

Queensland



**CHEMICAL, BIOLOGICAL
AND RADIOLOGICAL
EMERGENCY POWERS
AMENDMENT ACT 2003**

Act No. 46 of 2003



CHEMICAL, BIOLOGICAL AND RADIOLOGICAL EMERGENCY POWERS AMENDMENT ACT 2003

TABLE OF PROVISIONS

Section	Page
1	Short title 6
2	Act amended 6
3	Amendment of title 6
4	Amendment of s 4 (Definitions) 6
5	Insertion of new s 4A 11
	4A Notes 11
6	Amendment of s 5 (Declaration of emergency situation) 11
7	Amendment of s 7 (Power to delegate) 11
8	Amendment of s 8 (Powers of incident coordinator) 12
9	Amendment of s 9 (Protection of employment rights) 13
10	Amendment of s 10 (Compensation for personal injury) 13
11	Amendment of s 11 (Compensation for use of or damage to property) 14
12	Renumbering and relocation of ss 9–11 14
13	Insertion of new pt 3 15
PART 3—CHEMICAL, BIOLOGICAL AND RADIOLOGICAL EMERGENCIES	
<i>Division 1—Preliminary</i>	
9	Parliament’s intention 15
10	Relationship to other Acts 15
11	CBR emergency powers and powers under other Acts 16
<i>Division 2—Declaring, extending and ending CBR emergencies</i>	
12	CBR emergency may be declared 17

*Chemical, Biological and Radiological Emergency No. 46, 2003
Powers Amendment Act 2003*

13	Extension of CBR emergency up to 7 days	18
14	Extension of CBR emergency beyond 7 days	19
15	Ending CBR emergency	19
<i>Division 3—CBRE coordinator’s coordination responsibility and general powers</i>		
<i>Subdivision 1—CBRE coordinator</i>		
16	Meaning of “CBRE coordinator”	20
17	Coordination responsibility	20
18	Powers of CBRE coordinator.	21
19	Power to authorise exercise of particular powers	21
<i>Subdivision 2—Powers available to emergency responders</i>		
20	CBRE ambulance officers	23
21	CBRE fire officers	23
22	CBRE health officers	24
23	CBRE police officers	24
24	CBRE veterinary officers.	24
<i>Division 4—Exercise of powers</i>		
25	Power to seize property	25
26	Power to destroy seized property.	25
27	Power to require name and address	26
28	Power to decontaminate.	27
29	Power to medically examine and treat.	28
30	Refusal of medical treatment.	29
31	Power to give particular directions	29
<i>Division 5—Provisions about detention</i>		
<i>Subdivision 1—Detention powers</i>		
32	Power to detain	30
<i>Subdivision 2—Exercise of detention power after first 48 hours</i>		
33	Continued exercise of detention power after 48 hours	31
34	Application for approval to continue exercising detention power . . .	31
35	Consideration of application	31
36	Appeal	32

<i>Subdivision 3—Other provisions about detention</i>	
37	Application of subdiv 3 33
38	CBRE coordinator’s obligations in relation to relevant person 33
39	Application to Supreme Court judge for order ending person’s detention 34
40	Appeal 34
<i>Division 6—Other provisions</i>	
41	Record of seized property to be kept 35
42	Return etc. of seized property 36
43	Reports 37
14	Omission of s 16 (Offences generally) 37
15	Amendment of s 17 (Protection from liability) 37
16	Amendment of s 18 (Evidentiary provisions) 38
17	Renumbering of ss 17–18 39
18	Insertion of schedule 40
SCHEDULE	
DICTIONARY	
19	Other Acts amended 40
SCHEDULE 41	
ACTS AMENDED	
ENVIRONMENTAL PROTECTION ACT 1994 41	
FIRE AND RESCUE SERVICE ACT 1990 41	
POLICE POWERS AND RESPONSIBILITIES ACT 2000 42	
STATE COUNTER-DISASTER ORGANISATION ACT 1975 43	

Queensland



Chemical, Biological and Radiological Emergency Powers Amendment Act 2003

Act No. 46 of 2003

An Act to amend the *Public Safety Preservation Act 1986* in relation to powers for dealing with chemical, biological or radiological emergencies, and for related purposes

[Assented to 27 August 2003]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Chemical, Biological and Radiological Emergency Powers Amendment Act 2003*.

2 Act amended

This Act amends the *Public Safety Preservation Act 1986*.

3 Amendment of title

Title, ‘situations of emergency’—

omit, insert—

‘chemical, biological, radiological or other emergencies’.

4 Amendment of s 4 (Definitions)

(1) Section 4, ‘In this Act—’—

omit, insert—

‘The dictionary in the schedule defines particular words used in this Act.’.

(2) Section 4—

insert—

‘**“ambulance controller”** means a government ambulance officer whose duties include performing functions for the Queensland Ambulance Service as a controller of ambulance officers responding to a CBR emergency.

“ambulance officer” means—

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

“CBR emergency” see section 12.¹

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

“CBR substance” means—

- (a) a chemical, biological or radiological substance; or
- (b) the effect of a chemical, biological or radiological substance.

“CBRE ambulance officer” means an ambulance officer who is authorised under part 3 to exercise powers available to an ambulance officer under that part for a particular CBR emergency.

“CBRE coordinator” see section 16.²

“CBRE fire officer” means a fire officer who is authorised under part 3 to exercise powers available to a fire officer under that part for a particular CBR emergency.

“CBRE health officer” means a health officer who is authorised under part 3 to exercise powers available to a health officer under that part for a particular CBR emergency.

“CBRE police officer” means a police officer who is authorised under part 3 to exercise powers available to a police officer under that part for a particular CBR emergency.

“CBRE veterinary officer” means a veterinary officer who is authorised under part 3 to exercise powers available to a veterinary officer under that part for a particular CBR emergency

“chief veterinary officer” means the veterinary officer employed to perform functions as the chief veterinary officer for the department within which the *Stock Act 1915* is administered.

“commissioner” means the commissioner of the Queensland Police Service.

“decontamination power” means the power described in section 28.³

“detention power” means the power under section 32 to detain a person.⁴

1 Section 12 (CBR emergency may be declared)

2 Section 16 (Meaning of “CBRE coordinator”)

3 Section 28 (Power to decontaminate)

4 Section 32 (Power to detain)

“emergency responder” means—

- (a) until a CBR emergency is declared, a person who is—
 - (i) a government ambulance officer; or
 - (ii) a government fire officer; or
 - (iii) a government health officer; or
 - (iv) a State police officer; or
 - (v) a veterinary officer; or
- (b) after a CBR emergency is declared, a person who is—
 - (i) a CBRE ambulance officer; or
 - (ii) a CBRE fire officer; or
 - (iii) a CBRE health officer; or
 - (iv) a CBRE police officer; or
 - (v) a CBRE veterinary officer.

“fire controller” means a government fire officer whose duties include performing functions for the Queensland Fire and Rescue Service as a controller of fire officers responding to a CBR emergency.

“fire officer” means—

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

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

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

“government fire officer”, means a fire officer under the *Fire and Rescue Service Act 1990*.

“government health officer” means—

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

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

“health officer” means—

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

“help direction” see section 8.⁵

“identity power” means the power described in section 27(1).⁶

“involved”, in relation to a CBR substance, includes—

- (a) likely to be involved; and
- (b) likely to have been involved.

“medical controller” means a government health officer whose duties include performing functions for the department within which the *Health Act 1937* is administered as a controller of health officers responding to a CBR emergency.

“monitor” means a monitor under the *Crime and Misconduct Act 2001* or the *Police Powers and Responsibilities Act 2000*.

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

“non-government doctor” means—

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

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

“non-government nurse” means—

5 Section 8 (Powers of incident coordinator)

6 Section 27 (Power to require name and address)

(a) a registered nurse under the *Nursing Act 1992* who is not a government nurse; or

(b) a person registered as a nurse under a law of another State.

“non-State police officer” means a member of a police force or service of the Commonwealth or another State.

“nurse” means—

(a) a government nurse; or

(b) a non-government nurse.

“police officer” means—

(a) a non-State police officer; or

(b) a State police officer.

“property destruction power” means the power described in section 26(1).⁷

“property seizure power” means the power described in section 25(1).⁸

“resource operator direction” see section 8.⁹

“resource surrender direction” see section 8.

“State police officer” means a police officer under the *Police Service Administration Act 1990*.

“treatment power” means the power described in sections 29(2) and 30(3).¹⁰

“veterinary officer” means a government veterinary officer under the *Stock Act 1915*.¹

(3) Section 5, definitions—

relocate to the schedule (as inserted by section 18).

7 Section 26 (Power to destroy seized property)

8 Section 25 (Power to seize property)

9 Section 8 (Powers of incident coordinator)

10 Sections 29 (Power to medically examine and treat) and 30 (Refusal of medical treatment)

5 Insertion of new s 4A

Part 1, after section 4—

insert—

‘4A Notes

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

6 Amendment of s 5 (Declaration of emergency situation)

(1) Section 5(2)—

omit.

(2) Section 5(4A), ‘(3)’—

omit, insert—

‘(2)’.

(3) Section 5(3) to (5)—

renumber as section 5(2), (3), (5) and (6).

(4) Section 5—

insert—

‘(4) However, if an emergency situation is later declared to be a CBR emergency, the declaration of the emergency situation has no effect for the period of the CBR emergency.

Note—

CBR emergencies may be declared under section 12.¹¹.

7 Amendment of s 7 (Power to delegate)

(1) Section 7(3), from ‘referred to’—

omit, insert—

‘under section 5, whichever happens first.’.

(2) Section 7(4), ‘referred to in section 5(3)’—

omit, insert—

11 Section 12 (CBR emergency may be declared)

‘issued under section 5’.

(3) Section 7(4), from ‘referred to’, second mention—

omit, insert—

‘of the emergency situation.’.

8 Amendment of s 8 (Powers of incident coordinator)

(1) Section 8(a), ‘his or her control’—

omit, insert—

‘the incident coordinator’s or police officer’s control (“**resource surrender direction**”)’.

(2) Section 8(c), ‘his or her’—

omit, insert—

‘the incident coordinator’s or police officer’s’.

(3) Section 8(c), from ‘, provided that’ to ‘danger’—

omit, insert—

‘(**“resource operator direction”**)’.

(4) Section 8(i), from ‘, provided that’—

omit, insert—

‘(**“help direction”**)’.

(5) Section 8—

insert—

‘(2) The incident coordinator or police officer must not give a resource operator direction or a help direction to a person if giving the direction would expose the person to imminent danger.

‘(3) A person given a resource surrender direction, a resource operator direction or a help direction must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—40 penalty units or 1 year’s imprisonment.’.

9 Amendment of s 9 (Protection of employment rights)

(1) Section 9(1)—

omit, insert—

‘(1) A person must not dismiss from employment an employee who is or was absent from the employee’s employment because of a relevant direction.

Maximum penalty—40 penalty units or 1 year’s imprisonment.’.

(2) Section 9(3), from ‘shall be deemed’—

omit, insert—

‘is taken not to have been broken only by the employee’s absence from the employment because of a relevant direction or the exercise by an emergency responder of powers under part 3.’.

(3) Section 9(4)—

omit, insert—

‘(4) An employee who is absent from the employee’s employment because of a relevant direction is entitled to be paid by the person’s employer wages payable for the period of the employee’s absence during normal working hours.’.

(4) Section 9—

insert—

‘(6) In this section—

“**relevant direction**” means either of the following, whether given under part 2 or part 3—

- (a) a resource operator direction;
- (b) a help direction.’.

10 Amendment of s 10 (Compensation for personal injury)

Section 10, from ‘the direction’ to ‘section 8’—

omit, insert—

‘a resource operator direction or a help direction’.

11 Amendment of s 11 (Compensation for use of or damage to property)

(1) Section 11, heading, ‘or damage to’—

omit, insert—

‘, **damage to or destruction of**’.

(2) Section 11(3) and (4)—

renumber as section 11(4) and (5).

(3) Section 11(1) and (2)—

omit, insert—

‘(1) This section applies to a person (“**claimant**”)—

(a) whose property—

(i) is surrendered to the incident coordinator, the CBRE coordinator, or a police officer, under a resource surrender direction; or

(ii) is damaged or destroyed through the use of powers under this Act in an emergency situation or a CBR emergency; and

(b) who claims to have suffered financial loss because of the use, damage or destruction of the property.

‘(2) The claimant, or another person authorised by the claimant for the purpose, may apply in writing to the Minister for compensation for the financial loss.

‘(3) The claimant must make the application and give the Minister details of the financial loss within—

(a) for a claim relating to an emergency situation—28 days after the day the declaration of the emergency situation is revoked; or

(b) for a claim relating to a CBR emergency—3 months after the day the CBR emergency ends.’.

12 Renumbering and relocation of ss 9–11

Sections 9 to 11, as amended by this Act—

renumber as sections 44 to 46 and *relocate* to part 4, before section 47, as renumbered by section 17.

13 Insertion of new pt 3

After section 8—

insert—

‘PART 3—CHEMICAL, BIOLOGICAL AND RADIOLOGICAL EMERGENCIES

‘Division 1—Preliminary

‘9 Parliament’s intention

‘It is Parliament’s intention that the powers available under this part may be exercised—

- (a) only if—
 - (i) something has happened in which a CBR substance is involved; and
 - (ii) the nature of the particular substance requires the exercise by emergency responders of the powers under this part in addition to powers otherwise available to emergency responders under this or any other Act; and
- (b) only for so long as the exercise of the additional powers in the particular circumstances is necessary to ensure the chemical, biological or radiological substance involved does not pose a serious risk to the life or health of individuals.

‘10 Relationship to other Acts

‘(1) Nothing in this part prevents a person from declaring a state of disaster or another emergency under another Act (“**another declaration**”).

‘(2) However, the existence of another declaration does not prevent the declaration of a CBR emergency under this part.

Examples of other Acts—

- *State Counter-Disaster Organisation Act 1975*
- *State Transport Act 1938.*

‘11 CBR emergency powers and powers under other Acts

‘(1) CBR emergency powers are in addition to and do not limit the powers an emergency responder or a public service officer has under another Act.

Examples of other persons—

- an inspector under the *Explosives Act 1999*
- an authorised person under the *Environmental Protection Act 1994*
- a police officer under the *Police Powers and Responsibilities Act 2000*.

‘(2) However, the CBRE coordinator may give directions about the circumstances in which the powers under the other Act may be exercised during the emergency.

‘(3) A direction under subsection (2) may be given—

- (a) only to emergency responders or public service officers who may exercise powers under another Act; and
- (b) only if it is necessary for the effective management of the CBR emergency.

Example 1—

The CBRE coordinator may direct an authorised person under the *Environmental Protection Act 1994* to delay exercising particular powers until the CBRE coordinator considers it is appropriate in the circumstances for the powers to be exercised.

Example 2—

If the CBR emergency involves an outbreak of an exotic disease, the CBRE coordinator may direct an inspector under the *Exotic Diseases in Animals Act 1981* to delay exercising particular powers until the coordinator considers it is appropriate in the circumstances for the powers to be exercised.

‘(4) Also, a direction under subsection (2)—

- (a) may be general or limited to a particular class of emergency responder or public service officer; and
- (b) may be given on conditions.

‘Division 2—Declaring, extending and ending CBR emergencies

‘12 CBR emergency may be declared

‘(1) A State police officer of at least the rank of assistant commissioner may declare an emergency (“**CBR emergency**”) if satisfied—

- (a) something has happened in which a CBR substance is involved (an “**incident**”); and
- (b) the substance poses a serious risk to the life or health of individuals; and
- (c) the substance may spread if not contained; and
- (d) a significant coordinated effort by emergency responders is necessary to adequately respond to the incident; and
- (e) using powers available to an incident coordinator in an emergency situation, or to someone else under another Act, would not enable emergency responders to effectively deal with the incident.

‘(2) The CBRE coordinator must promptly inform the Minister of the declaration of the CBR emergency.

‘(3) If, after reasonable efforts, the Minister can not be contacted, the CBRE coordinator must promptly inform the Premier of the declaration of the CBR emergency.

‘(4) If neither the Minister nor the Premier can be contacted, the CBRE coordinator must promptly inform the next most senior Minister who is available of the declaration of the CBR emergency.

‘(5) As soon as practicable after declaring the CBR emergency, the CBRE coordinator must make a written record of the time and date the emergency was declared.

‘(6) Unless either of the following happens, the CBR emergency ends 24 hours after the declaration is made—

- (a) a relevant person sooner ends the emergency under section 15;
- (b) the Minister and the Premier extend the period of the emergency.

‘13 Extension of CBR emergency up to 7 days

‘(1) This section applies if the Minister and the Premier are satisfied—

- (a) a CBR emergency has happened; and
- (b) it is necessary for emergency responders to continue to exercise CBR emergency powers beyond the first 24 hours (“**initial period**”) of the emergency to protect life or health at serious risk because of the CBR substance involved in the emergency.

‘(2) Before the initial period of the CBR emergency ends, the Minister and the Premier may extend the period of the emergency to a total of not more than 7 days from the start of the initial period.

Note—

For provisions about the exercise of the detention power after the first 48 hours of a CBR emergency, see division 5, subdivision 2.¹²

‘(3) If—

- (a) the period of the CBR emergency as extended under subsection (2) is less than 7 days; and
- (b) the Minister and the Premier still consider it is necessary for emergency responders to continue to exercise CBR emergency powers to protect life or health at serious risk because of the CBR substance involved in the emergency;

the Minister and the Premier may further extend the period of the emergency to a total of up to 7 days from the start of the initial period of the emergency.

‘(4) Unless either of the following happens, the CBR emergency ends 7 days after the start of the initial period of the emergency—

- (a) a relevant person sooner ends the emergency under section 15;
- (b) a regulation extends the period of the emergency beyond the end of the 7 days.

¹² Division 5 (Provisions about detention), subdivision 2 (Exercise of detention power after first 48 hours)

‘14 Extension of CBR emergency beyond 7 days

‘(1) A regulation may extend, or further extend, the period of a CBR emergency.

‘(2) A regulation made for the purposes of this section commences on the day it is made whether or not it is notified on that day.

‘(3) Also, a regulation extending the period of a CBR emergency expires 14 days after the start of the initial period of the emergency unless it is sooner repealed or expires under section 15(4).

‘(4) In addition, a regulation further extending the period of a CBR emergency must state the period, of not more than 14 days, by which the emergency is extended.

‘(5) Subsections (2) and (4) apply despite the *Statutory Instruments Act 1992*, section 32.¹³

‘(6) The *Statutory Instruments Act 1992*, part 5¹⁴ does not apply to a regulation made under this section.

‘15 Ending CBR emergency

‘(1) As soon as the relevant person is satisfied it is no longer necessary for emergency responders to continue to exercise CBR emergency powers to protect life or health at serious risk because of the CBR substance involved in the CBR emergency, the relevant person must end the emergency.

‘(2) The CBRE coordinator must promptly inform emergency responders of the ending of the CBR emergency.

‘(3) The CBRE coordinator must also notify the ending of the CBR emergency and when it ended by gazette notice as soon as practicable.

‘(4) A regulation extending or further extending the period of the CBR emergency expires when the emergency ends.

‘(5) In this section—

“relevant person” means—

(a) to end a CBR emergency within 24 hours of its start—

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

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

- (i) if a Minister has not been notified under section 12—the CBRE coordinator; or
- (ii) if a Minister has been notified under section 12—the Minister notified; or
- (b) if the period of the CBR emergency is extended under section 13—the Minister and the Premier.

‘Division 3—CBRE coordinator’s coordination responsibility and general powers

‘Subdivision 1—CBRE coordinator

‘16 Meaning of “CBRE coordinator”

‘Each of the following is a “CBRE coordinator”—

- (a) a State police officer who declares a CBR emergency under section 12;
- (b) a State police officer of the rank of at least assistant commissioner who is for the time being performing the functions of the CBRE coordinator under this part.

‘17 Coordination responsibility

‘(1) On the declaration of a CBR emergency, the CBRE coordinator is responsible for the overall management and control of emergency responders responding to the emergency.

‘(2) For coordinating the response by emergency responders to the CBR emergency, the CBRE coordinator may give directions about the circumstances in which powers available to emergency responders only under this Act may be exercised.

‘(3) A direction given under subsection (2)—

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

‘18 Powers of CBRE coordinator

‘(1) On the declaration of a CBR emergency, the CBRE coordinator has the following powers—

- (a) the powers stated in section 23 for the emergency;¹⁵
- (b) the powers an incident coordinator has in an emergency situation;
- (c) the power under section 19(1) to authorise the exercise of powers available to particular emergency responders only under this part.

Note 1—

The powers mentioned in paragraph (b) are in section 8¹⁶ and include power to give help directions, resource operator directions and resource surrender directions.

Note 2—

Under section 11(2), the CBRE coordinator may give directions relating to the circumstances in which emergency responders or public service officers may exercise powers under another Act.

Note 3—

The CBRE coordinator also has powers to give directions under section 17(2).

‘(2) For subsection (1)(b), a reference in section 8 to—

- (a) an incident coordinator is taken to be a reference to the CBRE coordinator; and
- (b) an emergency situation is taken to be a reference to a CBR emergency.

‘19 Power to authorise exercise of particular powers

‘(1) On the declaration of a CBR emergency, the CBRE coordinator may authorise any of the following to exercise powers available to emergency responders only under this Act—

- (a) an ambulance officer;
- (b) a fire officer;
- (c) a police officer;
- (d) a veterinary officer.

15 Section 23 (CBRE police officers)

16 Section 8 (Powers of incident coordinator)

‘(2) On the declaration of a CBR emergency, the medical controller may—

- (a) exercise the powers of the medical controller under this part; and
- (b) authorise a health officer to exercise powers available to the officer only under this part.

‘(3) An authorisation under subsection (1) or (2)—

- (a) may be general or limited to a particular class of emergency responder; and
- (b) may be given on conditions; and
- (c) may be given orally or in writing but if given orally must be put in writing as soon as reasonably practicable.

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

‘(5) The CBRE coordinator may delegate the power to authorise an emergency responder, other than a health officer, to exercise powers available to the responder only under this part—

- (a) for a power available to an ambulance officer—to the ambulance controller; or
- (b) for a power available to a fire officer—to the fire controller; or
- (c) for a power available to a veterinary officer—to the chief veterinary officer.

‘(6) Despite the *Acts Interpretation Act 1954*, section 27A(3),¹⁷ a delegation under subsection (5) may be made orally or in writing.

‘(7) However, if made orally, the delegation must be put in writing and a copy given to the delegate as soon as practicable after the delegation is made, but no later than 7 days after the CBR emergency ends.

‘(8) A delegation under subsection (5) also authorises the person to whom the power is delegated to exercise the power an emergency responder is authorised by the delegate to exercise.

17 *Acts Interpretation Act 1954*, section 27A (Delegation of powers)

Example for subsection (8)—

The CBRE coordinator delegates to the fire controller the power to authorise fire officers to exercise the decontamination power. The fire controller is authorised to exercise the decontamination power.

‘Subdivision 2—Powers available to emergency responders

‘20 CBRE ambulance officers

‘(1) A CBRE ambulance officer may exercise the following powers—

- (a) the treatment power;
- (b) the power to give directions under section 31.¹⁸

‘(2) The CBRE ambulance officer may exercise the relevant power only in accordance with this Act, the terms of the authorisation to exercise the power and subject to the directions of the CBRE coordinator or the ambulance controller.

‘(3) Also, if the CBRE ambulance officer is a non-government ambulance officer, the ambulance officer is subject to the direction of a government ambulance officer.

‘21 CBRE fire officers

‘(1) A CBRE fire officer may exercise the following powers—

- (a) the decontamination power;
- (b) the property destruction power;
- (c) the power to give directions under section 31.

‘(2) The CBRE fire officer may exercise the relevant power only in accordance with the terms of this Act, the authorisation to exercise the power and subject to the directions of the CBRE coordinator or the fire controller.

‘(3) Also, if the CBRE fire officer is a non-government fire officer, the fire officer is subject to the direction of a government fire officer.

¹⁸ Section 31 (Power to give particular directions)

‘22 CBRE health officers

‘(1) A CBRE health officer may exercise the following powers—

- (a) the decontamination power;
- (b) the property destruction power;
- (c) the treatment power;
- (d) the power to give directions under section 31.

‘(2) The CBRE health officer may exercise the relevant power only in accordance with the terms of this Act, the authorisation to exercise the power and subject to the directions of the CBRE coordinator or the medical controller.

‘(3) Also, if the CBRE health officer is a non-government health officer, the non-government health officer is subject to the direction of a government health officer.

‘23 CBRE police officers

‘(1) A CBRE police officer may exercise the following powers—

- (a) the detention power;
- (b) the property seizure power;
- (c) the property destruction power;
- (d) the identity power;
- (e) the power to give directions under section 31.

‘(2) The CBRE police officer may exercise the relevant power only in accordance with this Act, the terms of the authorisation to exercise the power and subject to the directions of the CBRE coordinator.

‘(3) Also, if the CBRE police officer is a non-State police officer, the police officer is subject to the directions of a State police officer.

‘24 CBRE veterinary officers

‘(1) A CBRE veterinary officer may exercise the following powers—

- (a) the decontamination power;
- (b) the property destruction power;

(c) the power to give directions under section 31.¹⁹

‘(2) The CBRE veterinary officer may exercise the relevant power only in accordance with the terms of the authorisation to exercise the power and subject to the directions of the CBRE coordinator or the chief veterinary officer.

‘Division 4—Exercise of powers

‘25 Power to seize property

‘(1) A CBRE police officer may seize property to ensure a CBR substance involved in the CBR emergency is made ineffective.

‘(2) For exercising the property seizure power, a CBRE police officer may require a person to leave in a stated place property the person possesses or controls.

‘(3) However, the CBRE police officer may require a person to leave property in a stated place only if the CBRE police officer considers, having regard to the substance involved in the CBR emergency—

- (a) it is reasonably necessary to require the person to leave the property in the place; and
- (b) it is reasonably practicable for the person to leave the property in the place.

‘26 Power to destroy seized property

‘(1) The following emergency responders may destroy seized property to ensure a CBR substance involved in the CBR emergency is made ineffective—

- (a) a CBRE fire officer;
- (b) a CBRE health officer;
- (c) a CBRE police officer;
- (d) a CBRE veterinary officer.

19 Section 31 (Power to give particular directions)

‘(2) However, the emergency responder must not destroy property that may reasonably be decontaminated.

‘(3) For seized property other than an animal, an emergency responder other than a CBRE veterinary officer—

- (a) may destroy property that is affected by a biological or radiological substance only if the medical controller decides the property should be destroyed; and
- (b) may destroy property that is affected by a chemical substance only if the fire controller decides the property should be destroyed.

‘(4) For seized property that is an animal, the CBRE veterinary officer may destroy the animal—

- (a) only if the chief veterinary officer decides the animal should be destroyed; and
- (b) whether or not it is lawful under another Act to destroy the animal.

‘27 Power to require name and address

‘(1) A CBRE police officer may require a person to state the person’s correct name and address.

‘(2) The CBRE police officer may also ask a person in relation to whom the identity power is exercised to state the name and address of the person’s next of kin or someone else the person considers should be contacted to enable the CBRE police officer to contact someone to inform that person of the person’s whereabouts.

‘(3) However, the CBRE police officer may only exercise the identity power in relation to a person if the CBRE police officer considers it is necessary—

- (a) to record details of—
 - (i) individuals detained; and
 - (ii) property seized from the person; or
- (b) to enable the CBRE coordinator to contact the person if necessary because of something relating to the CBR substance

involved in the CBR emergency that may put the person's life or health, or the life or health of someone else, at risk.

'(4) For exercising the identity power, the CBRE police officer may require the person to produce documents in the person's possession or control that may help establish the person's identity.

Example of document—

A driver licence.

'(5) Information given under this section may be used only for—

- (a) a purpose mentioned in subsection (3); or
- (b) a proceeding before the Coroners Court; or
- (c) an investigation into an offence directly related to the CBR emergency.

Example of paragraph (c)—

An investigation into an offence involving the release of the CBR substance.

'(6) This section does not limit the powers a police officer has under the *Police Powers and Responsibilities Act 2000*, section 32.²⁰

'28 Power to decontaminate

'(1) This section applies if a person or property may be, is, or may have been affected by a CBR substance involved in the CBR emergency.

'(2) If the substance involved in the CBR emergency is a biological or radiological substance—

- (a) a CBRE health officer may take the steps the health officer considers reasonably necessary to decontaminate the person or property; or
- (b) a CBRE fire officer, with the approval of the medical controller, may take the steps the medical controller or a CBRE health officer considers reasonably necessary to decontaminate the person or property.

²⁰ *Police Powers and Responsibilities Act 2000*, section 32 (Person may be required to state name and address)

‘(3) If the substance involved in the CBR emergency is a chemical substance, it is lawful for a CBRE fire officer to take the steps the fire officer considers reasonably necessary to decontaminate the person or property.

‘(4) Subsections (2) and (3) do not apply to an animal.

‘(5) For subsections (2) and (3), the steps include directing the person to stay at a stated place or to go to a stated place for the purposes of the decontamination.

‘(6) It is lawful for a CBRE veterinary officer to take the steps the veterinary officer considers reasonably necessary to decontaminate an animal.

‘29 Power to medically examine and treat

‘(1) This section applies if a person (“**relevant person**”) may be, is, or may have been affected by a CBR substance involved in the CBR emergency.

‘(2) It is lawful for a CBRE ambulance officer or a CBRE health officer to medically examine the relevant person and provide any reasonably necessary treatment for the person.

‘(3) If a person acting under subsection (2)—

- (a) is not a government doctor, subsection (2) is subject to any direction given by the medical controller or a government doctor; or
- (b) is a government doctor, subsection (2) is subject to any direction given by the medical controller.

‘(4) The power to medically examine a person includes power to take any reasonably necessary samples and perform any reasonably necessary tests for the purpose.

‘(5) The power to treat a person includes power to isolate the person for the time reasonably necessary for preventing the spread of a CBR substance involved in the CBR emergency to others not already affected by the substance.

‘30 Refusal of medical treatment

‘(1) This section applies if, after being medically examined, a person is found to require medical treatment because of the effect of the CBR substance involved in the CBR emergency.

‘(2) The person may refuse to undergo the treatment.

‘(3) However, if the medical controller or a government doctor is satisfied allowing the person to leave without medical treatment will pose a serious risk to the life or health of individuals not already affected by the CBR substance involved in the CBR emergency, it is lawful for a CBRE ambulance officer or a CBRE health officer to treat the person despite the refusal.

Example—

The person may have been affected by a substance that can not be transmitted from person to person. If the person refuses treatment, allowing the person to leave without being treated would not pose a risk to others and there would be no reason to continue to isolate the person.

‘(4) This section does not limit a person’s right to refuse medical treatment that is not related to a CBR substance involved in the CBR emergency.

‘31 Power to give particular directions

‘(1) It is lawful for an emergency responder other than a CBRE veterinary officer, for responding to the CBR emergency, to direct a person—

- (a) to go to a stated place; or
- (b) to stay at or in a stated place; or
- (c) not to enter a stated place.

‘(2) Also, it is lawful for a CBRE veterinary officer, for responding to the CBR emergency, to direct a person—

- (a) to take a stated animal to a stated place; or
- (b) to leave an animal at or in a stated place.

‘(3) A person given a direction under subsection (1) or (2) must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—40 penalty units or 1 year’s imprisonment.

‘Division 5—Provisions about detention

‘Subdivision 1—Detention powers

‘32 Power to detain

‘(1) The CBRE coordinator or a CBRE police officer may detain anyone the coordinator or police officer considers should be detained for a purpose mentioned in subsection (3).

‘(2) However, the CBRE coordinator or the CBRE police officer may detain a person under subsection (1) only for the time reasonably necessary for the purpose.

Example—

A person who requires decontamination may be detained only for the time necessary to ensure the CBR substance no longer poses a risk to the life or health of anyone else.

‘(3) The purposes are as follows—

- (a) to ensure a CBR substance involved in the CBR emergency is contained;
- (b) to ensure a person detained does not pose a serious risk to the life or health of others because of the CBR substance involved in the CBR emergency.

‘(4) The power to detain a person under subsection (1) includes—

- (a) power to require the person to go to a stated place or stay at or in a stated place for a purpose mentioned in subsection (3); and
- (b) power to move the person to a place for a purpose mentioned in subsection (3).

‘(5) A person detained under this section is not under arrest or in the custody of a police officer for the purposes of the *Police Powers and Responsibilities Act 2000*.

‘Subdivision 2—Exercise of detention power after first 48 hours

‘33 Continued exercise of detention power after 48 hours

‘The exercise by the CBRE coordinator or CBRE police officer of the detention power after the end of the first 48 hours of the CBR emergency is lawful only if a Supreme Court judge approves the continued exercise of the power.

‘34 Application for approval to continue exercising detention power

‘(1) This section applies only if the Minister and the Premier are satisfied it is necessary for the CBRE coordinator to continue to exercise the detention power after the first 48 hours.

‘(2) The commissioner may apply to the Supreme Court judge for an order approving the continued exercise of the detention power.

‘(3) The application must be made before the first 48 hours of the CBR emergency ends.

‘(4) The commissioner must immediately give the monitor notice of the making of the application and a copy of the application.

‘(5) The monitor is entitled to be present at the consideration of the application and, for that purpose at the hearing, may—

- (a) present questions for the applicant to answer and examine or cross-examine any witnesses; and
- (b) make submissions on the appropriateness in the public interest of granting the application.

‘35 Consideration of application

‘(1) The Supreme Court judge—

- (a) must decide the application as quickly as possible; and
- (b) may consider any representations made by the monitor; and
- (c) may make the orders the judge considers appropriate for deciding the application, including, for example, an order suspending the operation of the decision on the application pending the outcome of an appeal; and

- (d) may approve or refuse to approve the continued exercise of the detention power.

Examples of orders for paragraph (c)—

- interim orders
- orders adjourning the application until the commissioner gives the judge additional information
- orders approving the release of some individuals but continuing the detention of others.

‘(2) However, the Supreme Court judge may approve the application only if satisfied continued use of the detention power is reasonably necessary to prevent a serious risk to the life or health of individuals not already affected by the CBR substance involved in the CBR emergency.

‘(3) If the Supreme Court judge does not decide the application before the end of the first 48 hours of the CBR emergency, it is lawful for the CBRE coordinator to continue to exercise the detention power until the application is finally decided.

‘36 Appeal

‘(1) The commissioner may appeal to the Court of Appeal against the refusal of the Supreme Court judge to approve the continued use of the detention power.

‘(2) On the filing of an appeal, the decision of the Supreme Court judge is stayed.

‘(3) The Court of Appeal—

- (a) must hear and decide the appeal without delay; and
- (b) may either—
 - (i) approve the continued use of the detention power; or
 - (ii) confirm the decision appealed against and dismiss the appeal; and
- (c) may make the other orders the court considers appropriate.

‘Subdivision 3—Other provisions about detention

‘37 Application of subdiv 3

‘This subdivision applies only in relation to a person who is detained under this part (“**relevant person**”).

‘38 CBRE coordinator’s obligations in relation to relevant person

‘(1) The CBRE coordinator must—

- (a) as soon as possible having regard to all the circumstances, inform the relevant person—
 - (i) the person may apply to a Supreme Court judge for an order ending the person’s detention and how the person may apply; and
 - (ii) of the person’s right to consult a lawyer of the person’s choice; and
 - (iii) that for the person to be detained beyond the first 48 hours of the CBR emergency, the commissioner must apply to a Supreme Court judge for approval for the CBRE coordinator to continue to exercise the detention power; and
- (b) as soon as reasonably practicable inform the relevant person’s next of kin or someone else nominated by the person—
 - (i) that the relevant person is detained under this part and where the person is detained; and
 - (ii) of the things mentioned in paragraph (a); and
 - (iii) of how to obtain information about the relevant person, including who to contact to obtain the information; and
- (c) make any reasonably necessary arrangements in the interest of the person’s welfare.

‘(2) Subsection (1)(c) applies subject to any direction given by the medical controller or a CBRE health officer.

‘39 Application to Supreme Court judge for order ending person’s detention

‘(1) This section applies if a relevant person has been detained under this part because of a CBR emergency.

‘(2) The relevant person’s lawyer or a person nominated by the relevant person (the “**applicant**”) may apply to a Supreme Court judge for an order ending the relevant person’s detention.

‘(3) The application may be made orally or in writing but if made orally can not be made in the absence of the commissioner or the commissioner’s representative.

‘(4) The applicant must immediately give the commissioner notice of when and where the application will be made.

‘(5) The notice may be given orally or in writing, but if given orally must be put in writing as soon as practicable.

‘(6) The judge—

- (a) must decide the application as quickly as possible; and
- (b) must have regard to any submissions made by the parties to the application; and
- (c) may make an order ending the relevant person’s detention only if satisfied the person’s continued detention is not reasonably necessary to prevent a serious risk to the life or health of individuals not already affected by the CBR substance involved in the CBR emergency; and
- (d) may not order the applicant to pay the respondent’s costs of the application.

‘(7) The relevant person is not entitled to be present when the application is being heard.

‘40 Appeal

‘(1) A party to a decision of the Supreme Court judge on an application for an order ending a relevant person’s detention may appeal to the Court of Appeal against the decision.

‘(2) If the commissioner is the appellant, the decision appealed against is stayed on the filing of the notice of appeal.

‘(3) The Court of Appeal must hear and decide the appeal without delay.

‘(4) If the commissioner is the appellant, the Court of Appeal may make an order—

- (a) allowing the appeal; or
- (b) confirming the decision appealed against and dismissing the appeal.

‘(5) If the relevant person is the appellant, the Court of appeal may make an order—

- (a) ending the relevant person’s detention; or
- (b) confirming the decision appealed against and dismissing the appeal.

‘(6) The Court of appeal may make the other orders the court considers appropriate.

‘(7) However, the Court of Appeal may not order a party other than the commissioner to pay the commissioner’s costs of the appeal.

‘Division 6—Other provisions

‘41 Record of seized property to be kept

‘(1) The commissioner must ensure a written record of property seized under this part is kept.

‘(2) The record must include the following information—

- (a) a description of the property, sufficient to identify it;
- (b) when and where the property was seized;
- (c) if known, from whom the property was seized;
- (d) if known, the name and address of the person who appears to be entitled to lawfully possess the property;
- (e) what happened to the property after it was seized;
- (f) if the property was destroyed—why it was destroyed;

(g) if the property was returned to a person under section 42²¹—the name and address of the person and when the property was returned.

‘(3) A police officer who seizes property under this part must ensure the information mentioned in subsection (2) is recorded as soon as practicable after seizing the property.

‘(4) This section applies despite the *Police Powers and Responsibilities Act 2000*, chapter 11, part 2, division 3.²²

‘(5) Also, the *Police Powers and Responsibilities Act 2000*, section 380 does not apply to a thing seized under this part.²³

‘42 Return etc. of seized property

‘(1) Property seized under this part and not destroyed must be made available for return to the person lawfully entitled to possess it as soon as practicable after—

- (a) it has been found not to have been affected by the CBR substance involved in the CBR emergency; or
- (b) any necessary decontamination of the property is completed;

unless, after reasonable efforts, the property can not be returned to the person.

‘(2) Property not claimed by a person within 60 days after the CBR emergency ends is taken to have been forfeited to the State.

21 Section 42 (Return etc. of seized property)

22 *Police Powers and Responsibilities Act 2000*, chapter 11 (Administration), part 2 (Registers), division 3 (Enforcement registers)

23 *Police Powers and Responsibilities Act 2000*, section 380 (Receipt for seized property)

Note—

Property in the possession of the police service that is forfeited to the State may be dealt with under the *Police Powers and Responsibilities Act 2000*, chapter 11, part 3.²⁴

‘43 Reports

‘(1) The Minister must table in the Legislative Assembly a report about the CBR emergency within 6 months after the end of the emergency.

‘(2) The report—

(a) must include—

- (i) the nature of the CBR emergency, when and why the emergency was declared, and when it ended; and
- (ii) if the CBR emergency was extended, why it was extended; and
- (iii) the CBR emergency powers relied on, why they were relied on; and
- (iv) who authorised emergency responders to exercise the CBR emergency powers relied on, who was authorised to exercise the powers, and how they were used; and
- (v) if any CBR emergency powers were delegated under section 19(4),²⁵ why, and to whom, the powers were delegated; and

(b) may include anything else the Minister considers appropriate.’

14 Omission of s 16 (Offences generally)

Section 16—

omit.

15 Amendment of s 17 (Protection from liability)

Section 17, from ‘shall not’—

24 *Police Powers and Responsibilities Act 2000*, chapter 11 (Administration), part 3 (Dealing with things in the possession of police service)

25 Section 19 (Power to authorise exercise of particular powers)

omit, insert—

‘does not attach to the State, a Minister or an official because of anything done or omitted to be done under this Act in good faith and without negligence.

‘(2) In this section—

“official” means—

- (a) an ambulance controller; or
- (b) the CBRE coordinator; or
- (c) the chief veterinary officer; or
- (d) an emergency responder; or
- (e) a fire controller; or
- (f) the incident coordinator; or
- (g) a medical controller; or
- (h) a person acting under a help direction or a resource operator direction.’.

16 Amendment of s 18 (Evidentiary provisions)

(1) Section 18(a), from ‘the Minister’ to ‘police officer’—

omit, insert—

‘the incident coordinator, the CBRE coordinator, a police officer or anyone else authorised under part 3’.

(2) Section 18(b), from ‘the Minister’ to ‘shall be’—

omit, insert—

‘a person mentioned in paragraph (a) is’.

(3) Section 18—

insert—

‘(d) a certificate signed by the CBRE coordinator and stating any of the following is evidence of what it states—

- (i) on a stated day and at a stated time the CBRE coordinator declared a CBR emergency;

- (ii) on a stated day and at a stated time the period of the CBR emergency was extended beyond the first 24 hours of the emergency;
- (iii) on a stated day and at a stated time the CBRE coordinator delegated a stated power to a stated person;
- (iv) on a stated day and at a stated time the CBRE coordinator authorised a stated emergency responder or a stated class of emergency responder to exercise a stated power under part 3;
- (v) on a stated day and at a stated time a stated police officer seized stated property from a stated person or a stated place;
- (e) a certificate signed by any of the following and stating a stated person was authorised to exercise a stated power and when the person was authorised to exercise the power is evidence of what it states—
 - (i) an ambulance controller;
 - (ii) a fire controller;
 - (iii) a medical controller;
 - (iv) the chief veterinary officer;
- (f) a certificate signed by a medical controller and stating a stated biological or radiological substance was involved in a stated CBR emergency is evidence of what it states;
- (g) a certificate signed by a fire controller and stating a stated chemical substance was involved in a stated CBR emergency is evidence of what it states;
- (h) the authority of an emergency responder to exercise a power under part 3 must be presumed, unless the contrary is proved.’.

17 Renumbering of ss 17–18

Sections 17 and 18, as amended by this Act—
renumber as sections 47 and 48.

18 Insertion of schedule

After section 48, as renumbered by section 17—

insert—

‘SCHEDULE

‘DICTIONARY

section 4’.

19 Other Acts amended

The schedule amends the Acts it mentions.

SCHEDULE

ACTS AMENDED

section 19

ENVIRONMENTAL PROTECTION ACT 1994

1 Section 23(2)—

insert—

- ‘• *Public Safety Preservation Act 1986, part 3²⁶.*

FIRE AND RESCUE SERVICE ACT 1990

1 After section 60—

insert—

‘PART 6A—DECONTAMINATION

‘60A Decontamination

‘(1) An authorised fire officer may ask a person the authorised fire officer is satisfied may be, is, or may have been affected by a chemical substance, to agree to undergo decontamination.

‘(2) The person may agree or refuse to agree to the request.

‘(3) If the person agrees, it is lawful for the authorised fire officer to take the steps the authorised fire officer considers reasonably necessary to decontaminate the person, including, for example, asking the person to stay where the person is or to move to a stated place for the purpose.

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

SCHEDULE (continued)

‘(4) The authorised fire officer may not direct another person to perform the decontamination.

‘(5) In this section—

“**decontaminate**”, in relation to a chemical substance, means make the chemical substance harmless.’.

POLICE POWERS AND RESPONSIBILITIES ACT 2000

1 Section 373(3), from ‘the assistant’—

omit, insert—

‘the assistant—

- (a) to arrest a person; or
- (b) to demand a person’s name and address; or
- (c) to exercise a power a police officer has when responding to a CBR emergency under the *Public Safety Preservation Act 1986*, section 23.²⁷.

2 Section 420(2)—

insert—

- ‘(g) a thing seized under the *Public Safety Preservation Act 1986*, part 3.²⁸’.

3 Section 420, ‘(3) Also’—

omit, insert—

‘(4) Also’.

²⁷ *Public Safety Preservation Act 1986*, section 23 (CBRE police officers)

²⁸ *Public Safety Preservation Act 1986*, part 3 (Chemical, biological and radiological emergencies)

SCHEDULE (continued)

4 Section 420—

insert—

‘(5) In addition, this part, to the extent it deals with forfeited property, applies to property forfeited to the State under the *Public Safety Preservation Act 1986*, section 42²⁹ that is in the possession of the police service.’.

**STATE COUNTER-DISASTER ORGANISATION
ACT 1975**

1 Section 4, after ‘other Act,’—

insert—

‘other than the *Public Safety Preservation Act 1986*, part 3,³⁰’.

29 *Public Safety Preservation Act 1986*, section 42 (Return etc. of seized property)

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