

STATE EMERGENCY SERVICES AND CIVIL DEFENCE BILL.

*Schedule of the Amendments referred to in Legislative Council's
Message of 1 March, 1972.*

Page 2, clause 1, line 9. *Omit "1971", insert "1972".*

Page 2, clause 2, line 23. *Omit "27", insert "28".*

Page 17. *After line 10 insert—*

26. The Director shall, as soon as practicable after the thirtieth day of Annual June in each year, cause a report giving information as to the operation of report. the State Emergency Services and Civil Defence Organisation during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 9 December, 1971.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

A. W. SAXON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 1 March, 1972.*

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. , 1972.

An Act to provide for the civil defence of the State and the co-ordination of relief operations in the event of certain emergencies; to confer and impose certain powers, authorities, duties and functions upon the Director of State Emergency Services and Civil Defence and certain other persons; to amend the Height of Buildings (Metropolitan Police District) Act, 1912, and the Bush Fires Act, 1949, in certain respects; and for purposes connected therewith.

BE

68661 141—A

NOTE.—The words to be *omitted* are *ruled through*; those to be *inserted* are printed in **black letter**.

State Emergency Services and Civil Defence.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "State Emergency Services and Civil Defence Act, ~~1971~~ 1972".

Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided as follows :—

Division of Act.

PART I.—PRELIMINARY—ss. 1–6.

15 PART II.—GENERAL POWERS OF DIRECTOR—ss. 7–12.

PART III.—STATES OF EMERGENCY AND SPECIAL EMERGENCIES—ss. 13–19.

DIVISION 1.—*General*—ss. 13–16.

20 DIVISION 2.—*Powers exercisable during state of emergency or special emergency*—s. 17.

DIVISION 3.—*Powers exercisable during state of emergency*—ss. 18, 19.

PART IV.—MISCELLANEOUS—ss. 20–~~27~~ 28.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation.

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

"civil

State Emergency Services and Civil Defence.

“civil defence of the State” means, in relation to an emergency in respect of which a state of emergency exists, the preparation for and the carrying out of operations intended—

- 5 (a) to prevent, minimise and overcome, as far as practicable, the effects, upon the public or any part of the public, or any property, in the State, of the occurrence due to which the emergency exists;
- 10 (b) to deal with, as far as practicable, the emergency conditions existing by reason of the occurrence; and
- 15 (c) to promote the safety of the public or any part of the public, or any property, in the State, in so far as that safety is threatened by reason of the occurrence;

“council” has the meaning ascribed thereto by the Local Government Act, 1919;

20 “Director” means the person for the time being holding office under the Public Service Act, 1902, whether appointed as such before or after the commencement of this Act, as the Director of State Emergency Services and Civil Defence, and includes any person for the time being acting in that office;

25 “emergency” means an emergency due to an actual or imminent occurrence that causes or threatens to cause loss of life or injury or distress to persons, or danger to the safety of the public or any part of the public, or destruction of or damage to

30 property, in the State;

“local controller” means local controller referred to in subsection two of section eight of this Act;

“local government area” has the meaning ascribed thereto by the Local Government Act, 1919;

“occurrence”

State Emergency Services and Civil Defence.

“occurrence” means—

- (a) a fire, flood, earthquake, seismic sea wave, storm or tornado;
- (b) an explosion or accident;
- 5 (c) a plague or epidemic;
- (d) an attack directed against the State or any part of the State, whether or not made by an enemy, and whether by means of bombs or missiles or by atomic, thermonuclear, radiological, chemical, bacteriological, biological or other means; or
- 10 (e) a warlike act, whether or not directed against the State or any part of the State,

and includes any other event or happening whether of the same or a different nature;

“officer” means any officer or employee of the Public Service employed in the State Emergency Services and Civil Defence Organisation and any person appointed under subsection one of section eight of this Act;

“regulations” means regulations under this Act;

“special emergency” means an emergency declared to be a special emergency under section fourteen of this Act;

25 “state of emergency” means a state of emergency declared under section thirteen of this Act.

4. This Act binds the Crown.

Crown bound.

5. Nothing in this Act authorises the taking of measures amounting to, or making preparations for—

Limitation on operation of this Act.

30 (a) actual combat against an enemy;

(b)

State Emergency Services and Civil Defence.

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

6. The Director shall, in respect of the powers, authorities, Director to be subject to Minister's control and direction.
5 duties and functions conferred and imposed upon him by or
under this Act, be subject to the control and direction of the
Minister.

PART II.

GENERAL POWERS OF DIRECTOR.

10 7. The Director may, by order published in the Gazette, Division of State into regions, etc.
declare the State to be divided, for the purposes of this Act,
into such regions, sub-regions or other divisions as may be
specified in the order.

8. (1) The Director may—

- 15 (a) establish such offices as he considers to be necessary Appointment of personnel by Director.
for the purpose of carrying out or giving effect to
this Act;
- (b) appoint persons to those offices; and
 - (c) arrange for the training of persons so appointed.

20 (2) Without affecting the generality of subsection one
of this section, the Director may, under that subsection,
appoint a person to be the local controller for any local
government area or to be the controller for any region, sub-
region or other division referred to in section seven of this Act.

(3)

State Emergency Services and Civil Defence.

(3) A local controller shall not be appointed under this section for a local government area except upon the recommendation of the council of the area, unless the council fails to make a recommendation that is acceptable to the
5 Director within sixty days after the council has been requested in writing by the Director to do so.

(4) The council of a local government area shall, within a reasonable time after the appointment of a local controller for the area, afford, without fee or reward, such
10 facilities and office and storage accommodation to the local controller as are reasonable for the proper exercise and discharge of the controller's powers, authorities, duties and functions conferred or imposed upon him by or under this Act.

15 **9.** (1) The Director may authorise officers to render ^{Relief} assistance in relation to emergencies in such case or class of cases and subject to such conditions as the Director may determine.

(2) Subsection one of this section applies in relation
20 to an emergency whether or not a declaration under section thirteen or fourteen of this Act is in force in respect of the emergency.

10. The Director may—

25 (a) undertake such planning and make such prepara- <sup>Miscel-
laneous
powers of
Director.</sup> tions as the Director may consider to be necessary for the purpose of enabling any powers, authorities, duties or functions conferred or imposed by or under this Act upon the Director or any other person or body to be exercised or performed in
30 the most effective manner;

(b)

State Emergency Services and Civil Defence.

- (b) constitute and abolish committees for the purpose of—
- (i) collating and assessing information; or
 - (ii) giving advice or assistance to the Director or any other person or body, as may be determined by the Director;
- (c) arrange for the collation, assessment and public dissemination of information relating to the imminence or continuance of flooding;
- (d) co-operate with any person or body, including any authority of the Commonwealth, in relation to any matter referred to in paragraph (b) or (c) of this section;
- (e) for the purpose of carrying out or giving effect to this Act—
- (i) arrange, with the approval of the Minister administering any government department and of the Public Service Board, for the use of the services of any officer or employee of the department; or
 - (ii) arrange, with the approval of the Minister administering any government instrumentality or agency, for the use of the services of any officer or employee of the instrumentality or agency, whether or not the provisions of the Public Service Act, 1902, apply to the appointment of the officer or employee;
- (f) for the purpose of carrying out or giving effect to this Act and on such terms as may be arranged with the approval of the Treasurer—
- (i) arrange with any person, firm, council or corporation for the use of the services of any employee of the person, firm, council or corporation; or
 - (ii)

State Emergency Services and Civil Defence.

- (ii) arrange for the use or supply of any property, undertaking, equipment, goods, vehicles, articles or things of any kind or for the supply of any services;
- 5 (g) authorise officers to render assistance and provide facilities and services to members of the Police Force, and other persons or bodies, in such case or class of cases and subject to such conditions as the Director may determine;
- 10 (h) furnish reports and recommendations upon any matter to the Minister; and
- (i) carry out such functions of an advisory or educational character as the Director thinks fit for purposes connected with this Act.

15 **11.** (1) The Director may, in such manner as he thinks fit, delegate to any officer the exercise or performance of such of the powers, authorities, duties and functions conferred or imposed upon him by or under this Act as he thinks fit (other than this power of delegation) and may, in such manner as
20 he thinks fit, revoke wholly or in part any such delegation.

Delegation
by Director,
and exercise
of Director's
powers, etc.

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under subsection one of this section may, while the delegation remains unrevoked, be exercised or performed by the delegate
25 in accordance with the terms of the delegation.

(3) A delegation under subsection one of this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the delegated powers, authorities, duties or functions or as to time, place
30 or circumstances as may be determined by the Director.

(4)

State Emergency Services and Civil Defence.

(4) Notwithstanding any delegation under subsection one of this section, the Director may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

5 (5) Any act or thing done or suffered by the delegate when acting in the exercise of a delegation under subsection one of this section shall have the like force or effect as if the act or thing had been done or suffered by the Director.

10 (6) Notwithstanding anything in the foregoing provisions of this section, the regulations may make provision for or with respect to conferring or imposing upon any officer specified or described therein any of the powers, authorities, duties and functions conferred or imposed upon the Director by or under this Act.

15 (7) The conferring or imposing under subsection six of this section of any power, authority, duty or function may be made subject to such conditions or such limitations as to the exercise or performance of the power, authority, duty or function or as to time, place or circumstances as may be
20 specified or described in the regulations.

(8) Notwithstanding the conferring or imposing under subsection six of this section of any power, authority, duty or function, the Director may continue to exercise or perform the power, authority, duty or function.

25 **12.** Nothing in this Part shall be construed as limiting Powers, etc., the powers, authorities, duties or functions of the Director, under this Part to be or any other person or body, under any other Part of this additional Act.

PART

State Emergency Services and Civil Defence.

PART III.

STATES OF EMERGENCY AND SPECIAL EMERGENCIES.

DIVISION 1.—General.

5 **13.** (1) Where the Governor is, during the currency of Declaration
of state of
emergency.
an emergency, satisfied that, having regard to the magnitude
or threatened magnitude of the emergency and the facilities
that appear to him to be available to deal with the emergency,
the making of a declaration under this section is warranted,
he may, during the currency of the emergency, by order in
10 writing, declare that a state of emergency shall exist, either
in the whole State, or any part of the State specified or
described in the declaration, in respect of the emergency.

(2) An order under this section shall take effect
from the making thereof or from a later date specified therein
15 and shall, unless sooner revoked, continue in force for such
period not exceeding seven days as is specified therein, but
more than one order may be made under this section in
respect of an emergency.

(3) An order under this section shall be published
20 in the Gazette as soon as practicable.

(4) A declaration may be made under this section
in respect of an emergency whether or not a declaration
under section fourteen of this Act is in force in respect of the
emergency.

25 **14.** (1) Where the Minister is, during the currency of Declaration
of special
emergency.
an emergency, satisfied that, having regard to the magnitude
or threatened magnitude of the emergency and the facilities
that appear to him to be available to deal with the emergency,
the making of a declaration under this section is warranted,

he

State Emergency Services and Civil Defence.

he may, during the currency of the emergency, by order in writing, declare that the emergency shall be a special emergency for the purposes of this Act.

5 (2) An order under this section shall take effect from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

10 **15.** (1) The Director, with the approval of the Minister, may, after such consultation with the persons or bodies concerned as the Director thinks fit, prepare plans setting out the procedure which the Director considers ought, in the event of a state of emergency or a special emergency, to be
15 followed by any person or body, and may from time to time vary or revoke any such plan.

Preparation of plans.

(2) A plan under this section may be communicated in such manner as the Director thinks fit to any person or body to whom or to which the plan relates.

20 (3) A plan under this section communicated to a person or body to whom or to which the plan relates shall be adopted by the person or body and shall, as far as practicable, be carried into effect by the person or body in the circumstances indicated by the plan during the currency of a
25 state of emergency or a special emergency.

16. Where the provisions of this Part of this Act are inconsistent with any of the provisions of any other Act, or of any regulation, ordinance or by-law made under any other Act, the provisions of this Part shall prevail.

This Part to prevail over other Acts, etc.

State Emergency Services and Civil Defence.

DIVISION 2.—Powers exercisable during state of emergency or special emergency.

17. Where the Director is, during the currency of an emergency in respect of which a state of emergency exists or during the currency of a special emergency, of the opinion that any operations being or to be carried out in relation to the emergency by a person or body—

Powers exercisable during state of emergency or special emergency.

- (a) whose responsibilities require him or it to undertake any such operations; or
- (b) who or which may be undertaking any such operations,

should, in the public interest, be co-ordinated, the Director may, during the currency of the emergency, give such directions to any such person or body as he may consider necessary for the purposes of securing the co-ordination of the operations.

DIVISION 3.—Powers exercisable during state of emergency.

18. The Director may, during the currency of an emergency in respect of which a state of emergency exists, for purposes connected with the civil defence of the State—

Powers exercisable during state of emergency.

- (a) give such directions to any person or body as may be necessary for the civil defence of the State;
- (b) enter any land, building or structure;
- (c) cause any road or public place to be closed to traffic or to any persons;
- (d) pull down, cut or remove or cause to be pulled down, cut or removed fences on any land;
- (e) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;

(f)

State Emergency Services and Civil Defence.

- (f) destroy or remove or cause to be destroyed or removed any living or dead vegetation or any dead animal;
- 5 (g) burn, plough or clear or cause to be burnt, ploughed or cleared fire breaks on any land;
- (h) bring or cause to be brought onto or into any land, building or structure, and there use or cause to be used, any equipment, goods, vehicles, articles or things of any kind;
- 10 (i) take possession or control of or use any property, undertaking, equipment, goods, vehicles, articles or things of any kind;
- (j) use free of charge any water from any source whatsoever on any land;
- 15 (k) use free of charge any gas or electricity;
- (l) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body
20 whatsoever;
- (m) cause to be shut off or disconnected the supply of water, gas or electricity;
- (n) give a direction to the person or body apparently
25 in charge of any premises or place, being licensed premises (within the meaning of the Liquor Act, 1912), a factory, shop, cinema, theatre, public hall, school, college, university or any other premises or place, that the premises or place be closed and kept closed during the currency of the
30 state of emergency or for such shorter period as may be specified or described in the direction; and

(o)

State Emergency Services and Civil Defence.

- (o) do or cause to be done any other act, matter or thing which is necessary for or incidental to the civil defence of the State.

19. The powers and authorities conferred by this Limitation on operation of this Division.
5 Division shall not be exercisable—

- (a) except in a part of the State in which a state of emergency exists; and
(b) except in relation to an emergency in respect of which a state of emergency exists.

PART IV.

MISCELLANEOUS.

20. Any person appointed under subsection one of section Certain persons not to be employees.
15 eight of this Act or any person upon whom any power, authority, duty or function is conferred or imposed by or under this Act shall not, by reason only of that appointment or conferring or imposing, be deemed to be a servant of the Crown, the government of the State, the Minister, the Director, a council or any other person or body.

21. No proceedings whatsoever shall lie or be made or Certain proceedings not to lie.
20 allowed by or in favour of any person against the Crown, the Minister, the Director or any other officer, a council, 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
25 with any direction given or purported to be given under this Act, in respect of anything bona fide done or omitted to be done under and for the purposes of this Act.

22.

State Emergency Services and Civil Defence.

22. (1) Where any direction is given under section Directions
seventeen or eighteen of this Act to any person or body, that to be
person or body shall comply with the direction. complied
with.

5 (2) It is a sufficient defence to a prosecution for an
offence under subsection one of this section in respect of a
failure to comply with a direction if the defendant satisfies
the court that he so failed with reasonable excuse.

23. A person shall not assault, resist, obstruct, use abusive Assaulting
language to or incite or encourage any other person to assault, officers,
10 resist, obstruct or use abusive language to the Director or etc.
any other officer in the exercise or performance of any of the
powers, authorities, duties or functions conferred or imposed
upon him by or under this Act.

24. (1) A person who contravenes or fails to comply Offences
15 with any provision of this Act shall be guilty of an offence and
against this Act. penalties.

(2) A person who is guilty of an offence against this
Act is liable to a penalty not exceeding eight hundred dollars
or to imprisonment for a term not exceeding twelve months
20 or to both such penalty and imprisonment.

(3) Where a company is convicted of an offence
against this Act, every director and every officer concerned
in the management of the company shall be guilty of the
like offence if he knowingly and wilfully authorised or
25 permitted the commission of the offence.

(4)

State Emergency Services and Civil Defence.

(4) Proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

5 **25.** (1) In any legal proceedings, a certificate purporting Evidence,
to be signed by the Director and to certify that— etc.

10 (a) a state of emergency 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, in respect of an emergency specified therein;

15 (b) a declaration under section fourteen of this Act was in force on a day or during a period specified therein in respect of an emergency specified therein;

20 (c) a delegation by the Director to a person specified therein of the exercise or performance of any power, authority, duty or function specified therein was in force on a day or during a period specified therein;

25 (d) a delegation by the 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) a person specified therein was an officer on a day or during a period specified therein,

shall be admissible in evidence and shall be prima facie
30 evidence of the facts so certified.

(2)

State Emergency Services and Civil Defence.

(2) In any legal proceedings, a certificate purporting to be signed by the Minister and to certify that a person specified therein was the Director on a day or during a period specified therein shall be admissible in evidence and shall be
5 prima facie evidence of the facts so certified.

(3) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of a declaration under section thirteen or fourteen of this Act have been complied with and
10 performed.

**26. The Director shall, as soon as practicable after the thirtieth day of June in each year, cause a report giving information as to the operation of the State Emergency Services and Civil Defence Organisation during the year
15 ending on that day to be prepared and forwarded to the Minister for presentation to Parliament.** ^{Annual report.}

~~26.~~ **27. (1) The Governor may make regulations for or with respect to—** ^{Regulations.}

- 20 (a) the issue to officers of certificates of identification and the surrender of those certificates;
- (b) the powers, authorities, duties and functions of persons appointed under subsection one of section eight of this Act; and
- 25 (c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding four hundred dollars for any breach thereof.

30 (3) A regulation may be made so as to differ according to time, place or circumstances.

(4) A regulation may authorise any matter or thing to be from time to time determined by any person or body specified or described therein.

State Emergency Services and Civil Defence.

27. 28. (1) The Height of Buildings (Metropolitan Police District) Act, 1912, is amended by omitting from paragraph (f) of subsection two of section 4B the words "Civil Defence" and by inserting in lieu thereof the words "State
5 Emergency Services and Civil Defence".
- (2) The Bush Fires Act, 1949, is amended by omitting from paragraph (h) of subsection two of section thirty-nine the words "Civil Defence" and by inserting in lieu thereof the words "State Emergency Services and Civil
10 Defence".

Amendment of Act No. 58, 1912. Sec. 4B. (Height of Buildings Advisory Committee.)

Amendment of Act No. 31, 1949. Sec. 39. (Constitution of Bush Fire Council.)

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

[15c]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 9 December, 1971.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, , 1972.*

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. , 1972.

An Act to provide for the civil defence of the State and the co-ordination of relief operations in the event of certain emergencies; to confer and impose certain powers, authorities, duties and functions upon the Director of State Emergency Services and Civil Defence and certain other persons; to amend the Height of Buildings (Metropolitan Police District) Act, 1912, and the Bush Fires Act, 1949, in certain respects; and for purposes connected therewith.

BE

State Emergency Services and Civil Defence.

5 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "State Emergency Services and Civil Defence Act, ~~1971~~ 1972".

Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided as follows:—

Division of Act.

PART I.—PRELIMINARY—*ss.* 1–6.

15 PART II.—GENERAL POWERS OF DIRECTOR—*ss.* 7–12.

PART III.—STATES OF EMERGENCY AND SPECIAL EMERGENCIES—*ss.* 13–19.

DIVISION 1.—*General*—*ss.* 13–16.

20 DIVISION 2.—*Powers exercisable during state of emergency or special emergency*—*s.* 17.

DIVISION 3.—*Powers exercisable during state of emergency*—*ss.* 18, 19.

PART IV.—MISCELLANEOUS—*ss.* 20–~~27~~ 28.

25 3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation.

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

"civil

State Emergency Services and Civil Defence.

“civil defence of the State” means, in relation to an emergency in respect of which a state of emergency exists, the preparation for and the carrying out of operations intended—

- 5 (a) to prevent, minimise and overcome, as far as practicable, the effects, upon the public or any part of the public, or any property, in the State, of the occurrence due to which the emergency exists;
- 10 (b) to deal with, as far as practicable, the emergency conditions existing by reason of the occurrence; and
- 15 (c) to promote the safety of the public or any part of the public, or any property, in the State, in so far as that safety is threatened by reason of the occurrence;

“council” has the meaning ascribed thereto by the Local Government Act, 1919;

20 “Director” means the person for the time being holding office under the Public Service Act, 1902, whether appointed as such before or after the commencement of this Act, as the Director of State Emergency Services and Civil Defence, and includes any person for the time being acting in that office;

25 “emergency” means an emergency due to an actual or imminent occurrence that causes or threatens to cause loss of life or injury or distress to persons, or danger to the safety of the public or any part of the public, or destruction of or damage to

30 property, in the State;

“local controller” means local controller referred to in subsection two of section eight of this Act;

“local government area” has the meaning ascribed thereto by the Local Government Act, 1919;

“occurrence”

State Emergency Services and Civil Defence.

“occurrence” means—

- (a) a fire, flood, earthquake, seismic sea wave, storm or tornado;
- (b) an explosion or accident;
- 5 (c) a plague or epidemic;
- (d) an attack directed against the State or any part of the State, whether or not made by an enemy, and whether by means of bombs or missiles or by atomic, thermonuclear, radiological, chemical, bacteriological, biological or other means; or
- 10 (e) a warlike act, whether or not directed against the State or any part of the State,

15 and includes any other event or happening whether of the same or a different nature;

“officer” means any officer or employee of the Public Service employed in the State Emergency Services and Civil Defence Organisation and any person appointed under subsection one of section eight of this Act;

20

“regulations” means regulations under this Act;

“special emergency” means an emergency declared to be a special emergency under section fourteen of this Act;

25 “state of emergency” means a state of emergency declared under section thirteen of this Act.

4. This Act binds the Crown.

Crown bound.

5. Nothing in this Act authorises the taking of measures amounting to, or making preparations for—

Limitation on operation of this Act.

30 (a) actual combat against an enemy;

(b)

State Emergency Services and Civil Defence.

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

6. The Director shall, in respect of the powers, authorities, Director to be subject to Minister's control and direction.
5 duties and functions conferred and imposed upon him by or
under this Act, be subject to the control and direction of the
Minister.

PART II.

GENERAL POWERS OF DIRECTOR.

10 7. The Director may, by order published in the Gazette, Division of State into regions, etc.
declare the State to be divided, for the purposes of this Act,
into such regions, sub-regions or other divisions as may be
specified in the order.

8. (1) The Director may—

- 15 (a) establish such offices as he considers to be necessary Appointment of personnel by Director.
for the purpose of carrying out or giving effect to
this Act;
- (b) appoint persons to those offices; and
 - (c) arrange for the training of persons so appointed.

20 (2) Without affecting the generality of subsection one
of this section, the Director may, under that subsection,
appoint a person to be the local controller for any local
government area or to be the controller for any region, sub-
region or other division referred to in section seven of this Act.

(3)

State Emergency Services and Civil Defence.

(3) A local controller shall not be appointed under this section for a local government area except upon the recommendation of the council of the area, unless the council fails to make a recommendation that is acceptable to the
5 Director within sixty days after the council has been requested in writing by the Director to do so.

(4) The council of a local government area shall, within a reasonable time after the appointment of a local controller for the area, afford, without fee or reward, such
10 facilities and office and storage accommodation to the local controller as are reasonable for the proper exercise and discharge of the controller's powers, authorities, duties and functions conferred or imposed upon him by or under this Act.

15 9. (1) The Director may authorise officers to render Relief assistance in relation to emergencies in such case or class of cases and subject to such conditions as the Director may determine.

(2) Subsection one of this section applies in relation
20 to an emergency whether or not a declaration under section thirteen or fourteen of this Act is in force in respect of the emergency.

10. The Director may—

25 (a) undertake such planning and make such preparations as the Director may consider to be necessary for the purpose of enabling any powers, authorities, duties or functions conferred or imposed by or under this Act upon the Director or any other
30 person or body to be exercised or performed in the most effective manner;

Miscellaneous powers of Director.

(b)

State Emergency Services and Civil Defence.

- (b) constitute and abolish committees for the purpose of—
- 5 (i) collating and assessing information; or
(ii) giving advice or assistance to the Director or any other person or body,
as may be determined by the Director;
- (c) arrange for the collation, assessment and public dissemination of information relating to the imminence or continuance of flooding;
- 10 (d) co-operate with any person or body, including any authority of the Commonwealth, in relation to any matter referred to in paragraph (b) or (c) of this section;
- (e) for the purpose of carrying out or giving effect to this Act—
- 15 (i) arrange, with the approval of the Minister administering any government department and of the Public Service Board, for the use of the services of any officer or employee of the department; or
- 20 (ii) arrange, with the approval of the Minister administering any government instrumentality or agency, for the use of the services of any officer or employee of the instrumentality or agency, whether or not the provisions of the Public Service Act, 1902, apply to the appointment of the officer or employee;
- 25 (f) for the purpose of carrying out or giving effect to this Act and on such terms as may be arranged with the approval of the Treasurer—
- 30 (i) arrange with any person, firm, council or corporation for the use of the services of any employee of the person, firm, council or corporation; or
- 35 (ii)

State Emergency Services and Civil Defence.

- (ii) arrange for the use or supply of any property, undertaking, equipment, goods, vehicles, articles or things of any kind or for the supply of any services;
- 5 (g) authorise officers to render assistance and provide facilities and services to members of the Police Force, and other persons or bodies, in such case or class of cases and subject to such conditions as the Director may determine;
- 10 (h) furnish reports and recommendations upon any matter to the Minister; and
- (i) carry out such functions of an advisory or educational character as the Director thinks fit for purposes connected with this Act.

15 **11.** (1) The Director may, in such manner as he thinks fit, delegate to any officer the exercise or performance of such of the powers, authorities, duties and functions conferred or imposed upon him by or under this Act as he thinks fit (other than this power of delegation) and may, in such manner as
20 he thinks fit, revoke wholly or in part any such delegation.

Delegation
by Director,
and exercise
of Director's
powers, etc.

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under subsection one of this section may, while the delegation remains unrevoked, be exercised or performed by the delegate
25 in accordance with the terms of the delegation.

(3) A delegation under subsection one of this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the delegated powers, authorities, duties or functions or as to time, place
30 or circumstances as may be determined by the Director.

(4)

State Emergency Services and Civil Defence.

(4) Notwithstanding any delegation under subsection one of this section, the Director may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

5 (5) Any act or thing done or suffered by the delegate when acting in the exercise of a delegation under subsection one of this section shall have the like force or effect as if the act or thing had been done or suffered by the Director.

10 (6) Notwithstanding anything in the foregoing provisions of this section, the regulations may make provision for or with respect to conferring or imposing upon any officer specified or described therein any of the powers, authorities, duties and functions conferred or imposed upon the Director by or under this Act.

15 (7) The conferring or imposing under subsection six of this section of any power, authority, duty or function may be made subject to such conditions or such limitations as to the exercise or performance of the power, authority, duty or function or as to time, place or circumstances as may be
20 specified or described in the regulations.

(8) Notwithstanding the conferring or imposing under subsection six of this section of any power, authority, duty or function, the Director may continue to exercise or perform the power, authority, duty or function.

25 **12.** Nothing in this Part shall be construed as limiting Powers, etc.,
the powers, authorities, duties or functions of the Director, under this
or any other person or body, under any other Part of this Part to be
Act. additional.

PART

State Emergency Services and Civil Defence.

PART III.

STATES OF EMERGENCY AND SPECIAL EMERGENCIES.

DIVISION 1.—General.

5 **13.** (1) Where the Governor is, during the currency of an emergency, satisfied that, having regard to the magnitude or threatened magnitude of the emergency and the facilities that appear to him to be available to deal with the emergency, the making of a declaration under this section is warranted, he may, during the currency of the emergency, by order in
10 writing, declare that a state of emergency shall exist, either in the whole State, or any part of the State specified or described in the declaration, in respect of the emergency.

Declaration
of state of
emergency.

(2) An order under this section shall take effect from the making thereof or from a later date specified therein
15 and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

(3) An order under this section shall be published
20 in the Gazette as soon as practicable.

(4) A declaration may be made under this section in respect of an emergency whether or not a declaration under section fourteen of this Act is in force in respect of the emergency.

25 **14.** (1) Where the Minister is, during the currency of an emergency, satisfied that, having regard to the magnitude or threatened magnitude of the emergency and the facilities that appear to him to be available to deal with the emergency, the making of a declaration under this section is warranted,

Declaration
of special
emergency.

he

State Emergency Services and Civil Defence.

he may, during the currency of the emergency, by order in writing, declare that the emergency shall be a special emergency for the purposes of this Act.

(2) An order under this section shall take effect
5 from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

10 **15.** (1) The Director, with the approval of the Minister, may, after such consultation with the persons or bodies concerned as the Director thinks fit, prepare plans setting out the procedure which the Director considers ought, in the event of a state of emergency or a special emergency, to be
15 followed by any person or body, and may from time to time vary or revoke any such plan.

Preparation of plans.

(2) A plan under this section may be communicated in such manner as the Director thinks fit to any person or body to whom or to which the plan relates.

20 (3) A plan under this section communicated to a person or body to whom or to which the plan relates shall be adopted by the person or body and shall, as far as practicable, be carried into effect by the person or body in the circumstances indicated by the plan during the currency of a
25 state of emergency or a special emergency.

16. Where the provisions of this Part of this Act are inconsistent with any of the provisions of any other Act, or of any regulation, ordinance or by-law made under any other Act, the provisions of this Part shall prevail.

This Part to prevail over other Acts, etc.

DIVISION

State Emergency Services and Civil Defence.

DIVISION 2.—Powers exercisable during state of emergency or special emergency.

17. Where the Director is, during the currency of an emergency in respect of which a state of emergency exists or during the currency of a special emergency, of the opinion that any operations being or to be carried out in relation to the emergency by a person or body—

- (a) whose responsibilities require him or it to undertake any such operations; or
- (b) who or which may be undertaking any such operations,

should, in the public interest, be co-ordinated, the Director may, during the currency of the emergency, give such directions to any such person or body as he may consider necessary for the purposes of securing the co-ordination of the operations.

DIVISION 3.—Powers exercisable during state of emergency.

18. The Director may, during the currency of an emergency in respect of which a state of emergency exists, for purposes connected with the civil defence of the State—

- (a) give such directions to any person or body as may be necessary for the civil defence of the State;
- (b) enter any land, building or structure;
- (c) cause any road or public place to be closed to traffic or to any persons;
- (d) pull down, cut or remove or cause to be pulled down, cut or removed fences on any land;
- (e) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;

(f)

State Emergency Services and Civil Defence.

- (f) destroy or remove or cause to be destroyed or removed any living or dead vegetation or any dead animal;
- 5 (g) burn, plough or clear or cause to be burnt, ploughed or cleared fire breaks on any land;
- (h) bring or cause to be brought onto or into any land, building or structure, and there use or cause to be used, any equipment, goods, vehicles, articles or things of any kind;
- 10 (i) take possession or control of or use any property, undertaking, equipment, goods, vehicles, articles or things of any kind;
- (j) use free of charge any water from any source whatsoever on any land;
- 15 (k) use free of charge any gas or electricity;
- (l) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body
20 whatsoever;
- (m) cause to be shut off or disconnected the supply of water, gas or electricity;
- 25 (n) give a direction to the person or body apparently in charge of any premises or place, being licensed premises (within the meaning of the Liquor Act, 1912), a factory, shop, cinema, theatre, public hall, school, college, university or any other premises or place, that the premises or place be closed and kept closed during the currency of the
30 state of emergency or for such shorter period as may be specified or described in the direction; and
- (o)

State Emergency Services and Civil Defence.

- (o) do or cause to be done any other act, matter or thing which is necessary for or incidental to the civil defence of the State.

19. The powers and authorities conferred by this Limitation on operation of this Division.
5 Division shall not be exercisable—

- (a) except in a part of the State in which a state of emergency exists; and
(b) except in relation to an emergency in respect of which a state of emergency exists.

10

PART IV.

MISCELLANEOUS.

20. Any person appointed under subsection one of section Certain persons not to be employees.
eight of this Act or any person upon whom any power, authority, duty or function is conferred or imposed by or
15 under this Act shall not, by reason only of that appointment or conferring or imposing, be deemed to be a servant of the Crown, the government of the State, the Minister, the Director, a council or any other person or body.

21. No proceedings whatsoever shall lie or be made or Certain proceedings not to lie.
20 allowed by or in favour of any person against the Crown, the Minister, the Director or any other officer, a council, 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
25 with any direction given or purported to be given under this Act, in respect of anything bona fide done or omitted to be done under and for the purposes of this Act.

22.

State Emergency Services and Civil Defence.

22. (1) Where any direction is given under section seventeen or eighteen of this Act to any person or body, that person or body shall comply with the direction. Directions to be complied with.

5 (2) It is a sufficient defence to a prosecution for an offence under subsection one of this section in respect of a failure to comply with a direction if the defendant satisfies the court that he so failed with reasonable excuse.

23. A person shall not assault, resist, obstruct, use abusive language to or incite or encourage any other person to assault, Assaulting officers, etc.
10 resist, obstruct or use abusive language to the Director or any other officer in the exercise or performance of any of the powers, authorities, duties or functions conferred or imposed upon him by or under this Act.

24. (1) A person who contravenes or fails to comply Offences and penalties.
15 with any provision of this Act shall be guilty of an offence against this Act.

(2) A person who is guilty of an offence against this Act is liable to a penalty not exceeding eight hundred dollars or to imprisonment for a term not exceeding twelve months
20 or to both such penalty and imprisonment.

(3) Where a company is convicted of an offence against this Act, every director and every officer concerned in the management of the company shall be guilty of the like offence if he knowingly and wilfully authorised or
25 permitted the commission of the offence.

(4)

State Emergency Services and Civil Defence.

(4) Proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

5 **25.** (1) In any legal proceedings, a certificate purporting Evidence,
to be signed by the Director and to certify that— etc.

10 (a) a state of emergency 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, in respect of an emergency specified therein;

15 (b) a declaration under section fourteen of this Act was in force on a day or during a period specified therein in respect of an emergency specified therein;

20 (c) a delegation by the Director to a person specified therein of the exercise or performance of any power, authority, duty or function specified therein was in force on a day or during a period specified therein;

25 (d) a delegation by the 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) a person specified therein was an officer on a day or during a period specified therein,

shall be admissible in evidence and shall be prima facie
30 evidence of the facts so certified.

(2)

State Emergency Services and Civil Defence.

(2) In any legal proceedings, a certificate purporting to be signed by the Minister and to certify that a person specified therein was the Director on a day or during a period specified therein shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

(3) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of a declaration under section thirteen or fourteen of this Act have been complied with and performed.

26. The Director shall, as soon as practicable after the thirtieth day of June in each year, cause a report giving information as to the operation of the State Emergency Services and Civil Defence Organisation during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament.

~~26.~~ 27. (1) The Governor may make regulations for or with respect to—

- (a) the issue to officers of certificates of identification and the surrender of those certificates;
- (b) the powers, authorities, duties and functions of persons appointed under subsection one of section eight of this Act; and
- (c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding four hundred dollars for any breach thereof.

(3) A regulation may be made so as to differ according to time, place or circumstances.

(4) A regulation may authorise any matter or thing to be from time to time determined by any person or body specified or described therein.

State Emergency Services and Civil Defence.

27. 28. (1) The Height of Buildings (Metropolitan Police District) Act, 1912, is amended by omitting from paragraph (f) of subsection two of section 4B the words "Civil Defence" and by inserting in lieu thereof the words "State Emergency Services and Civil Defence".

Amendment of Act No. 58, 1912. Sec. 4B. (Height of Buildings Advisory Committee.)

(2) The Bush Fires Act, 1949, is amended by omitting from paragraph (h) of subsection two of section thirty-nine the words "Civil Defence" and by inserting in lieu thereof the words "State Emergency Services and Civil Defence".

Amendment of Act No. 31, 1949. Sec. 39. (Constitution of Bush Fire Council.)

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

[15c]

STATE EMERGENCY SERVICES AND CIVIL DEFENCE ACT,
1972, No. 11

Reprinted under the Reprints Act, 1972

[Reprinted as at 5th February, 1981]

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 11, 1972 (1), as amended by Act No. 48, 1972 (2); and Act No. 22, 1980 (3).

Note.—(1) This Act is reprinted with the omission of all amending provisions authorised to be omitted under sec. 6 of the Reprints Act, 1972.

(2) This Act is reprinted with the amendments made by sec. 8 (2) and sec. 9 (3) of the Reprints Act, 1972. See footnote (2) on page 1. No marginal notes to this effect are included.

An Act to provide for the civil defence of the State and the co-ordination of relief operations in the event of certain emergencies; to confer and impose certain powers, authorities, duties and functions upon the Director of State Emergency Services and Civil Defence and certain other persons; to

p 86365J—A

(1) State Emergency Services and Civil Defence Act, 1972, No. 11. Assented to, 16th March, 1972. Date of commencement, 2nd August, 1972, sec. 1 (2) and Gazette No. 79 of 2nd August, 1972, p. 3099.

(2) Reprints Act, 1972, No. 48 (*formerly* Acts Reprinting Act, 1972). Assented to, 9th October, 1972. Order dated 21st May, 1975, and published in Gazette No. 73 of 23rd May, 1975, p. 1983, declaring that the State Emergency Services and Civil Defence Act, 1972, is an enactment to which sec. 8 (2) and sec. 9 (3) of the Acts Reprinting Act, 1972, apply.

(3) State Emergency Services and Civil Defence (Amendment) Act, 1980, No. 22. Assented to, 15th April, 1980. Date of commencement of Sch. 1, 25th April, 1980, sec. 2 (2) and Gazette No. 66 of 24th April, 1980, p. 2037.

State Emergency Services and Civil Defence.

amend the Height of Buildings (Metropolitan Police District) Act, 1912, and the Bush Fires Act, 1949, in certain respects; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title
and com-
mencement

1. (1) This Act may be cited as the "State Emergency Services and Civil Defence Act, 1972".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division
of Act.

2. This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–6.

PART II.—GENERAL POWERS OF DIRECTOR—*ss.* 7–12.

PART III.—STATES OF EMERGENCY AND SPECIAL EMERGENCIES—*ss.* 13–19.

DIVISION 1.—*General*—*ss.* 13–16.

DIVISION 2.—*Powers exercisable during state of emergency or special emergency*—*s.* 17.

DIVISION 3.—*Powers exercisable during state of emergency*—*ss.* 18, 19.

PART IV.—MISCELLANEOUS—*ss.* 20–28.

Interpre-
tation.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"body" means a body, whether corporate or unincorporate, and includes a government department, instrumentality or agency, public authority or council:

State Emergency Services and Civil Defence.

“civil defence of the State” means, in relation to an emergency in respect of which a state of emergency exists, the preparation for and the carrying out of operations intended—

- (a) to prevent, minimise and overcome, as far as practicable, the effects, upon the public or any part of the public, or any property, in the State, of the occurrence due to which the emergency exists;
- (b) to deal with, as far as practicable, the emergency conditions existing by reason of the occurrence; and
- (c) to promote the safety of the public or any part of the public, or any property, in the State, in so far as that safety is threatened by reason of the occurrence;

“council” has the meaning ascribed thereto by the Local Government Act, 1919;

“Director” means the Director of State Emergency Services and Civil Defence under section 5A;

Substituted
definition,
Act No. 22,
1980, Sch. 1
(1) (a).

“emergency” means an emergency due to an actual or imminent occurrence that causes or threatens to cause loss of life or injury or distress to persons, or danger to the safety of the public or any part of the public, or destruction of or damage to property, in the State;

“local controller” means local controller referred to in subsection (2) of section 8;

“local government area” has the meaning ascribed thereto by the Local Government Act, 1919;

“occurrence” means—

- (a) a fire, flood, earthquake, seismic sea wave, storm or tornado;

State Emergency Services and Civil Defence.

- (b) an explosion or accident;
- (c) a plague or epidemic;
- (d) an attack directed against the State or any part of the State, whether or not made by an enemy, and whether by means of bombs or missiles or by atomic, thermonuclear, radiological, chemical, bacteriological, biological or other means; or
- (e) a warlike act, whether or not directed against the State or any part of the State,

and includes any other event or happening whether of the same or a different nature;

**Substituted
definition,
Act No. 22,
1980, Sch. 1
(1) (b).**

“officer” means—

- (a) the Director;
- (b) an officer or temporary employee of the Public Service engaged in the administration of this Act;
- (c) a member of the Police Force for the time being nominated under section 5B; or
- (d) a person appointed under section 8 (1);

“regulations” means regulations under this Act;

“special emergency” means an emergency declared to be a special emergency under section 14;

“state of emergency” means a state of emergency declared under section 13.

**Crown
bound.**

4. This Act binds the Crown.

**Limitation
on operation
of this Act.**

5. Nothing in this Act authorises the taking of measures amounting to, or making preparations for—

- (a) actual combat against an enemy;

State Emergency Services and Civil Defence.

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

5A. (1) There shall be a Director of State Emergency Services and Civil Defence, who shall be the person for the time being holding office as Commissioner of Police.

Director of State Emergency Services and Civil Defence.
New section added, Act No. 22, 1980, Sch. 1 (2).

(2) Without limiting the generality of any provisions of the Police Regulation Act, 1899, a reference in that Act to the powers, authorities, duties and functions of the Commissioner of Police includes a reference to the powers, authorities, duties and functions of the Director.

5B. The Director may, with the approval of the Minister, nominate members of the Police Force specified or described in the instrument of nomination to be officers for the purposes of this Act, and may, with the approval of the Minister, revoke any such nomination.

Nomination of members of Police Force as officers.
New section added, Act No. 22, 1980, Sch. 1 (2).

6. The Director shall, in respect of the powers, authorities, duties and functions conferred and imposed upon him by or under this Act, be subject to the control and direction of the Minister.

Director to be subject to Minister's control and direction.

PART II.

GENERAL POWERS OF DIRECTOR.

7. The Director may, by order published in the Gazette*, declare the State to be divided, for the purposes of this Act, into such regions, sub-regions or other divisions as may be specified in the order.

Division of State into regions, etc.

* See Gazette No. 117 of 22nd August, 1980, p. 4392.

State Emergency Services and Civil Defence.

Appointment
of personnel
by Director.

8. (1) The Director may—
- (a) establish such offices as he considers to be necessary for the purpose of carrying out or giving effect to this Act;
 - (b) appoint persons to those offices; and
 - (c) arrange for the training of persons so appointed.

(2) Without affecting the generality of subsection (1), the Director may, under that subsection, appoint a person to be the local controller for any local government area or to be the controller for any region, sub-region or other division referred to in section 7.

(3) A local controller shall not be appointed under this section for a local government area except upon the recommendation of the council of the area, unless the council fails to make a recommendation that is acceptable to the Director within sixty days after the council has been requested in writing by the Director to do so.

(4) The council of a local government area shall, within a reasonable time after the appointment of a local controller for the area, afford, without fee or reward, such facilities and office and storage accommodation to the local controller as are reasonable for the proper exercise and discharge of the controller's powers, authorities, duties and functions conferred or imposed upon him by or under this Act.

Relief
assistance.

9. (1) The Director may authorise officers to render assistance in relation to emergencies in such case or class of cases and subject to such conditions as the Director may determine.

(2) Subsection (1) applies in relation to an emergency whether or not a declaration under section 13 or 14 is in force in respect of the emergency.

State Emergency Services and Civil Defence.

10. The Director may—

Miscellaneous
powers of
Director.

- (a) undertake such planning and make such preparations as the Director may consider to be necessary for the purpose of enabling any powers, authorities, duties or functions conferred or imposed by or under this Act upon the Director or any other person or body to be exercised or performed in the most effective manner;
- (b) constitute and abolish committees for the purpose of—
 - (i) collating and assessing information; or
 - (ii) giving advice or assistance to the Director or any other person or body,as may be determined by the Director;
- (c) arrange for the collation, assessment and public dissemination of information relating to the imminence or continuance of flooding;
- (d) co-operate with any person or body, including any authority of the Commonwealth, in relation to any matter referred to in paragraph (b) or (c);
- (e) for the purpose of carrying out or giving effect to this Act—
 - (i) arrange, with the approval of the Minister administering any government department and of the Public Service Board, for the use of the services of any officer or employee of the department; or
 - (ii) arrange, with the approval of the Minister administering any government instrumentality or agency, for the use of the services of any officer or employee of the instrumentality or agency, whether or not the provisions of the Public Service Act, 1902, apply to the appointment of the officer or employee;

State Emergency Services and Civil Defence.

- (f) for the purpose of carrying out or giving effect to this Act and on such terms as may be arranged with the approval of the Treasurer—
 - (i) arrange with any person, firm, council or corporation for the use of the services of any employee of the person, firm, council or corporation; or
 - (ii) arrange for the use or supply of any property, undertaking, equipment, goods, vehicles, articles or things of any kind or for the supply of any services;
- (g) authorise officers to render assistance and provide facilities and services to members of the Police Force, and other persons or bodies, in such case or class of cases and subject to such conditions as the Director may determine;
- (h) furnish reports and recommendations upon any matter to the Minister; and
- (i) carry out such functions of an advisory or educational character as the Director thinks fit for purposes connected with this Act.

Delegation
by Director,
and exercise
of Director's
powers, etc.

11. (1) The Director may, in such manner as he thinks fit, delegate to any officer the exercise or performance of such of the powers, authorities, duties and functions conferred or imposed upon him by or under this Act as he thinks fit (other than this power of delegation) and may, in such manner as he thinks fit, revoke wholly or in part any such delegation.

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under subsection (1) may, while the delegation remains unrevoked, be exercised or performed by the delegate in accordance with the terms of the delegation.

State Emergency Services and Civil Defence.

(3) A delegation under subsection (1) may be made subject to such conditions or such limitations as to the exercise or performance of any of the delegated powers, authorities, duties or functions or as to time, place or circumstances as may be determined by the Director.

(4) Notwithstanding any delegation under subsection (1), the Director may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by the delegate when acting in the exercise of a delegation under subsection (1) shall have the like force or effect as if the act or thing had been done or suffered by the Director.

(6) Notwithstanding anything in the foregoing provisions of this section, the regulations may make provision for or with respect to conferring or imposing upon any officer specified or described therein any of the powers, authorities, duties and functions conferred or imposed upon the Director by or under this Act.

(7) The conferring or imposing under subsection (6) of any power, authority, duty or function may be made subject to such conditions or such limitations as to the exercise or performance of the power, authority, duty or function or as to time, place or circumstances as may be specified or described in the regulations.

(8) Notwithstanding the conferring or imposing under subsection (6) of any power, authority, duty or function, the Director may continue to exercise or perform the power, authority, duty or function.

12. Nothing in this Part shall be construed as limiting the powers, authorities, duties or functions of the Director, or any other person or body, under any other Part of this Act.

Powers, etc.,
under this
Part to be
additional.

State Emergency Services and Civil Defence.

PART III.

STATES OF EMERGENCY AND SPECIAL EMERGENCIES.

DIVISION 1.—*General.*

Declaration
of state of
emergency.

13. (1) Where the Governor is, during the currency of an emergency, satisfied that, having regard to the magnitude or threatened magnitude of the emergency and the facilities that appear to him to be available to deal with the emergency, the making of a declaration under this section is warranted, he may, during the currency of the emergency, by order in writing, declare that a state of emergency shall exist, either in the whole State, or any part of the State specified or described in the declaration, in respect of the emergency.

(2) An order under this section shall take effect from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

(3) An order under this section shall be published in the Gazette as soon as practicable.

(4) A declaration may be made under this section in respect of an emergency whether or not a declaration under section 14 is in force in respect of the emergency.

Declaration
of special
emergency.

14. (1) Where the Minister is, during the currency of an emergency, satisfied that, having regard to the magnitude or threatened magnitude of the emergency and the facilities that appear to him to be available to deal with the emergency, the making of a declaration under this section is warranted, he may, during the currency of the emergency, by order in writing, declare that the emergency shall be a special emergency for the purposes of this Act.

State Emergency Services and Civil Defence.

(2) An order under this section shall take effect from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

15. (1) The Director, with the approval of the Minister, may, after such consultation with the persons or bodies concerned as the Director thinks fit, prepare plans setting out the procedure which the Director considers ought, in the event of a state of emergency or a special emergency, to be followed by any person or body, and may from time to time vary or revoke any such plan. Preparation of plans.

(2) A plan under this section may be communicated in such manner as the Director thinks fit to any person or body to whom or to which the plan relates.

(3) A plan under this section communicated to a person or body to whom or to which the plan relates shall be adopted by the person or body and shall, as far as practicable, be carried into effect by the person or body in the circumstances indicated by the plan during the currency of a state of emergency or a special emergency.

16. Where the provisions of this Part are inconsistent with any of the provisions of any other Act, or of any regulation, ordinance or by-law made under any other Act, the provisions of this Part shall prevail. This Part to prevail over other Acts, etc.

DIVISION 2.—Powers exercisable during state of emergency or special emergency.

17. Where the Director is, during the currency of an emergency in respect of which a state of emergency exists or during the currency of a special emergency, of the opinion that any operations being or to be carried out in relation to the emergency by a person or body— Powers exercisable during state of emergency or special emergency.

- (a) whose responsibilities require him or it to undertake any such operations; or

State Emergency Services and Civil Defence.

(b) who or which may be undertaking any such operations, should, in the public interest, be co-ordinated, the Director may, during the currency of the emergency, give such directions to any such person or body as he may consider necessary for the purposes of securing the co-ordination of the operations.

DIVISION 3.—Powers exercisable during state of emergency.

Powers
exercisable
during state
of emergency.

18. The Director may, during the currency of an emergency in respect of which a state of emergency exists, for purposes connected with the civil defence of the State—

- (a) give such directions to any person or body as may be necessary for the civil defence of the State;
- (b) enter any land, building or structure;
- (c) cause any road or public place to be closed to traffic or to any persons;
- (d) pull down, cut or remove or cause to be pulled down, cut or removed fences on any land;
- (e) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;
- (f) destroy or remove or cause to be destroyed or removed any living or dead vegetation or any dead animal;
- (g) burn, plough or clear or cause to be burnt, ploughed or cleared fire breaks on any land;
- (h) bring or cause to be brought onto or into any land, building or structure, and there use or cause to be used, any equipment, goods, vehicles, articles or things of any kind;

State Emergency Services and Civil Defence.

- (i) take possession or control of or use any property, undertaking, equipment, goods, vehicles, articles or things of any kind;
- (j) use free of charge any water from any source whatsoever on any land;
- (k) use free of charge any gas or electricity;
- (l) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body whatsoever;
- (m) cause to be shut off or disconnected the supply of water, gas or electricity;
- (n) give a direction to the person or body apparently in charge of any premises or place, being licensed premises (within the meaning of the Liquor Act, 1912), a factory, shop, cinema, theatre, public hall, school, college, university or any other premises or place, that the premises or place be closed and kept closed during the currency of the state of emergency or for such shorter period as may be specified or described in the direction; and
- (o) do or cause to be done any other act, matter or thing which is necessary for or incidental to the civil defence of the State.

19. The powers and authorities conferred by this Division shall not be exercisable— Limitation on operation of this Division.

- (a) except in a part of the State in which a state of emergency exists; and
 - (b) except in relation to an emergency in respect of which a state of emergency exists.
-

State Emergency Services and Civil Defence.

PART IV.

MISCELLANEOUS.

Certain persons not to be employees.

20. Any person appointed under subsection (1) of section 8 or any person upon whom any power, authority, duty or function is conferred or imposed by or under this Act shall not, by reason only of that appointment or conferring or imposing, be deemed to be a servant of the Crown, the government of the State, the Minister, the Director, a council or any other person or body.

Certain proceedings not to lie.

21. No proceedings whatsoever shall lie or be made or allowed by or in favour of any person against the Crown, the Minister, the Director or any other officer, a council, 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 bona fide done or omitted to be done under and for the purposes of this Act.

Directions to be complied with.

22. (1) Where any direction is given under section 17 or 18 to any person or body, that person or body shall comply with the direction.

(2) It is a sufficient defence to a prosecution for an offence under subsection (1) in respect of a failure to comply with a direction if the defendant satisfies the court that he so failed with reasonable excuse.

Exercise of other functions not affected.
New section added,
Act No. 22,
1980, Sch. 1
(3).

22A. Except as provided by section 22, nothing in this Act limits any powers, authorities, duties or functions that would be or would have to be exercised or performed by any person or body if this Act had not been enacted.

State Emergency Services and Civil Defence.

23. A person shall not assault, resist, obstruct, use abusive language to or incite or encourage any other person to assault, resist, obstruct or use abusive language to the Director or any other officer in the exercise or performance of any of the powers, authorities, duties or functions conferred or imposed upon him by or under this Act. Assaulting officers, etc.

24. (1) A person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act. Offences and penalties.

(2) A person who is guilty of an offence against this Act is liable to a penalty not exceeding eight hundred dollars or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment.

(3) Where a company is convicted of an offence against this Act, every director and every officer concerned in the management of the company shall be guilty of the like offence if he knowingly and wilfully authorised or permitted the commission of the offence.

(4) Proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

25. (1) In any legal proceedings, a certificate purporting to be signed by the Director and to certify that— Evidence, etc.

- (a) a state of emergency 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, in respect of an emergency specified therein;
- (b) a declaration under section 14 was in force on a day or during a period specified therein in respect of an emergency specified therein;

State Emergency Services and Civil Defence.

- (c) a delegation by the Director to a person specified therein of the exercise or performance of any power, authority, duty or function specified therein was in force on a day or during a period specified therein;
- (d) a delegation by the 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) a person specified therein was an officer on a day or during a period specified therein,

shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

(2) In any legal proceedings, a certificate purporting to be signed by the Minister and to certify that a person specified therein was the Director on a day or during a period specified therein shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

(3) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of a declaration under section 13 or 14 have been complied with and performed.

Annual
report.
Substituted
section,
Act No. 22,
1980, Sch. 1
(4).

26. The Director shall, as soon as practicable after 30th June, but on or before 30th September, in each year, cause a report giving information as to the administration and operation of this Act during the year ending on that 30th June to be prepared and forwarded to the Minister for presentation to Parliament.

Regulations.

27. (1) The Governor may make regulations for or with respect to—

- (a) the issue to officers of certificates of identification and the surrender of those certificates;

State Emergency Services and Civil Defence.

- (b) the powers, authorities, duties and functions of persons appointed under subsection (1) of section 8; and
- (c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding four hundred dollars for any breach thereof.

(3) A regulation may be made so as to differ according to time, place or circumstances.

(4) A regulation may authorise any matter or thing to be from time to time determined by any person or body specified or described therein.

28. (1) (*The amending provision relating to the Height of Buildings Act, 1912, is not reprinted : Reprints Act, 1972, s. 6.*) Amendment of Act No. 58, 1912.

(2) (*The amending provision relating to the Bush Fires Act, 1949, is not reprinted : Reprints Act, 1972, s. 6.*) Amendment of Act No. 31, 1949.

State Emergency Services and Civil Defence.

INDEX.

	Section.	Page.
Act—		
commencement	1 (2)	2
Crown bound	4	4
division	2	2
operation limited	5	4
proceedings for acts done under	21	14
Annual report	26	16
Bush Fires Act, 1949, amended	28 (2)	17
Controllers and local controllers, appointment	8	6
Crown—		
Act binds Crown	4	4
proceedings against	21	14
Definitions	3	2
Delegation by Director	11	8
Director	5 ^A	5
annual report	26	16
assaults, etc., on	23	15
certificate of, as evidence	25	15
defined	3	2
delegation of powers	11	8
division of State into regions	7	5
emergency, powers exercisable during	17-19	11-13
nomination of members of Police Force	5 ^B	5
personnel to be appointed by	8	6
plans to be prepared by	15	11
powers	10, 12	7, 9
proceedings against	21	14
relief assistance by	9	6
Emergency—		
declaration of	13	10
plans for, preparation	15	11
powers exercisable during emergency	17-19	11-13
directions to be complied with	22	14
provisions re, to prevail over other Acts, etc.	16	11
relief assistance during	9	6
special emergency	14	10

*State Emergency Services and Civil Defence.*INDEX—*continued.*

	Section.	Page.
Employees, certain appointees not to be	20	14
Evidence, certificate of Director as	25	15
Height of Buildings (Metropolitan Police District) Act, 1912, amended	28 (1)	17
Offences and penalties	24	15
breach of regulation	27 (2)	17
Officers, assaults, etc., on	23	15
Regions, division of State into	7	5
Regulations	27	16



I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 7th March, 1972.*

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 11, 1972.

An Act to provide for the civil defence of the State and the co-ordination of relief operations in the event of certain emergencies; to confer and impose certain powers, authorities, duties and functions upon the Director of State Emergency Services and Civil Defence and certain other persons; to amend the Height of Buildings (Metropolitan Police District) Act, 1912, and the Bush Fires Act, 1949, in certain respects; and for purposes connected therewith. [Assented to, 16th March, 1972.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

State Emergency Services and Civil Defence.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "State Emergency Services and Civil Defence Act, 1972".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division
of Act.

2. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–6.

PART II.—GENERAL POWERS OF DIRECTOR—*ss.* 7–12.

PART III.—STATES OF EMERGENCY AND SPECIAL EMERGENCIES—*ss.* 13–19.

DIVISION 1.—*General*—*ss.* 13–16.

DIVISION 2.—*Powers exercisable during state of emergency or special emergency*—*s.* 17.

DIVISION 3.—*Powers exercisable during state of emergency*—*ss.* 18, 19.

PART IV.—MISCELLANEOUS—*ss.* 20–28.

Interpre-
tation.

3. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

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

"civil

State Emergency Services and Civil Defence.

“civil defence of the State” means, in relation to an emergency in respect of which a state of emergency exists, the preparation for and the carrying out of operations intended—

- (a) to prevent, minimise and overcome, as far as practicable, the effects, upon the public or any part of the public, or any property, in the State, of the occurrence due to which the emergency exists;
- (b) to deal with, as far as practicable, the emergency conditions existing by reason of the occurrence; and
- (c) to promote the safety of the public or any part of the public, or any property, in the State, in so far as that safety is threatened by reason of the occurrence;

“council” has the meaning ascribed thereto by the Local Government Act, 1919;

“Director” means the person for the time being holding office under the Public Service Act, 1902, whether appointed as such before or after the commencement of this Act, as the Director of State Emergency Services and Civil Defence, and includes any person for the time being acting in that office;

“emergency” means an emergency due to an actual or imminent occurrence that causes or threatens to cause loss of life or injury or distress to persons, or danger to the safety of the public or any part of the public, or destruction of or damage to property, in the State;

“local controller” means local controller referred to in subsection two of section eight of this Act;

“local government area” has the meaning ascribed thereto by the Local Government Act, 1919;

“occurrence”

State Emergency Services and Civil Defence.

“occurrence” means—

- (a) a fire, flood, earthquake, seismic sea wave, storm or tornado;
- (b) an explosion or accident;
- (c) a plague or epidemic;
- (d) an attack directed against the State or any part of the State, whether or not made by an enemy, and whether by means of bombs or missiles or by atomic, thermonuclear, radiological, chemical, bacteriological, biological or other means; or
- (e) a warlike act, whether or not directed against the State or any part of the State,

and includes any other event or happening whether of the same or a different nature;

“officer” means any officer or employee of the Public Service employed in the State Emergency Services and Civil Defence Organisation and any person appointed under subsection one of section eight of this Act;

“regulations” means regulations under this Act;

“special emergency” means an emergency declared to be a special emergency under section fourteen of this Act;

“state of emergency” means a state of emergency declared under section thirteen of this Act.

Crown
bound.

4. This Act binds the Crown.

Limitation
on opera-
tion of
this Act.

5. Nothing in this Act authorises the taking of measures amounting to, or making preparations for—

(a) actual combat against an enemy;

(b)

State Emergency Services and Civil Defence.

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

6. The Director shall, in respect of the powers, authorities, duties and functions conferred and imposed upon him by or under this Act, be subject to the control and direction of the Minister.

Director to be subject to Minister's control and direction.

PART II.

GENERAL POWERS OF DIRECTOR.

7. The Director may, by order published in the Gazette, declare the State to be divided, for the purposes of this Act, into such regions, sub-regions or other divisions as may be specified in the order.

Division of State into regions, etc.

8. (1) The Director may—

- (a) establish such offices as he considers to be necessary for the purpose of carrying out or giving effect to this Act;
- (b) appoint persons to those offices; and
- (c) arrange for the training of persons so appointed.

Appointment of personnel by Director.

(2) Without affecting the generality of subsection one of this section, the Director may, under that subsection, appoint a person to be the local controller for any local government area or to be the controller for any region, sub-region or other division referred to in section seven of this Act.

(3)

State Emergency Services and Civil Defence.

(3) A local controller shall not be appointed under this section for a local government area except upon the recommendation of the council of the area, unless the council fails to make a recommendation that is acceptable to the Director within sixty days after the council has been requested in writing by the Director to do so.

(4) The council of a local government area shall, within a reasonable time after the appointment of a local controller for the area, afford, without fee or reward, such facilities and office and storage accommodation to the local controller as are reasonable for the proper exercise and discharge of the controller's powers, authorities, duties and functions conferred or imposed upon him by or under this Act.

Relief
assistance.

9. (1) The Director may authorise officers to render assistance in relation to emergencies in such case or class of cases and subject to such conditions as the Director may determine.

(2) Subsection one of this section applies in relation to an emergency whether or not a declaration under section thirteen or fourteen of this Act is in force in respect of the emergency.

Miscel-
laneous
powers of
Director.

10. The Director may—

- (a) undertake such planning and make such preparations as the Director may consider to be necessary for the purpose of enabling any powers, authorities, duties or functions conferred or imposed by or under this Act upon the Director or any other person or body to be exercised or performed in the most effective manner;

(b)

State Emergency Services and Civil Defence.

- (b) constitute and abolish committees for the purpose of—
 - (i) collating and assessing information; or
 - (ii) giving advice or assistance to the Director or any other person or body, as may be determined by the Director;
- (c) arrange for the collation, assessment and public dissemination of information relating to the imminence or continuance of flooding;
- (d) co-operate with any person or body, including any authority of the Commonwealth, in relation to any matter referred to in paragraph (b) or (c) of this section;
- (e) for the purpose of carrying out or giving effect to this Act—
 - (i) arrange, with the approval of the Minister administering any government department and of the Public Service Board, for the use of the services of any officer or employee of the department; or
 - (ii) arrange, with the approval of the Minister administering any government instrumentality or agency, for the use of the services of any officer or employee of the instrumentality or agency, whether or not the provisions of the Public Service Act, 1902, apply to the appointment of the officer or employee;
- (f) for the purpose of carrying out or giving effect to this Act and on such terms as may be arranged with the approval of the Treasurer—
 - (i) arrange with any person, firm, council or corporation for the use of the services of any employee of the person, firm, council or corporation; or
 - (ii)

State Emergency Services and Civil Defence.

- (ii) arrange for the use or supply of any property, undertaking, equipment, goods, vehicles, articles or things of any kind or for the supply of any services;
- (g) authorise officers to render assistance and provide facilities and services to members of the Police Force, and other persons or bodies, in such case or class of cases and subject to such conditions as the Director may determine;
- (h) furnish reports and recommendations upon any matter to the Minister; and
- (i) carry out such functions of an advisory or educational character as the Director thinks fit for purposes connected with this Act.

Delegation
by Director,
and exercise
of Director's
powers, etc.

11. (1) The Director may, in such manner as he thinks fit, delegate to any officer the exercise or performance of such of the powers, authorities, duties and functions conferred or imposed upon him by or under this Act as he thinks fit (other than this power of delegation) and may, in such manner as he thinks fit, revoke wholly or in part any such delegation.

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under subsection one of this section may, while the delegation remains unrevoked, be exercised or performed by the delegate in accordance with the terms of the delegation.

(3) A delegation under subsection one of this section may be made subject to such conditions or such limitations as to the exercise or performance of any of the delegated powers, authorities, duties or functions or as to time, place or circumstances as may be determined by the Director.

(4)

State Emergency Services and Civil Defence.

(4) Notwithstanding any delegation under subsection one of this section, the Director may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by the delegate when acting in the exercise of a delegation under subsection one of this section shall have the like force or effect as if the act or thing had been done or suffered by the Director.

(6) Notwithstanding anything in the foregoing provisions of this section, the regulations may make provision for or with respect to conferring or imposing upon any officer specified or described therein any of the powers, authorities, duties and functions conferred or imposed upon the Director by or under this Act.

(7) The conferring or imposing under subsection six of this section of any power, authority, duty or function may be made subject to such conditions or such limitations as to the exercise or performance of the power, authority, duty or function or as to time, place or circumstances as may be specified or described in the regulations.

(8) Notwithstanding the conferring or imposing under subsection six of this section of any power, authority, duty or function, the Director may continue to exercise or perform the power, authority, duty or function.

12. Nothing in this Part shall be construed as limiting Powers, etc., the powers, authorities, duties or functions of the Director, under this Part to be or any other person or body, under any other Part of this additional. Act.

PART

State Emergency Services and Civil Defence.

PART III.

STATES OF EMERGENCY AND SPECIAL EMERGENCIES.

DIVISION 1.—*General.*

Declaration
of state of
emergency.

13. (1) Where the Governor is, during the currency of an emergency, satisfied that, having regard to the magnitude or threatened magnitude of the emergency and the facilities that appear to him to be available to deal with the emergency, the making of a declaration under this section is warranted, he may, during the currency of the emergency, by order in writing, declare that a state of emergency shall exist, either in the whole State, or any part of the State specified or described in the declaration, in respect of the emergency.

(2) An order under this section shall take effect from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

(3) An order under this section shall be published in the Gazette as soon as practicable.

(4) A declaration may be made under this section in respect of an emergency whether or not a declaration under section fourteen of this Act is in force in respect of the emergency.

Declaration
of special
emergency.

14. (1) Where the Minister is, during the currency of an emergency, satisfied that, having regard to the magnitude or threatened magnitude of the emergency and the facilities that appear to him to be available to deal with the emergency, the making of a declaration under this section is warranted,

he

State Emergency Services and Civil Defence.

he may, during the currency of the emergency, by order in writing, declare that the emergency shall be a special emergency for the purposes of this Act.

(2) An order under this section shall take effect from the making thereof or from a later date specified therein and shall, unless sooner revoked, continue in force for such period not exceeding seven days as is specified therein, but more than one order may be made under this section in respect of an emergency.

15. (1) The Director, with the approval of the Minister, may, after such consultation with the persons or bodies concerned as the Director thinks fit, prepare plans setting out the procedure which the Director considers ought, in the event of a state of emergency or a special emergency, to be followed by any person or body, and may from time to time vary or revoke any such plan. ^{Preparation of plans.}

(2) A plan under this section may be communicated in such manner as the Director thinks fit to any person or body to whom or to which the plan relates.

(3) A plan under this section communicated to a person or body to whom or to which the plan relates shall be adopted by the person or body and shall, as far as practicable, be carried into effect by the person or body in the circumstances indicated by the plan during the currency of a state of emergency or a special emergency.

16. Where the provisions of this Part of this Act are inconsistent with any of the provisions of any other Act, or of any regulation, ordinance or by-law made under any other Act, the provisions of this Part shall prevail. ^{This Part to prevail over other Acts, etc.}

DIVISION

State Emergency Services and Civil Defence.

DIVISION 2.—*Powers exercisable during state of emergency or special emergency.*

Powers exercisable during state of emergency or special emergency.

17. Where the Director is, during the currency of an emergency in respect of which a state of emergency exists or during the currency of a special emergency, of the opinion that any operations being or to be carried out in relation to the emergency by a person or body—

- (a) whose responsibilities require him or it to undertake any such operations; or
- (b) who or which may be undertaking any such operations,

should, in the public interest, be co-ordinated, the Director may, during the currency of the emergency, give such directions to any such person or body as he may consider necessary for the purposes of securing the co-ordination of the operations.

DIVISION 3.—*Powers exercisable during state of emergency.*

Powers exercisable during state of emergency.

18. The Director may, during the currency of an emergency in respect of which a state of emergency exists, for purposes connected with the civil defence of the State—

- (a) give such directions to any person or body as may be necessary for the civil defence of the State;
- (b) enter any land, building or structure;
- (c) cause any road or public place to be closed to traffic or to any persons;
- (d) pull down, cut or remove or cause to be pulled down, cut or removed fences on any land;
- (e) destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;

(f)

State Emergency Services and Civil Defence.

- (f) destroy or remove or cause to be destroyed or removed any living or dead vegetation or any dead animal;
- (g) burn, plough or clear or cause to be burnt, ploughed or cleared fire breaks on any land;
- (h) bring or cause to be brought onto or into any land, building or structure, and there use or cause to be used, any equipment, goods, vehicles, articles or things of any kind;
- (i) take possession or control of or use any property, undertaking, equipment, goods, vehicles, articles or things of any kind;
- (j) use free of charge any water from any source whatsoever on any land;
- (k) use free of charge any gas or electricity;
- (l) use free of charge all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the management or control of any water supply authority, public authority or body whatsoever;
- (m) cause to be shut off or disconnected the supply of water, gas or electricity;
- (n) give a direction to the person or body apparently in charge of any premises or place, being licensed premises (within the meaning of the Liquor Act, 1912), a factory, shop, cinema, theatre, public hall, school, college, university or any other premises or place, that the premises or place be closed and kept closed during the currency of the state of emergency or for such shorter period as may be specified or described in the direction; and
- (o)

State Emergency Services and Civil Defence.

- (o) do or cause to be done any other act, matter or thing which is necessary for or incidental to the civil defence of the State.

Limitation
on opera-
tion of
this
Division.

19. The powers and authorities conferred by this Division shall not be exercisable—

- (a) except in a part of the State in which a state of emergency exists; and
- (b) except in relation to an emergency in respect of which a state of emergency exists.

PART IV.

MISCELLANEOUS.

Certain
persons
not to be
employees.

20. Any person appointed under subsection one of section eight of this Act or any person upon whom any power, authority, duty or function is conferred or imposed by or under this Act shall not, by reason only of that appointment or conferring or imposing, be deemed to be a servant of the Crown, the government of the State, the Minister, the Director, a council or any other person or body.

Certain
proceedings
not to lie.

21. No proceedings whatsoever shall lie or be made or allowed by or in favour of any person against the Crown, the Minister, the Director or any other officer, a council, 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 bona fide done or omitted to be done under and for the purposes of this Act.

State Emergency Services and Civil Defence.

22. (1) Where any direction is given under section seventeen or eighteen of this Act to any person or body, that person or body shall comply with the direction. Directions to be complied with.

(2) It is a sufficient defence to a prosecution for an offence under subsection one of this section in respect of a failure to comply with a direction if the defendant satisfies the court that he so failed with reasonable excuse.

23. A person shall not assault, resist, obstruct, use abusive language to or incite or encourage any other person to assault, resist, obstruct or use abusive language to the Director or any other officer in the exercise or performance of any of the powers, authorities, duties or functions conferred or imposed upon him by or under this Act. Assaulting officers, etc.

24. (1) A person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act. Offences and penalties.

(2) A person who is guilty of an offence against this Act is liable to a penalty not exceeding eight hundred dollars or to imprisonment for a term not exceeding twelve months or to both such penalty and imprisonment.

(3) Where a company is convicted of an offence against this Act, every director and every officer concerned in the management of the company shall be guilty of the like offence if he knowingly and wilfully authorised or permitted the commission of the offence.

(4)

State Emergency Services and Civil Defence.

(4) Proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Evidence,
etc.

25. (1) In any legal proceedings, a certificate purporting to be signed by the Director and to certify that—

- (a) a state of emergency 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, in respect of an emergency specified therein;
- (b) a declaration under section fourteen of this Act was in force on a day or during a period specified therein in respect of an emergency specified therein;
- (c) a delegation by the Director to a person specified therein of the exercise or performance of any power, authority, duty or function specified therein was in force on a day or during a period specified therein;
- (d) a delegation by the 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) a person specified therein was an officer on a day or during a period specified therein,

shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

(2)

State Emergency Services and Civil Defence.

(2) In any legal proceedings, a certificate purporting to be signed by the Minister and to certify that a person specified therein was the Director on a day or during a period specified therein shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

(3) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of a declaration under section thirteen or fourteen of this Act have been complied with and performed.

26. The Director shall, as soon as practicable after the thirtieth day of June in each year, cause a report giving information as to the operation of the State Emergency Services and Civil Defence Organisation during the year ending on that day to be prepared and forwarded to the Minister for presentation to Parliament.

27. (1) The Governor may make regulations for or with respect to—

- (a) the issue to officers of certificates of identification and the surrender of those certificates;
- (b) the powers, authorities, duties and functions of persons appointed under subsection one of section eight of this Act; and
- (c) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding four hundred dollars for any breach thereof.

(3) A regulation may be made so as to differ according to time, place or circumstances.

(4)

State Emergency Services and Civil Defence.

(4) A regulation may authorise any matter or thing to be from time to time determined by any person or body specified or described therein.

Amendment of Act No. 58, 1912. Sec. 4B. (Height of Buildings Advisory Committee.)

28. (1) The Height of Buildings (Metropolitan Police District) Act, 1912, is amended by omitting from paragraph (f) of subsection two of section 4B the words "Civil Defence" and by inserting in lieu thereof the words "State Emergency Services and Civil Defence".

Amendment of Act No. 31, 1949. Sec. 39. (Constitution of Bush Fire Council.)

(2) The Bush Fires Act, 1949, is amended by omitting from paragraph (h) of subsection two of section thirty-nine the words "Civil Defence" and by inserting in lieu thereof the words "State Emergency Services and Civil Defence".

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 16th March, 1972.*