendments to, or the substitution of, the Regional Emergency Management Plan.

**34. Municipal Emergency Management Plans**

- (1) Each Municipal Committee is to prepare a plan for emergency management in the municipal area or municipal areas in respect of which the Municipal Committee has the responsibility of instituting and coordinating emergency management.
- (2) The Municipal Committee is to submit the plan to the appropriate Regional Controller.
- (3) On receipt of a plan under subsection (2), the Regional Controller is to submit the plan to the State Controller.
- (4) When a plan is submitted to him or her, the State Controller may, after consulting with the appropriate Regional Controller –
  - (a) approve the plan; or
  - (b) require the plan to be amended and then resubmitted for approval under this subsection.

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- (5) A Municipal Emergency Management Plan is to provide details of the arrangements and responsibilities for the governance and coordination of emergency management within the Municipal Committee area.
- (6) Each Municipal Committee is to review its Municipal Emergency Management Plan at least once every 2 years.
- (7) At any time, a Municipal Committee may submit any suggested amendments to its Municipal Emergency Management Plan or a substitute plan to the Regional Controller who is to then submit to the State Controller the suggested amendments or substitute plan.
- (8) On submission to him or her of suggested amendments or a substitute plan, the State Controller may, after consulting with the appropriate Regional Controller, approve or reject the amendments to, or the substitution of, the Municipal Emergency Management Plan.

**35. Special Emergency Management Plans**

- (1) In this section –

“**approving authority**” means the person or Committee determined to be the approving authority for that plan by the State Committee, a Regional Committee or a Municipal Committee that prepares a plan under this section;

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**“Committee”** means the State Committee, a Regional Committee or a Municipal Committee;

**“reviewing authority”** means the person or Committee determined to be the reviewing authority for that plan by the State Committee, a Regional Committee or a Municipal Committee that prepares a plan under this section.

- (2) A Committee may prepare a plan in respect of a particular risk or emergency or class of risk or emergency.
- (3) A Committee is to submit a plan prepared under subsection (2) to the approving authority for approval.
- (4) When a plan is provided to the approving authority, the approving authority may –
  - (a) approve the plan; or
  - (b) require the plan to be amended and then resubmitted for approval under this subsection.
- (5) A Committee is to review each of its Special Emergency Management Plans at least once every 2 years.
- (6) At any time, a Committee is to submit to the reviewing authority any suggested amendments to its Special Emergency Management Plan or a substitute plan.

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- (7) On the submission to him, her or it of suggested amendments or a substitute plan, the reviewing authority may approve or reject the amendments to, or the substitution of, the Special Emergency Management Plan.
  - (8) On approving a Special Emergency Management Plan, an amendment to such a plan or a substitute plan, the approving authority or reviewing authority is to notify the State Controller and the relevant Committee of that approval.

*Division 2 – General risk identification, assessment and management*

**36. Risk identification and assessment authorisation**

- (1) In this section –

**“potential hazard”** means a place, structure, source or situation that may, or may in certain circumstances, be a hazard;

**“potential risk activity”** means an activity carried on by any person that is of such a nature that it may, or may in certain circumstances, pose a risk of the activity causing, contributing to or aggravating an emergency;

**“specified”** means specified in an authorisation under subsection (2).

- (2) If the State Controller considers that a place, structure, source or situation may be a potential

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hazard or that an activity may be a potential risk activity, the State Controller may authorise the inspection of –

- (a) any specified place, premises or vehicle; and
- (b) any specified class of places, premises or vehicles connected with the place, structure, source or situation that may be a potential hazard or with the carrying on of the activity that may be a potential risk activity –

for the purposes of determining whether the place, structure, source, situation or activity is a potential hazard or potential risk activity and assessing the risk posed by it.

- (3) An authorisation –
  - (a) may be oral or in writing, but if it is oral it is to be confirmed in writing as soon as practicable; and
  - (b) is to specify that the authorisation is made under this Act; and
  - (c) is to describe the place, premises, source or situation, or the activity, in respect of which the authorisation is made; and
  - (d) is to specify the place, premises or vehicle in respect of which an authorised officer may exercise powers of entry under the authorisation; and

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- (e) is to specify the authorised officers or classes of authorised officers who may exercise powers under the authorisation; and
  - (f) is to specify the date and time at which, or the event on whose occurrence, the authorisation takes effect; and
  - (g) is to specify the period for which the authorisation has effect or the date and time at which, or the event on whose occurrence, the authorisation ceases to have effect; and
  - (h) may specify any conditions and instructions the State Controller considers appropriate.
- (4) The State Controller may –
- (a) extend the period for which an authorisation has effect; and
  - (b) otherwise amend an authorisation; and
  - (c) revoke an authorisation.
- (5) The extension of the period for which an authorisation has effect or the other amendment or the revocation of an authorisation may be oral or in writing, but if it is oral it is to be confirmed in writing as soon as is practicable.
- (6) If the period for which an authorisation has effect is extended, or an authorisation is amended, after an authorised officer has first

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entered a place, premises or vehicle pursuant to section 37(2), an authorised officer may not further exercise any powers under section 37 until a copy of the authorisation as amended in accordance with the extension or amendment has been given to the occupier of the place, premises or vehicle.

- (7) If the period for which an authorisation has effect is extended, or an authorisation is amended, after an authorised officer has given notice to an occupier of a place, premises or vehicle of his or her intention to so enter the place, premises or vehicle but has not entered the place, premises or vehicle, the period of 72 hours referred to in section 37(2)(c) is taken to commence when a copy of the authorisation as amended in accordance with the extension or amendment has been given to the occupier of the place, premises or vehicle.

**37. Powers under risk identification and assessment authorisation**

- (1) In this section –

**“authorisation”** means an authorisation under section 36;

**“specified”** means specified in an authorisation.

- (2) An authorisation authorises a specified authorised officer or an authorised officer of a specified class to enter, within the period during



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which the authorisation has effect, a specified place, premises or vehicle, or a place, premises or vehicle of a specified class that the authorised officer reasonably believes is connected with the place, structure, source or situation, or the carrying on of the activity, to which the authorisation relates –

(a) if –

- (i) the authorised officer gives to the occupier or another person apparently in charge of the place, premises or vehicle a copy of the authorisation and identifies himself or herself to the occupier or other person apparently in charge; and
- (ii) the occupier or another person apparently in charge of the place, premises or vehicle consents to the entry; or

(b) if –

- (i) the place, premises or vehicle is open to entry by the public at the time the authorised officer enters it; and
- (ii) the authorised officer gives to the occupier or another person apparently in charge of the place, premises or vehicle a copy of the authorisation and identifies himself or herself to the occupier

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or another person apparently in charge of the place, premises or vehicle; or

(c) if –

(i) not less than 72 hours before the authorised officer first enters the place, premises or vehicle or such specified shorter period, the authorised officer has given the occupier a copy of the authorisation and written notice of the day on which the authorised officer intends to enter and inspect the place, premises or vehicle; and

(ii) the authorised officer identifies himself or herself to the occupier or another person apparently in charge of the place, premises or vehicle.

(3) If –

(a) a specified authorised officer or an authorised officer of a specified class has taken all reasonable steps to give an occupier of a place, premises or vehicle a copy of an authorisation and a notice of the day on which the authorised officer intends to enter and inspect the place, premises or vehicle under subsection (2)(c)(i); and

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- (b) the authorised officer has been unable to give that copy and notice to the occupier; and
- (c) at least 72 hours or the specified shorter period for giving notice of entry has elapsed since the authorised officer first attempted to give that copy and notice to the occupier; and
- (d) the State Controller consents, in writing, to any specified authorised officer or authorised officer of a specified class entering the place, premises or vehicle without complying with subsection (2) –

such an authorised officer may enter, within the period during which the authorisation has effect, the place, premises or vehicle after first identifying himself or herself to any person present in, and apparently in charge of, the place, premises or vehicle and giving to that person a copy of the authorisation.

- (4) If an authorised officer has entered a place, premises or vehicle pursuant to subsection (3), the authorised officer is to give the occupier written notice of that entry and a copy of the authorisation as soon as practicable.
- (5) For the purpose of inspecting a vehicle under an authorisation, a specified authorised officer or an authorised officer of a specified class may stop and detain that vehicle.

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- (6) In entering a place, premises or vehicle pursuant to this section, the authorised officer may use such force as is reasonable in the circumstances.
- (7) In a place, premises or vehicle entered pursuant to this section, a specified authorised officer or an authorised officer of a specified class may –
  - (a) inspect the place, premises or vehicle and any structure, source, situation, activity or other thing in the place, premises or vehicle; and
  - (b) require any person in the place, premises or vehicle to answer any question asked by the authorised officer or to provide any document or other information required by the authorised officer that is under the control of or available to the person; and
  - (c) require any person in the place, premises or vehicle to open any cupboard, compartment or container.
- (8) A person must comply with a requirement made by an authorised officer under subsection (7).

Penalty: Fine not exceeding 100 penalty units.

- (9) If a notice of intention to enter a place, premises or vehicle is to be or is given under subsection (2)(c)(i), the State Controller –
  - (a) is to inform the Minister of that intention before the notice is given; or

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- (b) if it is not reasonable in the circumstances to delay the giving of the notice until the Minister has been informed of that intention, is to inform the Minister of the giving of the notice as soon as practicable after it is given.

**38. Management of risk following inspection**

- (1) After conducting an inspection under an authorisation made under section 36, an authorised officer is to –
  - (a) report the findings of the inspection to the owner of, person in charge of or person responsible for the place, structure, source or situation that is or may be a hazard, or the person carrying on the activity that may pose a risk, and in respect of which the authorisation was made; and
  - (b) if the authorised officer considers that action is needed to mitigate or prevent a risk of the place, structure, source, situation or activity causing, contributing to or aggravating an emergency –
    - (i) discuss the taking of appropriate action with the owner of, person in charge of or person responsible for the place, structure, source or situation or the person carrying on the activity; or

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- (ii) report to that owner or person in relation to the taking of appropriate action.
- (2) Without limiting the action that an authorised officer may consider appropriate for the purposes of subsection (1)(b), such action may include the preparation of a plan for emergency management, or a plan for the management of risks, and the implementation of measures to mitigate or prevent the risk of the place, structure, source, situation or activity causing, contributing to or aggravating an emergency.
- (3) If an authorised officer has discussed with the owner of, person in charge of or person responsible for a place, structure, source or situation, or with the person carrying on an activity, the taking of appropriate action to mitigate or prevent a risk of the place, structure, source, situation or activity causing, contributing to or aggravating an emergency and that owner or person fails to take such action within a time that the authorised officer considers reasonable, the authorised officer –
  - (a) is to notify the State Controller of that failure; and
  - (b) may require the owner or person, in writing, to take the action that the authorised officer considers appropriate; and
  - (c) if the authorised officer so requires a person to take an action under

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paragraph (b), is to provide the Minister with a copy of that requirement.

- (4) A requirement under subsection (3) must –
- (a) be provided to the owner of, person in charge of or person responsible for the place, structure, source or situation or to the person carrying on the activity; and
  - (b) specify the action to be taken by that owner or person and, where appropriate, the time within which that action is to be taken.
- (5) An owner or person must comply with a requirement provided to him or her under subsection (4)(a).

Penalty: Fine not exceeding 100 penalty units.

**39. Certain persons to have plan for emergency or risk management**

- (1) In this section –
- “**prescribed person**” means a person, or a person of a class, prescribed in the regulations for the purposes of this section;
  - “**specified**” means specified in a notice provided to a prescribed person under subsection (2).

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- (2) On the recommendation of the State Controller, the Minister, by written notice provided to a prescribed person, may require the prescribed person to prepare and provide to the State Controller within the specified time one or both of the following:
- (a) a plan for the management of emergencies generally or emergencies of a specified class;
  - (b) a plan for the management of a specified risk or a risk of a specified class.
- (3) A prescribed person must comply with a notice under subsection (2).
- Penalty: Fine not exceeding 100 penalty units.
- (4) A prescribed person who has prepared a plan as required by a notice under subsection (2) must –
- (a) review the plan at least once every 2 years; and
  - (b) within 14 days after completing a review –
    - (i) notify the State Controller of the results of that review; and
    - (ii) if the review results in an amendment to or substitution of the plan, provide the State Controller with a copy of the plan as amended or substituted unless



the State Controller determines otherwise.

Penalty: Fine not exceeding 100 penalty units.

***Division 3 – Emergency powers***

**40. Authorisation of emergency powers**

- (1) The State Controller may authorise the exercise, in accordance with the authorisation, of emergency powers if he or she –
  - (a) is satisfied that an emergency is occurring or has occurred in Tasmania and, due to the occurrence of that emergency, there are reasonable grounds for the exercise of those powers for the purpose of –
    - (i) protecting persons from distress, injury or death; or
    - (ii) protecting property or the environment from damage or destruction; or
  - (b) is satisfied on credible information that an emergency that may impact on Tasmania is occurring elsewhere in Australia.
- (2) The State Controller may make an authorisation whether or not a state of emergency has been declared.

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- (3) An authorisation –
- (a) may be oral or in writing, but if it is oral it is to be confirmed in writing as soon as practicable; and
  - (b) is to specify that the authorisation is made under this Act; and
  - (c) is to describe the general nature of the emergency to which the authorisation relates; and
  - (d) is to describe the area in respect of which the authorisation is made; and
  - (e) is to specify –
    - (i) the authorised officers or the classes of authorised officers who may exercise emergency powers under the authorisation; or
    - (ii) that all authorised officers may exercise emergency powers under the authorisation; and
  - (f) is to specify which emergency powers are exercisable under the authorisation and by which authorised officers; and
  - (g) is to specify the date and time at which, or the event on whose occurrence, the authorisation takes effect; and
  - (h) is to specify the period for which the authorisation has effect or the date and time at which, or the event on whose

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- occurrence, the authorisation ceases to have effect; and
- (i) may specify any conditions and instructions the State Controller considers appropriate.
- (4) An authorisation may not be made so as to have effect for a period exceeding 7 days.
- (5) The State Controller –
- (a) is to notify the Minister of his or her intention to give an authorisation before giving it; or
- (b) if the State Controller considers that in the circumstances it is not practicable to notify the Minister before giving the authorisation, is to notify the Minister as soon as practicable after giving the authorisation.
- (6) The State Controller may extend an authorisation for one or more further periods, each of which does not exceed 7 days, if –
- (a) he or she is satisfied that there are reasonable grounds to do so; and
- (b) the Minister consents to the extension.
- (7) The State Controller may amend or revoke an authorisation at any time.
- (8) The extension, amendment or revocation of an authorisation –

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- (a) may be oral or in writing, but if it is oral it is to be confirmed in writing as soon as practicable; and
  - (b) takes effect when it is made or at a later time specified in it.
- (9) As soon as practicable after giving, extending, amending or revoking an authorisation, the State Controller is to provide a copy of the authorisation, extension, amendment or revocation to the Regional Controller of each region affected by the authorisation and such authorised officers as he or she considers appropriate.

**41. Authority of authorisation of emergency powers**

- (1) An authorisation of emergency powers under section 40 authorises the exercise in accordance with the authorisation of emergency powers by authorised officers as specified in the authorisation.
- (2) If an authorisation of emergency powers under section 40 authorises an authorised officer to exercise emergency powers, the authorised officer may exercise those powers whether or not he or she has received a copy of the authorisation.

***Division 4 – State of emergency***

**42. Declaration of state of emergency**

- (1) The Premier may declare a state of emergency if he or she –
- (a) is satisfied on reasonable grounds of one or more of the following:
    - (i) that an emergency is occurring or has occurred in Tasmania;
    - (ii) that circumstances require, or may require, the use of special emergency powers; and
  - (b) is satisfied that the authorisation of emergency powers without a declaration of a state of emergency is insufficient, or may be insufficient, to manage the emergency.
- (2) A declaration of a state of emergency –
- (a) may be oral or in writing, but if it is oral it is to be confirmed in writing as soon as practicable; and
  - (b) is to specify that the declaration is made under this Act; and
  - (c) is to describe the general nature of the emergency to which the declaration relates; and

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- (d) is to describe the area in respect of which the declaration is made; and
  - (e) is to specify –
    - (i) the Regional Controllers who may exercise special emergency powers under the declaration; and
    - (ii) that the State Controller may exercise special emergency powers under the declaration; and
  - (f) is to specify which special emergency powers are exercisable under the declaration and by whom; and
  - (g) is to specify the date and time at which, or the event on whose occurrence, the declaration takes effect; and
  - (h) is to specify the period for which the declaration has effect or the date and time at which, or the event on whose occurrence, the declaration ceases to have effect; and
  - (i) may specify any conditions and instructions the State Controller considers appropriate.
- (3) A declaration of a state of emergency may not be made so as to have effect –
- (a) for a period not exceeding 12 weeks in the case of an emergency relating to disease in humans or animals; or

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- (b) for a period not exceeding 2 weeks in any other case.
- (4) The Premier may extend a declaration of a state of emergency for one or more further periods, each of which does not exceed the relevant period specified in subsection (3), if satisfied that there are reasonable grounds to do so.
- (5) The Premier may amend or revoke a declaration of a state of emergency at any time.
- (6) The extension, amendment or revocation of a declaration of a state of emergency may be oral or in writing, but if it is oral it is to be confirmed in writing as soon as practicable.
- (7) As soon as practicable after a declaration of a state of emergency is made, extended, amended or revoked, the State Controller is to provide a copy of the declaration, extension, amendment or revocation to the persons who may exercise special emergency powers under the declaration.
- (8) If a declaration of a state of emergency relating to disease in humans or animals is made for a period exceeding 4 weeks –
  - (a) the State Committee is to review the need for the declaration at the end of that first 4 weeks and then every 2 weeks while the declaration continues to have effect; and
  - (b) if the State Committee on any such review determines that the declaration should be amended or revoked, the State

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Committee is to provide its recommendation for the amendment or revocation of the declaration to the Premier.

**43. Authority of declaration of state of emergency**

- (1) A declaration of a state of emergency under section 42 authorises the exercise in accordance with the declaration of special emergency powers by the State Controller and Regional Controllers as specified in the declaration.
- (2) If a declaration of a state of emergency under section 42 authorises the State Controller or a Regional Controller to exercise special emergency powers, the State Controller or Regional Controller may exercise those powers whether or not he or she has received a copy of the declaration.

**44. Duties if state of emergency declared**

If a state of emergency is declared –

- (a) the State Controller and the Regional Controller of a region affected by the declaration are to implement emergency management in accordance with any relevant emergency management plan and as he or she otherwise considers appropriate; and



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- (b) subject to any directions given by the Premier, Minister or State Controller, if a region is affected by the declaration the Regional Controller is to –
  - (i) take the action required by any relevant emergency management plan and as he or she otherwise considers appropriate; and
  - (ii) take immediate action to use, direct and coordinate all available resources so as to counter the effects or the likely effects of the emergency; and
- (c) if a municipal area is affected by the declaration, the Municipal Coordinator is to advise and assist the Regional Controller with respect to emergency management in the municipal area.

**45. Authorisation by Regional Controller if state of emergency declared**

- (1) Unless the State Controller has directed otherwise, a Regional Controller may authorise the exercise, in accordance with the authorisation, of emergency powers in the region for which he or she is Regional Controller if –
  - (a) a state of emergency has been declared in respect of that region, part of that region or the whole State; or

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- (b) a state of emergency has been declared in respect of another place that is not in that region and the Regional Controller is satisfied that the emergency may impact on that region to the extent that it is reasonable to authorise the exercise of those powers in that region for the purpose of –
  - (i) protecting persons from distress, injury or death; or
  - (ii) protecting property or the environment from damage or destruction; or
  - (iii) otherwise mitigating the impact of the emergency on that region.
- (2) Section 40(3), (4), (5), (6), (7), (8) and (9) and section 41 apply to an authorisation given by a Regional Controller under this section and for that purpose –
  - (a) a reference in section 40(3), (4), (5), (6), (7), (8) or (9) to the State Controller is taken to be a reference to the Regional Controller; and
  - (b) a reference in section 40(3), (4), (5), (6), (7), (8) or (9) to the Minister is taken to be a reference to the State Controller; and
  - (c) a reference in section 41 to an authorisation under section 40 is taken to be a reference to an authorisation under this section.

- (3) If the State Controller is of the opinion that there is a conflict between an authorisation under this section and an authorisation under section 40, the State Controller may amend or revoke either authorisation as he or she considers appropriate.

***Division 5 – Roles of councils and municipal volunteer SES units***

**46. Councils to use resources in emergency**

If an emergency affects a municipal area, the council in the municipal area is to use its resources and the resources made available to it for the purposes of managing the emergency –

- (a) in accordance with the Municipal Emergency Management Plan; or
- (b) so far as that plan is not applicable and if a state of emergency that affects the municipal area has been declared, in accordance with the directions of the Municipal Chairperson, Regional Controller or Municipal Coordinator.

**47. Councils to establish or provide for resources**

Each council is to establish and maintain, or otherwise provide for the availability of, all resources and facilities it considers necessary for the management of an emergency in its municipal area in accordance with the relevant Municipal Emergency Management Plan.

**48. Municipal volunteer SES units**

- (1) Without limiting the actions that a council is to or may take under section 47, a council in complying with that section is to establish and maintain such municipal volunteer SES units as, after consultation with the Director SES, it considers necessary to ensure the effective operation of the relevant Municipal Emergency Management Plan and for undertaking rescue and retrieval operations.
- (2) The Director SES is to appoint a Unit Manager for each municipal volunteer SES unit.
- (3) The Unit Manager of a municipal volunteer SES unit is subject to the direction of the Director SES.

**49. Resources of municipal volunteer SES units**

- (1) In complying with its obligations under section 48, a council is responsible for the effective operation of its municipal volunteer SES units and, for this purpose, is responsible for all aspects of the storage and maintenance of the equipment used by those units and the provision of other facilities and resources necessary for those units to perform their functions, including adequate accommodation for the purposes of training members of those units, unless otherwise agreed with the Director SES under subsection (2).

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- (2) Such equipment, training and other facilities and resources for emergency management as the Director SES considers appropriate –
- (a) may be provided in accordance with an agreement between the Director SES and a council; or
  - (b) must be provided if the relevant Municipal Emergency Management Plan requires it –
- to a municipal volunteer SES unit from the resources of the State Emergency Service.
- (3) The Director SES may issue to councils standards for the adequate storage and maintenance of the equipment used by municipal volunteer SES units.
- (4) A municipal volunteer SES unit is to use equipment provided to it only for emergency management, rescue and retrieval operations, training for emergency management and rescue and retrieval operations and as otherwise determined by the Director SES.

**50. Power to bind in contracts**

A council may enter into a contract with one or more councils or other persons to enable or facilitate emergency management in its municipal area, other municipal areas or both its municipal area and other municipal areas.

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***Division 6 – Miscellaneous***

**51. Assistance**

In performing functions and exercising powers under this Part, an authorised officer may be assisted by such persons as he or she considers appropriate.

**52. Use of force**

In performing functions and exercising powers under this Part, an authorised officer or a person assisting, and under the direct supervision of, an authorised officer may use such force as is reasonably necessary.

**PART 4 – MISCELLANEOUS**

**53. Allocations to councils**

- (1) The Minister, out of money provided by Parliament for the purposes of this Act, may allocate such amounts as he or she determines to a council or other person for the purposes of emergency management and rescue and retrieval operations.
- (2) Sums allocated under this section are to be expended for the purposes for which the allocation was made.

**54. Compensation for lost property, &c.**

- (1) Compensation may be payable if property is lost, destroyed or damaged as a result of an act or omission by an emergency management worker, the State Committee, a Regional Committee, a Municipal Committee or another person while –
  - (a) exercising, or purportedly exercising, an emergency power or special emergency power; or
  - (b) undertaking, or purportedly undertaking, rescue and retrieval operations; or
  - (c) performing or exercising, or purportedly performing or exercising, any function or other power under this Act.

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- (2) A claim for compensation under subsection (1) is to be made to the Minister in the first instance.

**55. Liability for death or injury resulting from performing functions, &c., under this Act**

- (1) The Crown is liable in tort in respect of the death of or injury to a person other than an emergency management worker, subject to the defences and other incidences ordinarily applicable in proceedings in tort, if the death or injury is a result of an emergency management worker, the State Committee, a Regional Committee, a Municipal Committee or another person –
- (a) failing to perform or exercise a function or power imposed or conferred by or under this Act; or
  - (b) improperly performing or exercising a function or power imposed or conferred by or under this Act; or
  - (c) contravening a provision of this Act or the regulations that prohibits the doing of any act; or
  - (d) performing or exercising, or purportedly performing or exercising, any function or other power under this Act.
- (2) Despite subsection (1), the Crown is not liable in tort in respect of the death of or injury to a person if the death or injury is attributable



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wholly or partly to an act or omission by an emergency management worker while –

- (a) exercising, or purportedly exercising, an emergency power or special emergency power; or
  - (b) undertaking, or purportedly undertaking, rescue and retrieval operations.
- (3) An award against the Crown under proceedings taken under subsection (1) is payable out of money provided by Parliament for the purpose.

**56. Workers’ compensation payable to or in respect of volunteers**

(1) In this section –

**“volunteer emergency management worker”** means an emergency management worker whose participation in emergency management or rescue and retrieval operations is as a volunteer.

- (2) For the purposes of the *Workers Rehabilitation and Compensation Act 1988*, a volunteer emergency management worker who participates in emergency management or a rescue and retrieval operation is taken to be a worker employed by the Crown while engaging in that emergency management or rescue and retrieval operation.
- (3) For the purpose of assessing the compensation payable to, or in respect of, a person to whom

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subsection (2) applies, the person's average weekly earnings –

- (a) if he or she was working under a contract of service or an industrial award or agreement immediately before engaging in the emergency management or rescue and retrieval operation, are to be calculated according to his or her earnings under that contract; or
  - (b) if he or she was not working under such a contract, award or agreement at that time, are to be calculated as prescribed.
- (4) Without restricting the operation of subsection (2), participation in any training, meeting, competition, demonstration or display held –
- (a) in respect of emergency management, rescue and retrieval operations or matters related to emergency management or rescue and retrieval operations; or
  - (b) for the purpose of increasing awareness of emergency management or rescue and retrieval operations –

is taken to be participation in emergency management or a rescue and retrieval operation.

**57. Protection of employment rights**

A person who is absent from his or her usual employment for the purposes of participating in

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emergency management, or participating in a rescue and retrieval operation during or after the incident or other event that is the reason for the operation, is not liable for dismissal or loss of long service leave, sick leave, recreation leave or other benefits to which he or she may be entitled under any industrial award or agreement or under any law by reason only of that absence (whether or not his or her usual employer has consented to that absence) if –

- (a) the person is a member of, or has a member-like association with, the State Emergency Service, another statutory service, a municipal volunteer SES unit or an affiliated organisation and either –
  - (i) was requested by or on behalf of the State Emergency Service, statutory service, municipal volunteer SES unit or affiliated organisation to participate in the emergency management or rescue and retrieval operation; or
  - (ii) no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made; or
- (b) the person has been directed or required under the exercise of emergency powers or special emergency powers to so

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participate in the emergency management or rescue and retrieval operation.

**58. Protection from liability**

An emergency management worker does not incur any civil or criminal liability in respect of any act done or omitted to be done by the person in good faith –

- (a) in undertaking emergency management, rescue and retrieval operations or a prescribed activity; or
- (b) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act; or
- (c) in the administration or execution, or the purported administration or execution, of this Act.

**59. Destruction, &c., attributable to emergency**

(1) In this section –

“**prescribed action**” means the act or omission of an emergency management worker while –

- (a) participating in emergency management, a rescue and

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retrieval operation or a prescribed activity; or

- (b) performing or exercising, or purportedly performing or exercising, any function or power under this Act;

**“training”** means training and other preparation.

- (2) The death or injury of a person, or the loss of, destruction of or damage to property, that is the result of a prescribed action by an emergency management worker is taken, where possible and for the purposes of any contract, to have been caused –

- (a) if the emergency management worker’s participation in the emergency management, rescue and retrieval operation or prescribed activity, or his or her performance or exercise or purported performance or exercise of any function or power under this Act, occurred because of the occurrence of an emergency, incident or event, by that emergency, incident or event; or
- (b) if the emergency management worker’s participation in the emergency management, rescue and retrieval operation or prescribed activity, or his or her performance or exercise or purported performance or exercise of the function or power, occurred as training or other

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preparation for an emergency, rescue and retrieval operation or prescribed activity, by an actual emergency, incident or event of the kind that the training or other preparation related to or that is prescribed.

**60. Offences with respect to emergency management workers**

A person must not –

- (a) assault, resist, impede or obstruct an emergency management worker who is participating in emergency management or a rescue and retrieval operation, or performing or exercising a function or power, under this Act; or
- (b) use threatening, abusive or insulting language to such an emergency management worker; or
- (c) fail to comply with a lawful requirement or direction of such an emergency management worker; or
- (d) knowingly provide false or misleading information to such an emergency management worker; or
- (e) impersonate an emergency management worker.

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Penalty: Fine not exceeding 100 penalty units or a term of imprisonment not exceeding 3 months, or both.

**61. Offences by bodies corporate**

- (1) If a body corporate commits an offence against this Act, each person concerned in the management of the body corporate is taken to have also committed the offence and may be convicted of the offence unless the person shows that –
  - (a) the act or omission constituting the offence took place without the person’s knowledge or consent; or
  - (b) the person used all due diligence to prevent that act or omission by the body corporate.
- (2) A person referred to in subsection (1) may be convicted of an offence against this Act whether or not the body corporate is charged with or convicted of the offence.

**62. Evidentiary provisions**

- (1) In this section –

“**specified**” means specified in a certificate made under this section.

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- (2) In any proceedings, a certificate or other document purporting to be signed by the State Controller in relation to any of the following matters is evidence of the matters specified in it:
- (a) whether or not an authorisation under section 40, or a declaration of a state of emergency under section 42, was in effect during a specified period or on a specified day in respect of the whole of Tasmania or a specified region or specified place;
  - (b) whether or not a specified person was an authorised officer during a specified period or on a specified day;
  - (c) whether or not a specified authorised officer was entitled to exercise specified powers during a specified period or on a specified day under an authorisation under section 40, or a declaration of a state of emergency under section 42.
- (3) In any proceedings, a certificate or document purporting to be signed by the Director in relation to any of the following matters is evidence of the matters specified in it:
- (a) whether or not a specified person was a member, including a voluntary member, of the State Emergency Service during a specified period or on a specified day;
  - (b) whether or not an organisation was an affiliated organisation during a specified period or on a specified day.



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(4) In any proceedings, a document –

- (a) purporting to be a delegation by the Minister or a person referred to in section 30 of functions or powers to another person; and
- (b) purporting to be signed by the Minister or that person referred to in section 30 –

is evidence that the document is such a delegation and of the matters specified in it.

**63. Annual report**

- (1) As soon as practicable after the end of a financial year but no later than the immediately following 30 September, the State Controller is to provide a report on the operation of this Act to the Minister.
- (2) Without limiting the matters that may be included in the report, the report is to –
  - (a) provide details about each authorisation or declaration of a state of emergency made, amended or extended under Divisions 2, 3 and 4 of Part 3 or each other exercise of powers under any of those Divisions during the financial year to which the report relates; and
  - (b) include any other matters required by the Minister.

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- (3) If the report specifies that an authorisation or a declaration of a state of emergency has been made, amended or extended under Divisions 2, 3 and 4 of Part 3 or there has been any other exercise of powers under any of those Divisions, the Minister is to cause information relating to the making, amendment or extension of the authorisation or declaration, or the exercise of those powers, to be laid before each House of Parliament not later than 31 October immediately following the financial year to which the report relates.
- (4) If the Minister is unable to comply with subsection (3) by reason of the fact that either House of Parliament is not sitting, the Minister on or before 31 October is to –
- (a) forward a copy of the information to the Clerk of the Legislative Council and the Clerk of the House of Assembly; and
  - (b) make the report available to the public –
- and, within the next 7 sitting-days of that House, is to cause a copy of the report to be laid before that House.
- (5) The report may be included in the annual report of the Department.

**64. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.

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- (2) The regulations may be made so as to apply –
  - (a) throughout the whole of Tasmania or in a region, place or area specified in the regulations; and
  - (b) differently according to such other factors as are specified in the regulations.
- (3) The regulations may –
  - (a) provide that a contravention of any of the regulations is an offence; and
  - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.
- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.
- (5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act, including provisions in respect of legal proceedings and judgments.
- (6) Regulations made under subsection (5) may take effect on the day on which this Act commences or a later day as specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

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**65. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Police and Emergency Management; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Police and Emergency Management.

**66. Savings and transitional provisions**

The savings and transitional provisions set out in Schedule 4 have effect.

**67. Consequential Amendments**

The legislation specified in Schedule 5 is amended as specified in that Schedule.

**68. Legislation repealed**

The legislation specified in Schedule 6 is repealed.

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**69. Legislation rescinded**

The legislation specified in Schedule 7 is rescinded.

**70. Legislation revoked**

The legislation specified in Schedule 8 is revoked.

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**SCHEDULE 1 – EMERGENCY POWERS**

Definition of “emergency power” in section 3

**1. Emergency powers**

(1) The following powers are emergency powers:

- (a) to evacuate persons, animals and wildlife;
- (b) to prohibit, direct, regulate or limit the movement of persons, animals, wildlife, vehicles and other property into, within or out of Tasmania, any area in Tasmania or any premises;
- (c) to move persons, animals, wildlife, vehicles and other property;
- (d) to detain persons, and seize animals, wildlife, vehicles, premises and other property, that the authorised officer suspects may be contaminated or infected by chemical, biological or radiological material;
- (e) to do one or more of the following:
  - (i) medically examine, treat or decontaminate any person that the authorised officer suspects may be contaminated or infected by chemical, biological or radiological material;

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- (ii) require such a person to submit to a medical examination, treatment or decontamination as specified in the requirement;
- (f) to do one or more of the following:
  - (i) medically examine, inspect, analyse, take samples of, treat, decontaminate or destroy any animal, wildlife, vehicle, premises or other property that the authorised officer suspects may be contaminated or infected by chemical, biological or radiological material;
  - (ii) require a person to allow the taking of an action referred to in subparagraph (i) in respect of any such animal, wildlife, vehicle, premises or other property;
  - (iii) require a person to deliver, as specified in the requirement, any such animal, wildlife, vehicle or other property for the purposes of the taking of an action referred to in subparagraph (i) in respect of that animal, wildlife, vehicle or other property;
- (g) to dispose of human remains, the carcass of any animal or any wildlife, vehicle or other property in the manner that the authorised officer considers appropriate

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despite any law that would otherwise prevent or restrict that disposal;

- (h) to take samples of any material or other thing that the authorised officer suspects may be, or may be contaminated or infected by, chemical, biological or radiological material;
- (i) to turn off, block, take possession of or restore the supply of electricity, liquids, gas or any other substance;
- (j) to close to traffic of any type any street, private street, way, service lane, right of way or access way;
- (k) to close any public place or part of a public place, or to require the person for the time being in charge of any public place to close it or a part of it;
- (l) to close a public event or part of a public event, or to require the organiser of a public event to cancel or close the event or part of the event;
- (m) to enter premises;
- (n) to stop and enter vehicles;
- (o) in any premises or vehicle lawfully entered –
  - (i) to inspect the premises or vehicle and anything in or on the premises or vehicle; and



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- (ii) to require any person in or on the premises or vehicle to open any cupboard, compartment or container; and
- (iii) to seize anything found in or on the premises or vehicle that, in the opinion of the authorised officer, is relevant to the management of the emergency; and
- (iv) to examine, seize, make copies of or take extracts from any documents; and
- (v) to take photographs of any person or thing;
- (p) to inspect and search personal belongings, and seize any personal belonging that, in the opinion of the authorised officer, is relevant to the management of the emergency;
- (q) to require any person to answer any question asked by the authorised officer or to provide any document or other information required by the authorised officer that is in the control of the person;
- (r) to excavate land, construct earthworks, erect temporary barriers and other structures and modify or mend any existing structure;

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- (s) to require a person who owns or is apparently in charge of property, or who carries on or is in charge of a business, to take the actions relating to that property or business specified by the authorised officer to minimise the possibility of aggravating an emergency or the effects of an emergency;
  - (t) to give directions to, and make requirements of, a person, as necessary or practicable, for the purposes of exercising an emergency power;
  - (u) powers prescribed as emergency powers.
- (2) An authorised officer may detain a person who is detained under subclause (1), or keep possession of any animal, wildlife, vehicle, document or property seized under that subclause, for so long as is necessary to conduct appropriate examinations, treatments and decontamination.
- (3) Before entering premises under subclause (1), an authorised officer is to give reasonable notice of not more than 3 days, in writing, to the occupier of the premises of the intention to enter the premises unless –
- (a) the occupier consents to the entry without written notice; or
  - (b) the premises are open to entry by the public; or
  - (c) the authorised officer believes on reasonable grounds that the

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circumstances are such that immediate entry is necessary for the purpose of protecting people from distress, injury or death or protecting property or the environment from damage or destruction.

- (4) The power to inspect and search the personal belongings of a person under subclause (1)(p) includes—
- (a) the power to inspect and search the clothing of the person; and
  - (b) the power to require the person to remove outer garments of clothing such as coats, hats, gloves and shoes but does not include the power to require the person to remove the layer of clothing that immediately covers his or her underwear or all of his or her clothes; and
  - (c) the power to frisk that person; and
  - (d) the power to search the person's clothing, whether or not being worn by the person, by using an animal or device that is capable of detecting chemical, biological, radiological or metallic material on that person or his or her clothes.

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**SCHEDULE 2 – SPECIAL EMERGENCY POWERS**

Definition of “special emergency power” in section 3

**1. Special emergency powers of State Controller and Regional Controllers**

The State Controller or a Regional Controller of a region affected by the declaration of a state of emergency may –

- (a) direct that the resources of the State and any council or other person be made available for emergency management as specified in the direction; and
- (b) require the owner (including a council) of, or the person for the time being in charge of, any resources to surrender the resources and place them under the control of any person involved in emergency management; and
- (c) take such other action as the State Controller or Regional Controller considers appropriate for emergency management.

**SCHEDULE 3 – MEMBERSHIP AND MEETINGS OF  
COMMITTEES**

Sections 8(8), 15(8) and 21(7)

**1. Interpretation**

In this Schedule –

**“Committee”** means the State Committee, a Regional Committee or a Municipal Committee;

**“member”** means a member of a Committee.

**2. Holding other office**

The holder of an office who is required by the terms of his or her employment to devote the whole of his or her time to the duties of that office is not disqualified from –

- (a) holding that office and also the office of a member; or
- (b) accepting any remuneration payable to a member.

**3. Remuneration and conditions of appointment**

- (1) A member is entitled to be paid such remuneration and allowances as the Minister determines.

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- (2) A member who is a State Service employee or State Service officer is not entitled to remuneration or allowances under this clause except with the approval of the Minister administering the *State Service Act 2000*.
- (3) A member who is appointed by instrument of appointment holds office on such conditions in relation to matters not provided for by this Act as are specified in the member's instrument of appointment.

**4. Nominees**

- (1) Subject to this Act, a member may nominate a person to attend meetings of the Committee and act in the office of a member in his or her stead.
- (2) A nominee may attend meetings of the Committee and act in the office of a member if –
  - (a) the member is absent from Tasmania or from duty as a member; or
  - (b) the member is otherwise unable to perform the functions of the office of a member.
- (3) While a nominee is attending a meeting of the Committee and acting in the office of a member he or she is taken to be the member.

**5. Convening of meetings**

The chairperson, after giving each member reasonable notice of a meeting –

- (a) may convene a meeting at any time; and
- (b) must convene a meeting when requested to do so by 2 or more other members.

**6. Frequency of meetings**

A Committee is to meet as often as is necessary for the performance of its functions.

**7. Presiding at meetings**

- (1) The chairperson of a Committee is to preside at all meetings of the Committee at which he or she is present.
- (2) If the Municipal Chairperson is not present at a meeting of that Committee, the nominee of the Municipal Chairperson is to preside.

**8. Quorum at meetings**

- (1) At a meeting of a Committee, a quorum is constituted by that number of members determined by the members present at the meeting but must not be less than 3 members consisting of the chairperson, the executive officer of the Committee and one other member.

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- (2) A meeting of a Committee at which a quorum is present is competent to transact any business of the Committee.

**9. Conduct of meetings and proceedings**

- (1) A Committee may regulate the calling of, and the conduct of business at, its meetings and all its proceedings as it considers appropriate.
- (2) Unless a Committee determines otherwise, a member may participate in, and be present at, a particular meeting or all meetings by –
- (a) being personally present; or
  - (b) telephone; or
  - (c) video conference; or
  - (d) any other means of communication.

**10. Resolutions without meetings**

- (1) If the same number of members as constitute a quorum sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Committee held on the day on which the document is signed or, if those members do not sign it on the same day, on the day on which the last of those members signs the document.



- (2) For the purposes of subclause (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, is taken to constitute one document.

### **11. Minutes**

A Committee is to keep accurate minutes of its meetings.

### **12. Validation of proceedings, &c.**

- (1) An act or proceeding of a Committee or of a person acting under any direction of a Committee is not invalidated by reason only that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of a member.
- (2) All acts and proceedings of a Committee, or of a person acting under a direction of a Committee, are, despite the subsequent discovery of a defect in the appointment of a prescribed member or that any other person was disqualified from acting as, or was incapable of being, a member, as valid as if the member had been duly appointed or was qualified to act as, or capable of being, a member, and as if the Committee had been fully constituted.

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**13. Presumptions**

In any proceeding by or against a Committee, unless evidence is given to the contrary, proof is not required of –

- (a) any resolution of the Committee; and
- (b) the presence of a quorum at any meeting of the Committee.

**SCHEDULE 4 – SAVINGS AND TRANSITIONAL  
PROVISIONS**

Section 66

**1. Interpretation**

In this Schedule –

**“commencement day”** means the day on which this Act commences;

**“counter-disaster measures”** has the same meaning as in the Repealed Act;

**“Director of Emergency Services”** means the person appointed as Director of Emergency Services under section 20 of the Repealed Act;

**“Region Disaster Planning Group”** means a Region Disaster Planning Group established under section 15 of the Repealed Act;

**“Repealed Act”** means the *Emergency Services Act 1976*;

**“State Disaster Committee”** means the State Disaster Committee established by section 6 of the Repealed Act;

**“State Disaster Executive”** means the State Disaster Executive established by section 9 of the Repealed Act.

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**2. State Disaster Committee and State Disaster Executive**

- (1) The State Disaster Committee is abolished.
- (2) Each person who is a member of the State Disaster Committee specified in section 6(2)(b), (c) and (d) and (3) of the Repealed Act immediately before the commencement day is taken to be a member of the State Committee, and –
  - (a) in the case of a member of the State Disaster Group who does not have an instrument of appointment or nomination, the State Controller is taken to have determined the position or office held by that member for the purposes of section 8(1)(b) of this Act; or
  - (b) in the case of a member of the State Disaster Group who was appointed or nominated by instrument of appointment or nomination, that appointment or nomination continues and is taken to be an appointment made by the State Controller under section 8(1)(c).
- (3) The State Disaster Executive is abolished.
- (4) Where appropriate –
  - (a) an act done or omitted to be done by the State Disaster Committee or State Disaster Executive is taken to have been done or omitted by the State Committee; and

- (b) a document made or executed by the State Disaster Committee or State Disaster Executive is taken to have been made or executed by the State Committee; and
- (c) a reference in a document to the State Disaster Committee or State Disaster Executive is taken to be a reference to the State Committee.

### **3. Region Disaster Controller and Deputy**

- (1) The appointment of a person as Region Disaster Controller under section 14 of the repealed Act that is in force immediately before the commencement day continues and is taken to be an appointment to the office of Regional Emergency Management Controller under section 17 of this Act in respect of the relevant region.
- (2) The appointment of a person to act in the role of deputy to a Region Disaster Controller that is in force immediately before the commencement day continues and is taken to be an appointment to the office of Deputy Regional Emergency Management Controller under section 17 of this Act in respect of the relevant region.
- (3) Where appropriate –
  - (a) an act done or omitted to be done by a Region Disaster Controller or his or her deputy is taken to have been done or

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omitted by the relevant Regional Controller or Deputy Regional Controller; and

- (b) a document made or executed by a Region Disaster Controller or his or her deputy is taken to have been made or executed by the relevant Regional Controller or Deputy Regional Controller; and
- (c) a reference in a document to a Region Disaster Controller or his or her deputy is taken to be a reference to a Regional Controller or the relevant Regional Controller or Deputy Regional Controller.

**4. Region Disaster Planning Group**

- (1) Each Region Disaster Planning Group is abolished.
- (2) Subject to the determination of the Regional Controller under subclause (3), each person who is a member of a Region Disaster Planning Group specified in section 15(b), (c), (d), (e), (f), (g) and (h) of the Repealed Act immediately before the commencement day is taken to be a member of the State Committee referred to in section 15(1)(b) or (c) of this Act, as the case requires, and –
  - (a) in the case of a member of the Region Disaster Planning Group who does not

- have an instrument of appointment, the Regional Controller is taken to have determined the position or office held by that member for the purposes of section 15(1)(b) of this Act; or
- (b) in the case of a member who was appointed by instrument of appointment, that appointment continues and is taken to be an appointment made by the Regional Controller under section 15(1)(c).
- (3) A Regional Controller, by notice provided to a member of a Region Disaster Planning Group referred to in subclause (2), may determine that the member is not to become a member of the relevant Regional Committee and if he or she does so –
- (a) in the case of a member who does not have an instrument of appointment, the Regional Controller is not taken to have determined the position or office held by that member for the purposes of section 15(1)(b) of this Act; or
- (b) in the case of a member of the Region Disaster Planning Group who was appointed by instrument of appointment, that appointment is terminated on the commencement day and the member is not entitled to any compensation or other payment in respect of that termination.
- (4) Where appropriate –

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- (a) an act done or omitted to be done by a Region Disaster Planning Group is taken to have been done or omitted by the relevant Regional Committee; and
- (b) a document made or executed by a Region Disaster Planning Group is taken to have been made or executed by the relevant Regional Committee; and
- (c) a reference in a document to a Region Disaster Planning Group is taken to be a reference to a Regional Committee or the relevant Regional Committee.

**5. Members of State Emergency Service**

- (1) A person who immediately before the commencement day is a member of the State Emergency Service continues to be such a member on the same terms and conditions.
- (2) A person appointed subject to and in accordance with the *State Service Act 2000* for the purposes of the Repealed Act who is a member of the State Emergency Service immediately before the commencement day is taken to have been appointed under the *State Service Act 2000* for the purposes of this Act.
- (3) A person appointed by the Director of Emergency Services under section 23(a) of the Repealed Act to be a registered volunteer member, or executive volunteer member, of the State Emergency Service is taken to have been



registered by the State Controller as a volunteer member of the State Emergency Service under section 28(2)(b) of this Act.

## **6. Director of Emergency Services**

- (1) The appointment of a person as Director of Emergency Services under section 20(1) of the repealed Act that is in force immediately before the commencement day continues and is taken to be an appointment to the office of State Emergency Management Controller under section 10 of this Act.
- (2) Where appropriate –
  - (a) an act done or omitted to be done by the Director of Emergency Services is taken to have been done or omitted by the State Controller; and
  - (b) a document made or executed by the Director of Emergency Services is taken to have been made or executed by the State Controller; and
  - (c) a reference in a document to the Director of Emergency Services is taken to be a reference to the State Controller.

## **7. Combined municipal areas**

If 2 or more councils have united with the approval of the Minister under section 30(2) of

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the Repealed Act for the purpose of preparing a counter-disaster plan under the Repealed Act, the municipal areas of those councils are taken to have been determined to be a combined area under section 19 of this Act.

**8. Local Co-ordinators of the State Emergency Service**

- (1) The appointment of a person as a Local Co-ordinator of the State Emergency Service under section 30(1)(a) of the repealed Act that is in force immediately before the commencement day continues and is taken to be an appointment to the office of Municipal Emergency Management Coordinator under section 23 of this Act in respect of the relevant municipal area.
- (2) The appointment of a person to act in the role of deputy to Local Co-ordinator that is in force immediately before the commencement day continues and is taken to be an appointment to the office of Deputy Municipal Emergency Management Coordinator under section 23 of this Act in respect of the relevant municipal area.
- (3) Where appropriate –
  - (a) an act done or omitted to be done by a Local Co-ordinator of the State Emergency Service is taken to have been done or omitted by the relevant Municipal Coordinator; and
  - (b) a document made or executed by a Local Co-ordinator of the State Emergency

Service is taken to have been made or executed by the relevant Municipal Coordinator; and

- (c) a reference in a document to a Local Coordinator of the State Emergency Service is taken to be a reference to a Municipal Coordinator or the relevant Municipal Coordinator.

#### **9. Contracts by councils**

A contract entered into, executed or made by a council under section 34 of the Repealed Act continues and is taken to have been entered into, executed or made by the council under section 50 of this Act.

#### **10. Authorised officers**

A person who, immediately before the commencement day, is an authorized person for the purposes of section 28 or 29 of the Repealed Act is taken to be an authorised officer subject to the same conditions and limitations, if any, which applied to his or her authorisation as such an authorized person.

#### **11. Personal identification**

A card or other document for personal identification issued under the Repealed Act

continues to have effect as if it were issued under this Act.

## **12. Emergency Management Plans**

(1) The plan prepared by the State Disaster Committee under the Repealed Act that –

- (a) makes provision in respect of counter-disaster measures for Tasmania; and
- (b) has been approved by the Minister under the Repealed Act; and
- (c) is in force immediately before the commencement day –

is taken to be the Tasmanian Emergency Management Plan prepared by the State Committee, and approved by the Minister, under section 32 of this Act.

(2) The counter-disaster plan prepared by each Region Disaster Planning Group under section 16 of the Repealed Act that –

- (a) makes provision in respect of counter-disaster measures for the region in respect of which the Region Disaster Planning Group is established; and
- (b) has been approved by the Director of Emergency Services under the Repealed Act; and

(c) is in force immediately before the commencement day –

is taken to be the Regional Emergency Management Plan for the relevant region prepared by the Regional Committee for that region, and approved by the State Controller, under section 33 of this Act.

(3) The counter-disaster plan prepared under section 30 of the Repealed Act by each council, or group of 2 or more councils united with the Minister's approval under that section, that –

(a) makes provision in respect of counter-disaster measures for its municipal area; and

(b) has been approved by the Director of Emergency Services under section 31 of the Repealed Act; and

(c) is in force immediately before the commencement day –

is taken to be the Municipal Emergency Management Plan for the relevant municipal area, or relevant combined area, prepared by the Municipal Committee for that municipal area or combined area, and approved by the Regional Controller, under section 34 of this Act.

### **13. State of emergency and state of disaster**

(1) If immediately before the commencement day a declaration of a state of emergency is in force

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under section 25 of the Repealed Act, that declaration continues according to its terms and is taken to be a declaration of a state of emergency made under section 42 of this Act.

- (2) If immediately before the commencement day a declaration of a state of disaster is in force under section 26 of the Repealed Act, that declaration continues according to its terms and is taken to be a declaration of a state of emergency made under section 42 of this Act.

**14. Compensation**

- (1) If immediately before the commencement day a person is entitled to claim compensation under section 28(4) or 29(5) of the Repealed Act, that person may claim that compensation under section 54 of this Act.
- (2) If a claim for compensation under section 28(4) or 29(5) of the Repealed Act is made before but not determined by the commencement day, that claim is taken to be a claim for compensation made under, and may be determined in accordance with, section 54 of this Act.
- (3) If immediately before the commencement day a person is entitled to claim compensation pursuant to section 43 of the Repealed Act, that person may claim that compensation pursuant to section 56 of this Act.
- (4) If a claim for compensation pursuant to section 43 of the Repealed Act is made before but not

determined by the commencement day, that claim is taken to be a claim for compensation made pursuant to section 56 of this Act and may be determined in accordance with section 56 of this Act and the *Workers Rehabilitation and Compensation Act 1988*.

**15. References to *Emergency Services Act 1976***

- (1) Where appropriate, a reference in an Act or other document to the *Emergency Services Act 1976* is taken to be a reference to this Act.
- (2) Where appropriate, a reference in an Act or other document to a provision of the *Emergency Services Act 1976* is taken to be a reference to the corresponding provision of this Act, if any.

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**SCHEDULE 5 – CONSEQUENTIAL AMENDMENTS**

Section 67

***Dangerous Substances (Safe Handling) Act 2005***

1. Section 3 is amended by omitting “established under the *Emergency Services Act 1976*” from paragraph (a) of the definition of “emergency services” and substituting “continued under the *Emergency Management Act 2006*”.
  
2. Section 12(1) is amended by omitting paragraph (b) and substituting the following paragraph:
  - (b) *Emergency Management Act 2006*;
  
3. Section 45(2) is amended by omitting paragraph (b) and substituting the following paragraph:
  - (b) the *Emergency Management Act 2006*;
  
4. Section 52(2) is amended by omitting paragraph (b) and substituting the following paragraph:
  - (b) the *Emergency Management Act 2006*;



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***Gas Act 2000***

1. Section 92 is amended by omitting “*Emergency Services Act 1976*” and substituting “*Emergency Management Act 2006*”.

***Petroleum Products Emergency Act 1994***

1. Section 7(2) is amended by omitting “made under section 25 of the *Emergency Services Act 1976*” and substituting “of a state of emergency made under section 41 of the *Emergency Management Act 2006* is in force and”.

***Pollution of Waters by Oil and Noxious Substances Act 1987***

1. Section 35(2)(c)(i) is amended by omitting “*Emergency Services Act 1976*” and substituting “*Emergency Management Act 2006*”.

***Public Health Act 1997***

1. Section 14(1)(b) is amended by omitting “disaster under the *Emergency Services Act 1976* to be made.” and substituting “emergency under section 41 of the *Emergency Management Act 2006* to be made in respect of the area to which the declaration under this section would relate.”.

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**SCHEDULE 6 – LEGISLATION REPEALED**

Section 68

*Emergency Services Act 1976 (No. 29 of 1976)*

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**SCHEDULE 7 – LEGISLATION RESCINDED**

Section 69

*Emergency Services Regulations 2000* (No. 207 of 2000)

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**SCHEDULE 8 – LEGISLATION REVOKED**

Section 70

*Proclamation under the Emergency Services Act 1976 (No.  
123 of 1999)*