



ANNO VICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 40 of 1975

An Act to provide for the establishment of a State Counter-Disaster Organization and a State Emergency Service and their powers, authorities, functions and duties and for matters incidental to and consequent upon their establishment

[ASSENTED TO 1ST OCTOBER, 1975]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *State Counter-Disaster Organization Act 1975*.

2. Commencement. This Act shall commence on a date appointed by Proclamation.

3. Arrangement. This Act is divided into Parts as follows:—

PART I—PRELIMINARY (ss. 1–7);

PART II—ADMINISTRATION (ss. 8–22);

PART III—DECLARATION OF STATE OF DISASTER (ss. 23–25);

PART IV—POWERS AND DUTIES OF LOCAL AUTHORITIES (ss. 26–28);

PART V—MISCELLANEOUS (ss. 29–38).

4. Repeal and savings. (1) *The Civil Defence Acts, 1939 to 1942* (in this Act referred to as the "repealed Acts") are repealed.

(2) A body by whatever name called established pursuant to the repealed Acts by a Local Authority or Combined Local Authorities and in existence at the commencement of this Act is continued in existence and shall be deemed to be established under this Act.

(3) Where a provision of this Act is inconsistent with a provision of any other Act, the provision of this Act shall prevail.

5. Limitation of operation. This Act does not authorize the taking of measures amounting to or making preparations for—

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

6. Interpretation. In this Act, save where the contrary intention appears—

"body" means a body corporate or unincorporate and includes a government department, instrumentality or agency, public authority or Local Authority;

"Chairman" means the Chairman of the Central Control Group established under this Act;

"Combined Local Authorities" means the Local Authorities that have united with one another for counter-disaster purposes;

"counter-disaster" means the planning, organization, co-ordination or implementation of measures that are necessary or desirable to prevent, minimize or overcome the effects of a disaster upon members of the public or any property in the State and includes the conduct of or participation in training for those purposes: the term includes also civil defence measures necessary to combat the effects of enemy attack or hostilities;

"Director" means the Director of the State Emergency Service constituted under this Act and includes the person for the time being carrying out the duties of the Director;

"disaster" means—

- (a) a flood, earthquake, seismic sea wave, cyclone, storm, tornado, eruption or other natural happening;
- (b) any explosion, fire, oil spill or accident of any kind;
- (c) any infestation, plague or epidemic;
- (d) an attack directed against the State whether or not made by an enemy and whether by bombs or missiles or by atomic, chemical or other means, that causes or threatens to cause loss of life or property or injury to persons or property or distress to persons or that in any way endangers the safety of the public in the State or any part thereof;

"disaster district" means a portion of the State declared to be a disaster district under this Act;

"disaster district controller" means a disaster district controller appointed under this Act;

- “Local Authority” means a Local Authority within the meaning of the *Local Government Act 1936-1975* and with respect to the City of Brisbane means Brisbane City Council constituted by the *City of Brisbane Act 1924-1974*;
- “local controller” means the controller of a local emergency service appointed under this Act;
- “local emergency service” means an emergency service established and maintained under this Act by a Local Authority within its Area or by Combined Local Authorities within their combined Areas;
- “Minister” means the Minister for Police or other Minister of the Crown who, at the material time, is charged with the administration of this Act and includes any Minister of the Crown who is temporarily performing the duties of the Minister;
- “Organization” means the State Counter-Disaster Organization constituted under this Act;
- “region” means a disaster district or two or more disaster districts declared to be a region under this Act;
- “regional operations officer” means a regional operations officer appointed under this Act;
- “resources” includes manpower, any horse or other animal, vehicle, boat, plant, apparatus, implement, earthmoving equipment, construction equipment or other equipment of any kind;
- “statutory service” means a body that is constituted by or under an Act of the State or of the Commonwealth and whose role usually includes counter-disaster operations.

7. Crown bound. This Act binds the Crown.

PART II—ADMINISTRATION

8. Administration of Act. This Act shall be administered by the Minister and subject to his control and direction by the Director and other officers appointed pursuant to this Act.

9. State Counter-Disaster Organization. (1) There is established and there shall at all times hereafter be constituted a body called the “State Counter-Disaster Organization”.

(2) The Organization shall consist of—

- (a) the holders for the time being of the following offices of the State—
- (i) the Co-ordinator-General;
 - (ii) the Director-General of Health;
 - (iii) the Under Treasurer;
 - (iv) the Under Secretary, Premier’s Department;
 - (v) the Commissioner of Police;
 - (vi) the Director of Harbours and Marine;
 - (vii) the Director, State Emergency Service;

- (b) such other persons as are appointed by the Governor in Council by Order in Council.

Persons appointed pursuant to subparagraph (b) shall hold office during the pleasure of the Governor in Council.

10. Functions of Organization. The functions of the Organization are—

- (a) to co-ordinate the resources necessary to ensure that all steps are taken to plan for and counter the effects of a disaster;
- (b) to give advice and assistance to the Minister on all matters with respect to counter-disaster.

11. Business of Organization. The Organization shall meet as often as is necessary for the due administration of this Act and the performance of its functions at such times and places as it thinks fit and shall conduct its business in the manner prescribed or, so far as not prescribed, as it determines from time to time.

12. Central Control Group. (1) For the purposes of carrying out the functions of the Organization there is established and there shall at all times hereafter be constituted a Central Control Group consisting of those members of the Organization who are holders for the time being of those offices of the State specified in section 9 (2) (a). The Co-ordinator-General shall be the Chairman of the Group and the Director, State Emergency Service shall be the executive officer.

(2) The Minister may, in consultation with the Minister in charge of any department of the Government of the State or statutory corporation, appoint as a member of the Central Control Group for such period as the Minister thinks fit the permanent head of that department or statutory corporation, whether or not that permanent head is a member of the Organization.

(3) The Chairman shall preside at all meetings or consultations among members of the Central Control Group at which he is present and in his absence from any cause another member thereof appointed as prescribed shall preside and while so presiding shall have the powers, authorities, functions, duties and immunities of the Chairman.

(4) If any member is unable from any cause to attend a meeting or consultation among members of the Central Control Group, he may authorize any other officer of his department to attend the meeting or participate in the consultation in his stead and while so attending or participating that other officer shall be deemed for all purposes to be a member of the Central Control Group save that he shall not be entitled to be chairman of that meeting or for the purposes of that consultation.

(5) The Central Control Group shall meet as often as is necessary for the due performance of its functions at such times and places as it thinks fit and shall conduct its business in the manner prescribed or, so far as not prescribed, as it determines from time to time.

13. State Emergency Service. (1) The body called the "Queensland State Emergency Service" established pursuant to the repealed Acts is continued in existence and established under this Act under the name "State Emergency Service".

(2) The persons who at the commencement of this Act comprised the body called the Queensland State Emergency Service shall, subject to this Act, comprise the State Emergency Service as established by this Act.

(3) The Governor in Council may appoint a Director of the State Emergency Service and such other officers as he considers necessary for the effectual administration of the State Emergency Service.

An officer appointed pursuant to this subsection shall hold office under, subject to and in accordance with the *Public Service Act 1922-1973*.

(4) Unless and until another appointment is made, the person who at the commencement of this Act is the Director of the body called the Queensland State Emergency Service shall be the Director and any other person holding an office or occupying a position in that body at the commencement of this Act shall continue to hold that office or occupy that position until he vacates or is lawfully removed from that office or position.

14. Functions of State Emergency Service. The functions of the State Emergency Service are—

- (a) the education and training of members of the public (including volunteers and members of voluntary groups);
- (b) the co-ordination, direction and control of members of the public (including volunteers and members of voluntary groups), material and resources,

for counter-disaster purposes.

15. Powers and duties of Director generally. In carrying out the functions of the State Emergency Service, the Director—

- (a) shall establish and direct the policy of the State Emergency Service with respect to planning, organization, equipment, training, administration and operations;
- (b) shall arrange counter-disaster education and advisory programmes and disseminate information;
- (c) may appoint suitable persons to be registered volunteer members of the State Emergency Service;
- (d) may appoint suitable persons to be executive volunteer members (other than controllers) of the State Emergency Service;
- (e) prior to, during or subsequent to the occurrence of a disaster, may appoint suitable persons to be temporary volunteer members of the State Emergency Service;
- (f) may issue to members or volunteer members of any class or kind adequate means of personal identification;
- (g) may inspect at regular intervals of time resources provided for Local Authorities for counter-disaster purposes.

16. Powers and duties of Director as executive officer. In his capacity as executive officer of the Central Control Group, the Director—

- (a) shall assist and advise the Minister and the Chairman on all matters with respect to counter-disaster;
- (b) shall be responsible to the Chairman for the co-ordination and adequacy of counter-disaster measures;

- (c) shall, prior to, during or subsequent to the occurrence of a disaster translate to action instructions the decisions of the Central Control Group and shall ensure that those instructions are transmitted to and carried out by the bodies to whom they are directed.

17. Committees. The Minister may appoint such executive committees and advisory committees as he considers necessary to assist the Organization or the State Emergency Service in the efficient performance of its functions or in the achievement of its objects and purposes.

A committee shall comprise prescribed persons.

18. Declaration of regions. The Governor in Council may, by Order in Council, declare a disaster district or any two or more disaster districts to be a region for the purposes of this Act and may in like manner vary a region by excluding therefrom any disaster district or including therein any additional disaster district.

19. Appointment of regional operations officer. (1) The Governor in Council may by Order in Council appoint in respect of each region a regional operations officer.

(2) A regional operations officer shall have and may exercise such powers and perform such functions and duties as are prescribed or so far as not prescribed as the Director determines.

20. Disaster districts. (1) The Governor in Council may by Order in Council constitute any portion of the State a disaster district for the purposes of this Act and assign to that district a name and may in like manner—

- (a) include in a disaster district any portion of the State that is not included in a disaster district;
- (b) abolish a disaster district or districts and join such district or districts or join parts of such district or districts with another district or districts;
- (c) alter the boundaries of disaster districts by including in one district any part or parts of other districts and by excluding such part or parts from such other district or districts;
- (d) divide a disaster district into two or more disaster districts;
- (e) alter the name of a disaster district.

(2) A disaster district constituted pursuant to this section may comprise the whole or any division or part of the Area of a Local Authority or the whole or any divisions or parts of the Areas of two or more Local Authorities.

21. Disaster district control groups. (1) There is established and there shall at all times hereafter be constituted in respect of each disaster district a disaster district control group comprising a disaster district controller appointed by the Governor in Council by Order in Council who shall be chairman and such other members as are prescribed, appointed as prescribed.

(2) The functions of a disaster district control group are—

- (a) to make counter-disaster plans for its disaster district and review them from time to time and submit plans and reviewed plans to the Central Control Group;
- (b) to keep and maintain up to date standing orders for counter-disaster purposes within its disaster district;
- (c) such other functions as are prescribed.

(3) A disaster district control group shall meet as often as is necessary for the due performance of its functions at such times and places as it thinks fit and shall conduct its business in the manner prescribed or, so far as not prescribed, as it determines from time to time.

(4) A disaster district controller shall have and may exercise such powers and perform such functions and duties as are prescribed or so far as not prescribed as the Minister determines.

22. Power to delegate. (1) The Minister, Chairman or Director may either generally or otherwise as provided by the instrument of delegation, by writing signed by him, delegate to any person all or any of his powers, authorities, functions and duties under this Act except this power of delegation.

(2) A power, authority, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms or limitations as the Minister, Chairman or Director thinks fit including a requirement that the delegate shall report to him upon the exercise or performance of the delegated power, authority, function or duty.

(4) The Minister, Chairman or Director may make such and so many delegations of the same power, authority, function or duty and to such number of persons as he considers necessary or desirable.

(5) A delegation is revocable at the will of the Minister, Chairman or Director and does not prevent the exercise of a power or authority or the performance of a function or duty by him.

PART III—DECLARATION OF STATE OF DISASTER

23. Power of disaster district controller to declare state of disaster.

(1) If at any time it appears to a disaster district controller that the magnitude or threatened magnitude of a disaster or impending disaster is or is likely to be so great in extent or severity in his disaster district that the counter-disaster measures necessary or desirable in respect of the disaster are or are likely to be beyond the capacity of the statutory services, he may, after consultation with the disaster district control group for that district and with the approval of the Minister or Chairman, declare that a state of disaster exists in respect of that district.

(2) A declaration of a state of disaster made pursuant to this section—

- (a) shall be in the prescribed form;
- (b) shall come into force immediately it is signed;
- (c) shall continue in force for three days from and including the date the declaration was made unless sooner revoked by Order in Council.

(3) The duration of a state of disaster declared in a declaration made pursuant to this section may be extended by Order in Council for such periods not exceeding in each case 14 days as the Governor in Council thinks fit.

24. Power of Governor in Council to declare state of disaster. (1) If at any time it is made to appear to the Governor in Council that the magnitude or threatened magnitude of a disaster or impending disaster is or is likely to be so great in extent or severity that the counter-disaster measures necessary or desirable with respect to the disaster are beyond the resources of a disaster district controller, he may, upon the recommendation of the Minister, by Order in Council, declare that a state of disaster exists in respect of any disaster district or districts or of the whole State.

(2) (a) A declaration of a state of disaster made pursuant to this section—

(i) shall come into force immediately the Order in Council in respect thereof is made;

(ii) shall continue in force for 14 days from the date the Order in Council in respect thereof was made unless sooner revoked.

(b) The duration of a state of disaster declared in a declaration pursuant to this section may be extended by Order in Council for such periods not exceeding in each case 14 days as the Governor in Council thinks fit.

(3) The Governor in Council by Order in Council—

(a) may at any time revoke a declaration made pursuant to this section or section 23;

(b) may extend for periods not exceeding in each case 14 days the duration of a state of disaster declared in a declaration pursuant to this section or section 23.

25. Powers upon declaration of state of disaster. (1) Upon a declaration of a state of disaster pursuant to section 23 or 24—

(a) the Chairman—

(i) shall institute such measures as are in accordance with the disaster contingency plans, directions and orders of the Central Control Group;

(ii) may direct that the resources of the Government of the State and other resources that he considers necessary to relieve the effect of the disaster be made available;

(iii) may take such other action as he considers appropriate to counter the effects of the disaster;

(iv) may authorize the expenditure of such sums of money as are determined by the Government of the State to relieve personal distress and assist in counter-disaster measures.

(v) may, if it appears to him that resources of the Commonwealth or of another State or Territory of the Commonwealth are necessary to make better provision for the relief of the effects of the disaster, with the approval of the Minister, request aid in accordance with prescribed procedures;

- (b) a disaster district controller—
 - (i) shall take immediate action to use, direct and co-ordinate all available resources within his disaster district to counter the effects of the disaster;
 - (ii) shall, immediately they become available, use, direct and co-ordinate all additional resources that may be allocated or in respect of which arrangements have been made for allocation by the Central Control Group;
 - (iii) shall take such other measures as are provided for in contingency plans and standing orders.

(2) Upon a declaration of a state of disaster pursuant to section 23 or 24—

- (a) the Chairman or a disaster district controller, if he is of opinion that such action is necessary for the preservation of human life and without any authority other than this provision—
 - (i) may require the owner or the person for the time being in charge of any resources to surrender them and place them under the control and direction of any authorized person involved in counter-disaster operations;
 - (ii) may direct the evacuation and exclusion of persons from any place and in the exercise of those powers may remove or cause to be removed a person who does not comply with a direction to evacuate or a person who enters or is found in a place in respect of which a direction for the exclusion of persons has been given;
- (b) a disaster district controller, local controller, police officer or an authorized person involved in counter-disaster operations without any authority other than this provision—
 - (i) may enter (by force if necessary) any place where he believes on reasonable grounds it is necessary so to do for the saving of human life or the prevention of injury to persons or for the rescue of injured or endangered persons or for facilitating the carrying out of other urgent measures with respect to the relief of suffering and distress;
 - (ii) may, if in his opinion it is necessary so to do for the conduct of counter-disaster operations, close to traffic any road, street, motorway, private street, private way, service lane, right of way or access way or other way or close any public place;
 - (iii) may remove from any place a vehicle that is impeding counter-disaster operations and to facilitate its removal may use such force as is reasonably necessary or break into that vehicle.

(3) The powers conferred upon the Chairman or a disaster district controller by subsection (2) (a) (ii) may be exercised also by a local controller, police officer or an authorized person involved in counter-disaster operations.

(4) A person who suffers loss or damage to his property by reason of the exercise of the powers conferred by subsection (2) (a) (i) and subsection (2) (b) (iii) shall be entitled to claim in the manner prescribed compensation for such loss or damage.

A claim for compensation shall be made to the Minister whose decision thereon shall be final and conclusive.

PART IV—POWERS AND DUTIES OF LOCAL AUTHORITIES

26. Duties as to counter-disaster measures. (1) Save where the Local Authority has united with one or more than one other Local Authority for counter-disaster purposes under subsection (2), each Local Authority—

- (a) shall prepare a local counter-disaster plan to deal with all counter-disaster measures within its Area;
- (b) shall establish and at all times maintain within its Area a local emergency service based upon the resources of the Local Authority and consisting of volunteers, with such advisory committees, units and services as the Minister considers necessary or desirable;
- (c) shall use, as prescribed or so far as not prescribed as the Minister determines, for counter-disaster purposes its resources and resources made available to it for those purposes.

(2) A Local Authority may, by agreement and with the approval of the Minister, unite with one or more than one other Local Authority for the purpose of arranging and carrying out counter-disaster measures in the combined Areas of the Local Authorities that are parties to the agreement.

(3) Where two or more Local Authorities have united for counter-disaster purposes under this section, they—

- (a) shall prepare a joint counter-disaster plan to deal with all counter-disaster measures within the combined Areas;
- (b) shall establish and at all times maintain a local emergency service within the combined Areas based upon the resources of the Combined Local Authorities and consisting of volunteers, with such advisory committees, units and services as the Minister considers necessary or desirable;
- (c) shall use, as prescribed or so far as not prescribed as the Minister determines, for counter-disaster purposes the resources of the Combined Local Authorities and resources made available to them for those purposes.

(4) Every counter-disaster plan prepared in accordance with this section shall be furnished by the Local Authority or, as the case requires, Combined Local Authorities to the appropriate disaster district controller for approval and shall upon approval form part of the disaster district plans of the Organization.

The procedure to be followed by a disaster district controller upon receipt by him of a plan furnished pursuant to this section shall be as prescribed.

(5) Upon the establishment of a local emergency service pursuant to this section, a Local Authority or, as the case requires, the Combined Local Authorities shall nominate a person to be the local controller and furnish that nomination to the Minister for approval and appointment, in accordance with the prescribed procedure.

A local controller shall have and may exercise such powers and perform such functions and duties as are prescribed or so far as not prescribed as the Minister determines.

27. Power to unite in contracts for counter-disaster purposes. Where two or more Local Authorities have united for counter-disaster purposes, they may for those purposes enter into contracts (being within their several powers) between themselves or some or one of them on behalf of all of them on the one hand and any other person on the other hand and generally may join in any act.

28. Allocations to Local Authorities. (1) The Minister may, out of moneys appropriated by Parliament for the purposes of this Act, allocate to a Local Authority or Combined Local Authorities such sums and for such purposes as he determines.

(2) Sums allocated pursuant to this section shall be expended for the purposes for which the allocation was made.

PART V—MISCELLANEOUS

29. Protection from liability. No action or proceeding shall lie or be brought or allowed by or in favour of any person against the Crown, the Minister, a Local Authority, Combined Local Authorities, member of the Police Force, the State Emergency Service or the Director or other officer thereof or any other person or body acting in the execution or intended execution of this Act or in accordance with any delegation under this Act or in compliance or intended compliance with any direction given or purported to be given under this Act in respect of anything done or omitted to be done in good faith under and for the purposes of this Act.

30. Offences with respect to officers and other persons. A person shall not assault, obstruct, threaten, abuse, insult or intimidate the Director, an officer or any other person in the exercise of his powers or the discharge of his functions and duties under this Act or attempt so to do.

31. Offences generally and penalty. (1) A person who contravenes or fails to comply with any provision of this Act is guilty of an offence against this Act.

(2) A person who—

(a) fails to do that which he is directed or required to do;

(b) does that which he is forbidden to do,

by a person acting under the authority of this Act commits an offence against this Act.

(3) A person who is guilty of an offence against this Act is liable to a penalty of \$500.

32. Proceedings for offences. Prosecutions for offences against this Act shall be taken by way of summary proceedings under the *Justices Act 1886-1975* upon the complaint of the Director or person authorized in writing in that behalf by the Minister.

33. Offences by body corporate. (1) Where a body corporate commits an offence against this Act each of the following persons shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly:—

(a) the managing director, manager or other governing officer, by whatever name called and every member of the governing body thereof, by whatever name called; and

- (b) every person who in Queensland manages or acts or takes part in the management, administration or government of the business in Queensland of the body corporate.

(2) This section applies so as not to limit or affect howsoever the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

34. Evidentiary provisions. In a proceeding for the purposes of this Act a certificate purporting to be signed by the Director and to certify—

- (a) that a state of disaster was in existence either in the whole State or a part of the State as specified therein on a day or during a period specified therein;
- (b) that a declaration of a state of disaster, was in force on a day or during a period specified therein;
- (c) that a delegation by the Minister, Chairman or Director to a person specified therein of the exercise or performance of any power, authority, function or duty specified therein was in force on a day or during a period specified therein;
- (d) that a delegation by the Minister, Chairman or Director to a person specified therein was subject to the conditions or limitations specified therein or was not subject to any conditions or limitations other than those specified therein or was not subject to any conditions or limitations at all; or
- (e) that a person specified therein was a person authorized pursuant to this Act,

shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the facts so certified.

35. Protection of employment rights. A person who during the period of a state of disaster declared pursuant to this Act is absent from his usual employment on duties in connexion with counter-disaster in any capacity whatever shall not be liable for dismissal, loss of long service leave, sick leave, recreation leave or other benefits to which he may be entitled under the industrial award applicable to his usual employment by reason only of his absence on those duties whether or not his usual employer has consented to his absence.

36. Compensation for personal injury. Every person who is a member of a local emergency service or any body acting under the authority of the Organization or the State Emergency Service shall, while he is engaged in counter-disaster operations or participating in counter-disaster training under the control of—

- (a) a member of the Organization or a person acting under his authority;
- (b) the Director or a person acting under his authority;
- (c) a member of a local emergency service or a person acting under his authority,

be deemed to be a worker within the meaning of the *Workers' Compensation Act 1916-1974* and the provisions of that Act shall apply accordingly.

37. Orders in Council. Section 28A of the *Acts Interpretation Act 1954–1971* applies with respect to Orders in Council made for the purposes of this Act and, for the purposes of such application, that section shall be read and construed as if references to regulations therein were references to Orders in Council made for the purposes of this Act.

38. Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters required or permitted by this Act to be prescribed and all matters that in the opinion of the Governor in Council are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.

The regulations may prescribe penalties not exceeding in each case \$100 for any contravention thereof or failure to comply therewith.

The power to regulate conferred by this subsection includes the power to prohibit.

(2) Regulations may be made—

- (a) to apply generally or to meet a particular case or class of case;
- (b) to apply throughout the State or within any part of the State.