

STATE EMERGENCY AND RESCUE MANAGEMENT ACT 1989
No. 165

NEW SOUTH WALES



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STATE EMERGENCY AND RESCUE MANAGEMENT ACT 1989
No. 165

NEW SOUTH WALES



Act No. 165, 1989

An Act relating to the management of State emergencies and rescues.
[Assented to 14 December 1989]

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the State Emergency and Rescue Management Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"**accredited rescue unit**" means a rescue unit accredited by the Minister under Division 4 of Part 3;

"**agency**" means a government agency or a non-government agency;

"**combat agency**" means the agency identified in Displan as the agency primarily responsible for responding to a particular emergency;

"**control**" means the overall direction of the activities, agencies or individuals concerned;

"**co-ordination**" means the bringing together of agencies and individuals to ensure effective emergency or rescue management, but does not include the control of agencies and individuals by direction;

"**Displan**" means the State Disaster Plan referred to in section 12;

"**district**" means a district established under section 21;

"**District Emergency Management Committee**" means a District Emergency Management Committee constituted under Part 2;

"**emergency**" has the meaning given by section 4;

"**emergency operations centre**" means a centre established under this Act at a State, district or local level as a centre of communication during an emergency;

"**emergency services organisation**" means the Police Force, Fire Brigades, Bush Fire Brigades, Ambulance Service, State Emergency Service, Volunteer Rescue Association or any other agency which manages or controls an accredited rescue unit;

"functional area" means a category of services involved in preparations for an emergency, including the following:

- (a) agricultural and animal services;
- (b) catering services;
- (c) communication services;
- (d) community welfare services;
- (e) the services of the Defence Forces;
- (f) emergency accommodation;
- (g) emergency financial grants, counselling and temporary accommodation;
- (h) engineering services;
- (i) emergency supply of clothing, bedding and personal requisites;
- (j) medical and hospital services (including nursing, ambulance and first-aid services);
- (k) media services;
- (l) registration inquiry systems;
- (m) land, sea and air transport services;

"government agency" means:

- (a) a government department or administrative office as defined in the Public Sector Management Act 1988;
- (b) a public authority, being a body (whether incorporated or not) established by or under an Act for a public purpose, other than:
 - (i) the Legislative Council or Legislative Assembly or a committee of either or both of those bodies; or
 - (ii) a court or other judicial tribunal;
- (c) the Police Force;
- (d) a local government council or other local authority; or
- (e) a member or officer of an agency referred to in paragraphs (a) - (d) or any other person in the service of the Crown who has statutory functions, other than:
 - (i) the Governor, the Lieutenant-Governor or the Administrator of the State;

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- (ii) a Minister of the Crown;
- (iii) a member of the Legislative Council or Legislative Assembly or an officer of that Council or Assembly;
or
- (iv) a judicial officer;

"Local Emergency Management Committee" means a Local Emergency Management Committee constituted under Part 2;

"local government area" means a city, municipality or shire within the meaning of the Local Government Act 1919 or combined local government areas as referred to in section 27;

"non-government agency" means a voluntary organisation or any other private individual or body, other than a government agency;

"rescue" means the safe removal of persons or animals from actual or threatened danger of physical harm;

"State Disasters Council" means the State Disasters Council constituted under Part 2;

"State Emergency Management Committee" means the State Emergency Management Committee constituted under Part 2;

"State Emergency Operations Controller" means the State Emergency Operations Controller appointed under Part 2;

"State Emergency Service" means State Emergency Services and Civil Defence;

"state of emergency" means a state of emergency declared under Division 4 of Part 2 and for the time being in force;

"State Rescue and Emergency Services Board" means the State Rescue and Emergency Services Board of New South Wales constituted under Part 3.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Definition of "emergency"

4. In this Act:

"emergency" means an emergency due to an actual or imminent occurrence (such as fire, flood, storm, earthquake, explosion, accident, epidemic or warlike action) which:

- (a) endangers, or threatens to endanger, the safety or health of persons in the State; or
- (b) destroys or damages, or threatens to destroy or damage, property in the State,

being an emergency which requires a significant and co-ordinated response.

Stages of emergency

5. For the purposes of this Act:

- (a) **prevention** in relation to an emergency includes the identification of hazards, the assessment of threats to life and property and the taking of measures to reduce potential loss to life or property; and
- (b) **preparation** in relation to an emergency includes arrangements or plans to deal with an emergency or the effects of an emergency; and
- (c) **response** in relation to an emergency includes the process of combating an emergency and of providing immediate relief for persons affected by an emergency; and
- (d) **recovery** in relation to an emergency includes the process of returning an affected community to its proper level of functioning after an emergency.

Relationship between Part 2 (State Emergency Management) and Part 3 (State Rescue Management)

6. (1) Part 3 applies to a rescue operation whether it relates to a single incident or an emergency.

(2) However, if a rescue operation relates to an emergency Part 2 prevails.

(3) A dispute as to whether a rescue operation relates to a single incident or an emergency may be determined by the Minister or

(subject to any determination of the Minister) by the State Emergency Operations Controller.

Limitation on operation of Act - industrial disputes and civil disturbances

7. This Act does not authorise the taking of measures directed at:
- (a) bringing an industrial dispute to an end; or
 - (b) controlling a riot or other civil disturbance (other than a riot or civil disturbance resulting from and occurring during a state of emergency).

Operation of Act in relation to civil defence

8. This Act authorises the taking of civil defence measures, not being actual military combat or preparations for military combat.

Act binds the Crown

9. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

PART 2 - STATE EMERGENCY MANAGEMENT

Division 1 - Emergency management at State level

Subdivision 1 - The Minister and the State Disasters Council

The Minister

10. (1) The Minister is responsible for:
- (a) ensuring that adequate measures are taken by government agencies to prevent, prepare for, respond to and assist recovery from emergencies; and
 - (b) co-ordinating the activities of government agencies in taking those measures; and
 - (c) arranging for the preparation and review from time to time of Displan.
- (2) The Minister is to discharge those responsibilities in consultation with, and having regard to the advice of, the State Disasters Council.
- (3) The following are, in the exercise of their functions under this Act, subject to the control and direction of the Minister:

- (a) the State Emergency Management Committee;
- (b) the State Emergency Operations Controller.

(4) The Minister may delegate to the State Emergency Operations Controller or other person the Minister's functions under this Act, other than:

- (a) the Minister's functions under this section; and
- (b) this power of delegation.

The State Disasters Council

11. (1) There is established by this Act a State Disasters Council.

(2) The function of the Council is to advise the Minister on all matters relating to the prevention of, preparation for, response to and recovery from emergencies (including the co-ordination of the activities of government and non-government agencies in connection with those matters).

(3) The Council is to consist of:

- (a) the Minister, who is to be the Chairperson of the Council; and
- (b) the State Emergency Operations Controller; and
- (c) representatives of such relevant government and non-government agencies as the Minister may from time to time determine.

(4) The representative of a government agency is to be nominated by the Minister responsible for the agency and the representative of a non-government agency is to be nominated by the agency.

(5) Schedule 2 has effect with respect to the members and procedure of the Council.

Subdivision 2 - The State Disaster Plan

State Disaster Plan

12. (1) There is to be a State Disaster Plan, to be called Displan.

(2) The object of Displan is to ensure the co-ordinated response to emergencies by all agencies having responsibilities and functions in emergencies.

- (3) Displan is to:
- (a) identify, in relation to each different form of emergency, the combat agency primarily responsible for responding to the emergency; and
 - (b) provide for the co-ordination of the activities of other agencies in support of a combat agency in the event of an emergency; and
 - (c) specify the tasks to be performed by all agencies in the event of an emergency; and
 - (d) specify the responsibilities of the Minister and the State, District or Local Emergency Operations Controllers.
- (4) As soon as practicable after Displan is prepared or altered following a review, the Minister must:
- (a) publish (in such manner as the Minister determines) a copy of Displan or the alterations to Displan; and
 - (b) forward a copy of Displan or the alterations to Displan to each agency to which Displan relates.

Activation of State Disaster Plan

13. (1) Displan may be activated by the Minister in connection with any emergency.

(2) Displan may be activated without the need for the declaration of a state of emergency.

(3) On the activation of Displan, the relevant provisions of Displan are to be put into effect.

Subdivision 3 - The State Emergency Management Committee

The State Emergency Management Committee

14. (1) There is established by this Act a State Emergency Management Committee.

(2) The Committee is to consist of:

- (a) the State Emergency Operations Controller, who is to be the Chairperson of the Committee; and
- (b) representatives of such relevant government and non-government agencies as the Minister may from time to time determine.

(3) The representative of a government agency is to be nominated by the Minister responsible for the agency and the representative of a non-government agency is to be nominated by the State Disasters Council.

(4) The persons so nominated are to be persons who have authority to plan and commit their agencies' resources in relation to the response and recovery stages of an emergency.

(5) Schedule 2 has effect with respect to the members and procedure of the State Emergency Management Committee.

Responsibility and functions of State Emergency Management Committee

15. (1) The State Emergency Management Committee is the principal committee established under this Act for the purposes of emergency management throughout the State and, in particular, is responsible for emergency planning at a State level.

(2) The State Emergency Management Committee has the following functions in relation to emergency management at a State level:

- (a) to identify, evaluate and monitor hazards and threats to life and property;
- (b) to establish and review appropriate emergency management structures at all levels;
- (c) to identify emergency resources both within and outside the State and make plans for the allocation and co-ordination of the use of those resources;
- (d) to establish and review systems for use in the control and co-ordination of emergency operations;
- (e) to review and recommend emergency management legislation (including legislation and proposals for legislation of other agencies);
- (f) to advise the Minister on the creation of combined local government emergency management arrangements;
- (g) to establish communication networks within and between functional areas at all levels;
- (h) to review plans at all levels and within each emergency services organisation and functional area;

- (i) to produce specific hazard management guidelines;
- (j) to arrange emergency management training for individuals, including individuals employed in emergency services organisations and functional areas;
- (k) to produce and disseminate educational material on established emergency management policies and procedures;
- (l) to arrange the conduct of training exercises to periodically test emergency management plans;
- (m) to advise the Minister on the declaration of states of emergencies;
- (n) to advise on the efficient use of local government resources in relation to Displan;
- (o) to assist in the selection and training of district and local government personnel for appointment to relevant organisations under this Part;
- (p) to act as the single point of contact for Commonwealth support to emergency operations in New South Wales in the absence of other arrangements;
- (q) to produce standing orders and instructions and standing operating procedures under Displan;
- (r) to assist the Minister, as required, in the preparation and review of Displan; and
- (s) to arrange for graduated warnings of emergencies to the public.

Functional area sub-committees of State Emergency Management Committee

16. (1) The State Emergency Management Committee is required to establish such sub-committees as the Minister directs in connection with functional areas.

(2) A sub-committee established for a functional area is to co-ordinate the provision of functional area support for emergency operations.

Annual report by State Emergency Management Committee

17. (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the State Emergency Management Committee is to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year.

(2) The Minister is to lay any such report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

Subdivision 4 - The State Emergency Operations Controller
State Emergency Operations Controller

18. (1) The Governor may, on the recommendation of the Minister, appoint a State Emergency Operations Controller.

(2) The person so appointed must be a person who is, in the opinion of the Minister, experienced in emergency management.

(3) The Director of the State Emergency Service is to be the Deputy State Emergency Operations Controller and, during the absence or a vacancy in the office of the State Emergency Operations Controller, has all the functions of that Controller.

(4) Schedule 1 has effect with respect to the State Emergency Operations Controller.

Responsibility and functions of State Emergency Operations Controller

19. (1) The State Emergency Operations Controller is responsible, in the event of an emergency which affects more than one district, for controlling in accordance with this Act the allocation of resources in response to the emergency.

(2) The State Emergency Operations Controller may:

(a) issue directions to agencies who have functions in connection with responses to emergencies for the purposes of controlling the allocation of those resources; and

(b) appoint an officer of an agency to have overall control of particular activities in response to an emergency where a number of combat agencies are involved, the controlling authority is not otherwise determined and those agencies cannot agree on the matter.

(3) The functions of the State Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.

State emergency operations centre

20. (1) The State Emergency Operations Controller is to establish and control a State emergency operations centre.

(2) The State emergency operations centre is to have:

- (a) communication facilities for independent control and co-ordination of districts; and
- (b) discrete communication facilities with heads of emergency services organisations and functional areas; and
- (c) independent communications with the public broadcasting media network; and
- (d) independent media information facilities.

(3) The State Rescue and Emergency Services Board is required to provide the State Emergency Operations Controller with the necessary staff and facilities to establish and operate the State emergency operations centre.

Division 2 - Emergency management at district level

Establishment of districts

21. (1) For the purposes of this Act, the State is divided into such districts as the Minister may determine by order published in the Gazette.

(2) Any such order may describe the boundaries of a district by reference to Police districts (as defined by section 6 of the Justices Act 1902), local government areas, maps or otherwise.

District Emergency Management Committees

22. (1) There is established by this Act a District Emergency Management Committee for each district.

(2) Each such Committee is to consist of:

- (a) the senior member of the Police Force stationed within the relevant district, who is to be the Chairperson of the Committee; and
- (b) a senior representative of the council of each local government area within the relevant district; and
- (c) a senior representative of each emergency services organisation operating in the relevant district; and

(d) representatives of such organisations providing services in functional areas in the relevant district as the Minister may from time to time determine.

(3) The representative of a council or an organisation is to be nominated by the council or organisation.

(4) A District Emergency Management Committee is to establish a District Rescue Sub-committee, chaired by the Chairperson of the Committee and comprising the senior representatives of emergency services organisations operating in the relevant district.

(5) Schedule 2 has effect with respect to the members and procedure of a District Emergency Management Committee.

Functions of District Emergency Management Committees

23. (1) A District Emergency Management Committee is responsible for preparing plans in relation to the prevention of, preparation for, response to and recovery from emergencies in the district for which it is constituted.

(2) In the exercise of its functions, any such Committee is responsible to the State Emergency Management Committee.

District Emergency Operations Controller

24. The senior member of the Police Force stationed within a district is to be the District Emergency Operations Controller for that district.

Functions of District Emergency Operations Controller

25. (1) The District Emergency Operations Controller is responsible, in the event of an emergency which affects more than one local government area in the district, for controlling in accordance with this Act the allocation of resources in response to the emergency.

(2) The District Emergency Operations Controller may issue directions to agencies who have functions in connection with responses to emergencies for the purposes of controlling the allocation of those resources.

(3) The functions of the District Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.

(4) The District Emergency Operations Controller is to establish and control a District emergency operations centre.

(5) The District Emergency Operations Controller is subject to the direction of the State Emergency Operations Controller.

SES to provide executive support for District Emergency Management Committee and Operations Controller

26. (1) The State Emergency Service is to provide executive support facilities for each District Emergency Management Committee and District Emergency Operations Controller in its area.

(2) The principal executive officer is to be known as the District Emergency Management Officer.

Division 3 - Emergency management at local level

Combination of local government areas

27. If the councils of 2 or more local government areas agree (with the approval of the Minister) to combine their emergency management arrangements under this Part, a reference in this Part:

- (a) to a local government area is a reference to the combined local government areas concerned; and
- (b) to the council of that combined local government area is a reference to the principal council nominated in the agreement.

Local Emergency Management Committees

28. (1) There is established by this Act a Local Emergency Management Committee for each local government area.

(2) Each such Committee is to consist of:

- (a) a senior representative of the council of the relevant local government area nominated by that council, who is to be the Chairperson of the Committee; and
- (b) a senior representative of each emergency services organisation operating in the relevant local government area; and
- (c) representatives of such organisations providing services in functional areas in the relevant local government area as the council of that area may from time to time determine.

(3) The Chairperson of a Committee is to be a person who has the authority of the council to co-ordinate the use of the council's

resources in the prevention of, preparation for, response to and recovery from emergencies.

(4) A council may appoint an officer of the State Emergency Service as Chairperson of a Committee.

(5) The representative of an organisation is to be nominated by the organisation.

(6) A Local Emergency Management Committee is to establish a Local Rescue Sub-committee, chaired by the Local Emergency Operations Controller and comprising the senior representatives of emergency services organisations operating in the relevant local government area.

(7) Schedule 2 has effect with respect to the members and procedure of a Local Emergency Management Committee.

Functions of Local Emergency Management Committees

29. (1) A Local Emergency Management Committee is responsible for the preparation of plans in relation to the prevention of, preparation for, response to and recovery from emergencies in the local government area for which it is constituted.

(2) In the exercise of its functions, any such Committee is responsible to the relevant District Emergency Management Committee.

Local Emergency Operations Controller

30. The senior member of the Police Force stationed within a local government area is to be the Local Emergency Operations Controller for that area.

Functions of Local Emergency Operations Controller

31. (1) The Local Emergency Operations Controller for an area is responsible, in the event of an emergency which affects only that area, for controlling in accordance with this Act the allocation of resources in response to the emergency.

(2) The Local Emergency Operations Controller may issue directions to agencies who have functions in connection with responses to emergencies for the purposes of controlling the allocation of those resources.

(3) The functions of the Local Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.

(4) The Local Emergency Operations Controller is to establish and control a local emergency operations centre.

(5) The Local Emergency Operations Controller is subject to the direction of the relevant District Emergency Operations Controller.

Councils to provide executive support for Local Emergency Management Committee and Operations Controller

32. (1) A council is to provide executive support facilities for the Local Emergency Management Committee and the Local Emergency Operations Controller in its area.

(2) The principal executive officer is to be known as the Local Emergency Management Officer.

Division 4 - State of emergency

Declaration of state of emergency

33. (1) If the Premier is satisfied that an emergency constitutes a significant and widespread danger to life or property in New South Wales, the Premier may, by order in writing, declare that a state of emergency exists in the whole, or in any specified part or parts, of New South Wales in relation to that emergency.

(2) The Premier may, by order in writing, revoke a declaration of a state of emergency at any time.

Publication of declaration

34. As soon as practicable after making or revoking a declaration of a state of emergency, the Premier must:

- (a) cause notice of the declaration or revocation to be broadcast by a television or radio station in the State; and
- (b) cause a copy of the relevant order to be published in the Gazette.

Duration of state of emergency

35. (1) An order declaring a state of emergency has effect immediately on its being made.

(2) Unless it is sooner revoked, the declaration of a state of emergency remains in force for such period (not exceeding 30 days) as is specified in the declaration.

(3) The declaration of a state of emergency does not prevent the declaration of further states of emergencies in relation to the same or a different emergency.

Power to direct government agencies etc. during state of emergency

36. (1) In a state of emergency, the Minister is responsible for controlling and co-ordinating the activities of such government agencies, and the allocation of such available resources of the Government, as the Minister considers necessary or desirable for responding to the emergency.

(2) For that purpose, the Minister may direct any government agency to do or refrain from doing any act, or to exercise or refrain from exercising any function.

- (3) If a direction is given to a government agency under this section:
- (a) the government agency must comply with the direction; and
 - (b) the direction prevails over anything to the contrary in any Act or law, except the Essential Services Act 1988.

Power to evacuate persons etc.

37. (1) The Minister may, if satisfied that it is necessary or convenient to do so for the purpose of responding to an emergency, direct, or authorise an emergency services officer to direct, a person to do any or all of the following:

- (a) to leave any particular premises and to move out of an emergency area or any part of an emergency area;
- (b) to take any children or adults present in any particular premises who are in the person's care and to move them outside the emergency area or any part of the emergency area;
- (c) not to enter the emergency area or any part of the emergency area.

(2) If the person does not comply with the direction, an emergency services officer may do all such things as are reasonably necessary to ensure compliance with it, using such force as is reasonably necessary in the circumstances.

(3) The regulations may limit the circumstances, and regulate the manner, in which the powers conferred by this section may be exercised.

(4) In this section:

"**emergency area**" means the area in which a state of emergency is declared to exist;

"**emergency services officer**" means a member of the Police Force or of any other emergency service organisation;

"**premises**" includes place, building, vehicle, vessel or aircraft.

Power to take possession of property

38. (1) In a state of emergency, the Minister may, for the purposes of responding to the emergency, take possession and make use of any person's property.

(2) If the property of a person is taken or used under this section that person is to receive such compensation as may be determined by the Minister, but is not entitled to receive compensation.

(3) Any such person may apply to the Premier for a review of any determination as to compensation made by the Minister under this section.

Limitation on operation of this Division

39. The functions of the Minister under this Division are only exercisable in relation to:

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

Offence to obstruct etc. Minister or emergency personnel

40. A person must not obstruct or hinder the Minister, or any other person acting with the authority of the Minister, in the exercise of a function under this Division.

Maximum penalty: 50 penalty units.

Exculpation from liability during state of emergency

41. A person may not bring proceedings against the Crown, a Minister or any body or person acting in the execution of this Division for any damage, loss, death or injury sustained because of anything done or omitted to be done in good faith under this Division during a state of emergency.

PART 3 - STATE RESCUE MANAGEMENT

Division 1 - State Rescue and Emergency Services Board

Constitution of Board

42. (1) There is constituted by this Act a corporation with the corporate name of the State Rescue and Emergency Services Board of New South Wales.

(2) The Board:

- (a) has the functions conferred or imposed on it by or under this or any other Act; and
- (b) is, for the purposes of any Act, a statutory body representing the Crown.

Composition of Board

43. (1) The State Rescue and Emergency Services Board is to consist of not less than 7 members, being:

- (a) the State Emergency Operations Controller, who is to be the Chairperson of the Board;
- (b) the Director of the State Emergency Service, who is to be the Deputy Chairperson of the Board;
- (c) the State Commander of the Police Force;
- (d) the Chief Officer of the New South Wales Fire Brigades;
- (e) the Chief Co-ordinator of Bush Fire Fighting;
- (f) the State Superintendent of the New South Wales Ambulance Service;
- (g) the President of the Volunteer Rescue Association of New South Wales; and
- (h) the heads of any other volunteer rescue agencies approved for the time being by the Minister.

(2) If the Director of the State Emergency Service acts as Chairperson of the Board in the absence of the Chairperson from a meeting, the Deputy Director of that Service may act as a member for that meeting.

Provisions relating to members and procedure of Board

44. Schedule 3 has effect.

Board subject to Ministerial control

45. The State Rescue and Emergency Services Board is, in the exercise of its functions, subject to the control and direction of the Minister.

Staff of Board

46. (1) Such staff as may be necessary to enable the State Rescue and Emergency Services Board to exercise its functions are to be employed under Part 2 of the Public Sector Management Act 1988.

(2) The State Rescue and Emergency Services Board may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, administrative office or public or local authority.

(3) The staff of the State Rescue and Emergency Services Board is to provide such secretarial and other services to the State Disasters Council, the State Emergency Management Committee and functional area sub-committees of that Management Committee.

**Division 2 - Functions of State Rescue
and Emergency Services Board**

Principal functions of Board

47. The principal functions of the State Rescue and Emergency Services Board are:

- (a) to control and co-ordinate the rescue agencies in connection with rescue operations; and
- (b) to ensure the maintenance of efficient and effective rescue services.

Particular functions of Board

48. (1) The State Rescue and Emergency Services Board is required to:

- (a) formulate plans for the provision of comprehensive, balanced and co-ordinated rescue services throughout New South Wales;
- (b) make recommendations to the Minister on policy matters relating to the rescue and emergency services;
- (c) prepare, co-ordinate and review planning for single incident rescues within the State;
- (d) produce and disseminate standing orders and instructions and standing operating procedures for rescue operations;
- (e) produce and disseminate educational material on established rescue management policies and procedures;
- (f) ensure proper liaison and co-ordination with Federal and other State organisations in connection with rescue services;
- (g) provide advice and recommendations on the purchase, allocation and compatibility of rescue equipment, including communications equipment;
- (h) make recommendations to the Minister on the accreditation of rescue units (both permanent and volunteer) for participation in rescue operations;
- (i) make recommendations to the Minister on levels of Government support (including financial assistance under section 60) to volunteer organisations providing rescue services;
- (j) arrange for training by Federal, State and local agencies in those areas pertinent to rescue;
- (k) conduct training exercises in rescue operations;
- (l) monitor the training standards of the permanent and volunteer services in rescue;
- (m) review proposals for amendment of legislation relating to rescue and make recommendations to the Minister; and
- (n) make reports or recommendations to the Minister on any matter referred to the Board by the Minister.

(2) Rescue sub-committees of District and Local Emergency Management Committees are to assist the State Rescue and Emergency Services Board in the exercise of its functions within the district or local government area concerned.

Board's decisions to be implemented by rescue agencies

49. (1) The agency which manages or controls any accredited rescue unit is required to implement (in accordance with law) the decisions of the State Rescue and Emergency Services Board under this Part in connection with rescue operations carried out by that rescue unit.

(2) Except as provided by subsection (1), nothing in this Part affects the exercise by such an agency of its functions or the exercise of the management functions of the chief executive of the agency.

Division 3 - Police control of rescue operations etc.

Police at scene to co-ordinate etc. rescue operation

50. (1) The senior member of the Police Force present at the scene of a rescue operation is responsible for co-ordinating and determining the priorities of action of the agencies engaged in the rescue operation.

(2) This section applies whether the agency so engaged in the rescue operation is a permanent or volunteer agency.

(3) This section does not apply to a rescue operation if the control of the rescue operation is vested by law in some other person or agency, such as:

- (a) a rescue operation in which the person or property is endangered by fire and at which a member of a Fire Brigade is in charge; or
- (b) a rescue operation which results from an emergency and which is subject to the control of some other person or agency in accordance with Part 2.

(4) This section applies despite anything to the contrary in the Fire Brigades Act 1909, the Ambulance Services Act 1976 or any other Act.

Notification of rescue incidents to police

51. (1) In this section:

"relevant rescue agency" means:

- (a) the agency which manages or controls Fire Brigades;
- (b) the agency which manages or controls the Ambulance Service.

(2) Immediately after a relevant rescue agency becomes aware of an incident which requires or is likely to require the rescue of any person,

the agency must notify a member of the Police Force of all relevant information concerning the incident.

(3) A relevant rescue agency is not required to notify a member of the Police Force of any such incident if it is aware that the incident has already been notified to a member of the Police Force.

Division 4 - Accreditation of rescue units

Definition of "rescue unit"

52. In this Division:

"rescue unit" means a unit (comprising a group of persons) which carries out rescue operations for the protection of the public or a section of the public.

Offence to operate rescue unit without accreditation

53. (1) A person who establishes, manages or controls a rescue unit which is not accredited under this Division is guilty of an offence.

Maximum penalty: 50 penalty units.

(2) A rescue unit is required to be accredited even though:

- (a) it is a unit of the Police Force, the Fire Brigades, the Ambulance Service, the State Emergency Service or any other government agency; or
- (b) it is a unit of a volunteer agency; or
- (c) it carries out, in addition to operations for the rescue of persons, other operations such as the rescue of animals or the recovery of property.

(3) A rescue unit is not required to be accredited:

- (a) if it is a unit only engaged in surf life-saving; or
- (b) if it is a unit managed or controlled by the Maritime Services Board or other agency and is principally concerned in the salvage of vessels; or
- (c) if it is a unit which only carries out rescues under the Mines Rescue Act 1925; or
- (d) in any other circumstances prescribed by the regulations.

Accreditation of rescue units by Minister

54. (1) Application may be made to the Minister for the accreditation of a rescue unit.

(2) An application for accreditation is required to be lodged with the State Rescue and Emergency Services Board.

(3) The State Rescue and Emergency Services Board is to report to the Minister on the need for the rescue unit concerned, the standard of equipment and training and the affect of accreditation of the unit on the control and co-ordination of rescue services.

(4) The Minister may accept or refuse an application for accreditation.

(5) The Minister is to have regard to any recommendation made by the State Rescue and Emergency Services Board on an application for accreditation, but is not bound by the recommendation.

Limitation on accreditation

55. (1) The accreditation of a rescue unit may be limited by the Minister to the carrying out of rescue operations in a particular area or of a particular kind, or otherwise.

(2) An accredited rescue unit which carries out rescue operations in contravention of any such limitation is to be taken to be not accredited for the purposes of this Division.

Duration of accreditation

56. (1) The Minister may accredit a rescue unit for a specified period or indefinitely.

(2) The Minister may at any time cancel the accreditation of a rescue unit.

Register of personnel of rescue units

57. (1) The agency which manages or controls an accredited rescue unit is required to maintain a register of the personnel who comprise the unit.

(2) That agency is to provide a copy of the register to the State Rescue and Emergency Services Board as soon as practicable after the accreditation of the rescue unit and every 6 months thereafter.

Division 5 - General provisions

Arrangements for inter-State co-operation in rescue

58. (1) The State Rescue and Emergency Services Board may make arrangements with any agency which manages or controls inter-State rescue units:

- (a) for those rescue units to carry out rescue operations in New South Wales; or
- (b) for accredited rescue units under this Division to carry out rescue operations outside New South Wales.

(2) An inter-State rescue unit which carries out a rescue operation in New South Wales in accordance with any such arrangement is not required to be accredited under Division 4, but is to be regarded as an accredited rescue unit for the purposes of this Division.

(3) In this section:

"inter-State rescue unit" means a rescue unit established and operating in another State or in a Territory of the Commonwealth.

Personal liability of members of rescue units and volunteers

59. (1) A matter or thing done by:

- (a) a member of an accredited rescue unit; or
- (b) a casual volunteer,

does not, if the matter or thing was done in good faith in connection with a rescue operation or otherwise in response to an emergency, subject the member or volunteer personally to any action, liability, claim or demand.

(2) In this section:

"casual volunteer" means a person who:

- (a) assists an accredited rescue unit in carrying out a rescue operation with the consent of the person in charge of the rescue operation; or

- (b) assists, on his or her own initiative, in a rescue operation or otherwise in response to an emergency in circumstances in which the assistance was reasonably given.

Financial assistance to volunteer rescue agencies

60. (1) The Minister may, out of money to be provided by Parliament, provide financial assistance to volunteer rescue agencies approved by the Minister.

(2) The Minister may approve an agency for the purposes of this section if:

- (a) it is a non-profit agency whose members carry out rescue operations on a voluntary basis; and
- (b) it manages or controls accredited rescue units; and
- (c) it meets any other requirements of the Minister.

(3) The form of financial assistance and the maximum amount of financial assistance is to be determined by the Minister.

PART 4 - MISCELLANEOUS

Definition of "emergency or rescue management organisation"

61. In this Part:

"emergency or rescue management organisation" means:

- (a) the State Disasters Council; or
- (b) the State Emergency Management Committee; or
- (c) a District Emergency Management Committee; or
- (d) a Local Emergency Management Committee; or
- (e) the State Rescue and Emergency Services Board; or
- (f) a committee or sub-committee of a body referred to in paragraphs (a) - (e).

Personal liability of members of management organisations etc.

62. A matter or thing done by:

- (a) an emergency or rescue management organisation; or
- (b) a member of any such organisation or of the staff of any such organisation (in the person's capacity as such a member),

- (c) the State Emergency Operations Controller or a District or Local Emergency Operations Controller (in the person's capacity as such a controller),

does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the member or controller personally to any action, liability, claim or demand.

This Act not to limit other Acts or laws

63. Except as expressly provided by this Act, this Act does not limit the operation of any other Act or law.

Service of documents

64. (1) A document may be served on an emergency or rescue management organisation by leaving it at, or by sending it by registered post to, the office of the organisation.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on an emergency or rescue management organisation in a manner not provided for by this section.

Proof of certain matters not required

65. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of an emergency or rescue management organisation; or
- (b) any resolution of such an organisation; or
- (c) the appointment of, or the holding of office by, any member of such an organisation; or
- (d) the presence of a quorum at any meeting of such an organisation.

Proceedings for offences

66. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

SCHEDULE 1 - PROVISIONS RELATING TO STATE
EMERGENCY OPERATIONS CONTROLLER - *continued*

Hours of duty

3. The Controller is to devote such time to the duties of his or her office as the Minister may from time to time require.

Remuneration

4. The Controller is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Governor may from time to time determine in respect of the Controller.

Casual vacancies

5. (1) The office of the Controller becomes vacant if the Controller:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is retired or removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may remove the Controller from office at any time.

**SCHEDULE 1 - PROVISIONS RELATING TO STATE
EMERGENCY OPERATIONS CONTROLLER - *continued***

Filling of vacancy in office of the Controller

6. If the office of the Controller becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Part 2 of Public Sector Management Act 1988 not to apply

7. Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of the Controller.

**SCHEDULE 2 - PROVISIONS RELATING TO MEMBERS
AND PROCEDURE OF EMERGENCY MANAGEMENT
ORGANISATIONS**

(Secs. 11 (5), 14 (5), 22 (5) and 28 (7))

Definitions

1. In this Schedule:

"member" means a member of a relevant organisation;

"relevant organisation" means:

- (a) the State Disasters Council; or
- (b) the State Emergency Management Committee; or
- (c) a District Emergency Management Committee; or
- (d) a Local Emergency Management Committee.

Deputies of members

2. (1) A member may, from time to time, appoint a person to be the member's deputy, and the member may revoke any such appointment.

(2) In the absence of a member, the member's deputy:

- (a) may, if available, act in the place of the member; and
- (b) while so acting, has all the functions of the member and is to be taken to be a member.

SCHEDULE 2 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF EMERGENCY MANAGEMENT
ORGANISATIONS - *continued*

Terms of office

3. Subject to this Schedule, a member (other than an ex-officio member) holds office until a successor is appointed.

Vacancy in office

4. (1) The office of a member (other than an ex-officio member) becomes vacant if:

- (a) the member dies; or
- (b) a successor to the member is duly appointed; or
- (c) the member resigns the office by instrument in writing addressed to the person who appointed the member; or
- (d) the member is removed from office by the person who appointed the member.

(2) If the office of any such member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

5. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member.

(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

General procedure

6. The procedure for the calling of meetings of a relevant organisation and for the conduct of business at those meetings is,

**SCHEDULE 2 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF EMERGENCY MANAGEMENT
ORGANISATIONS - *continued***

subject to this Act and the regulations, to be as determined by that organisation.

Quorum

7. The quorum for a meeting of a relevant organisation is a majority of the members of the organisation for the time being.

Presiding member

8. (1) The Chairperson of a relevant organisation or, in the absence of the Chairperson, the Deputy Chairperson (if any) or, in the absence of both, another member elected to chair the meeting by the members present is to preside at a meeting of the organisation.

(2) The person presiding at any meeting of a relevant organisation has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

9. A decision supported by a majority of the votes cast at a meeting of a relevant organisation at which a quorum is present is the decision of the organisation.

Committees

10. (1) A relevant organisation may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the relevant organisation.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the relevant organisation or (subject to any determination of that organisation) by the committee.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS
AND PROCEDURE OF STATE RESCUE AND EMERGENCY
SERVICES BOARD**

(Sec. 44)

Definitions

1. In this Schedule:

"Board" means the State Rescue and Emergency Services Board;

"member" means a member of the Board.

Allowances

2. A member referred to in section 43 (1) (g) or (h) is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member.

General procedure

3. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

Quorum

4. The quorum for a meeting of the Board is 4 members.

Presiding member

5. (1) The Chairperson of the Board or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another member elected to chair the meeting by the members present) is to preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

6. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF STATE RESCUE AND EMERGENCY
SERVICES BOARD - *continued***

Transaction of business outside meetings or by telephone etc.

7. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be taken to be a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Committees of Board

8. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the Board.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF STATE RESCUE AND EMERGENCY
SERVICES BOARD - *continued***

First meeting

9. The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

**SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS**

(Sec. 68)

Part 1 - General

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 - Provisions consequent on this Act

Accreditation of rescue units - existing units

2. (1) A person who manages or controls a rescue unit established before the commencement of section 53 (Offence to operate rescue unit without accreditation) is not guilty of an offence under that section during the transition period.

SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

(2) For the purposes of this clause, the transition period is the period between the commencement of section 53 and the expiry of 3 months after that commencement.

[*Minister's second reading speech made in -
Legislative Council on 22 November 1989
Legislative Assembly on 29 November 1989*]

FIRST PRINT

STATE EMERGENCY AND RESCUE MANAGEMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to make provision for the management of State emergencies and rescues.

The objects of the emergency management provisions of the Bill are:

- (a) to charge the Minister (on the advice of a State Disasters Council) with the responsibility of co-ordinating the activities of government agencies in relation to emergencies and to prepare a State Disasters Plan to deal with any emergency that requires a significant and co-ordinated response; and
- (b) to establish a State Emergency Management Committee (consisting of representatives of government and non-government agencies) with the responsibility for emergency planning at a State level; and
- (c) to provide for the appointment of a State Emergency Operations Controller who is to be responsible for controlling the allocation of resources in emergencies affecting more than 1 district (the Controller is to be the Chairperson of the State Emergency Management Committee and the State Rescue and Emergency Services Board); and
- (d) to establish District Emergency Management Committees with responsibility for emergency planning at the district level and to provide for the appointment of District Emergency Operations Controllers who are to be responsible for controlling the allocation of resources in emergencies affecting more than one local government area in the district; and
- (e) to establish Local Emergency Management Committees with responsibility for emergency planning at the local level and to provide for the appointment of Local Emergency Operations Controllers who are to be responsible for controlling the allocation of resources in emergencies affecting the local government area; and

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- (f) to enable the declaration of a state of emergency for a serious emergency in order to confer special powers such as the power to evacuate persons and to make use of any person's property in response to the emergency.

The objects of the rescue management provisions of the Bill are:

- (a) to establish a State Rescue and Emergency Services Board consisting of the heads of the relevant emergency services to control and co-ordinate rescue agencies in connection with single rescue operations; and
- (b) to place the senior member of the Police Force present at the scene of a rescue operation in charge of co-ordinating and determining the priorities of action of the agencies engaged in the rescue operation; and
- (c) to provide for the accreditation of rescue units operated by government and non-government agencies; and
- (d) to provide financial assistance for voluntary rescue agencies, to confer immunity from personal liability on members of accredited rescue units and to make other provisions relating to rescue operations.

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be proclaimed.

Clause 3 defines terms used in the proposed Act.

Clause 4 defines "emergency" for the purposes of the proposed Act. An emergency is an occurrence which threatens the safety or health of persons or property and requires a significant and co-ordinated response.

Clause 5 defines for the purposes of the proposed Act the various stages of an emergency, namely, prevention of, preparation for, response to and recovery from an emergency.

Clause 6 clarifies the relationship between Part 2 (State Emergency Management) and Part 3 (State Rescue Management).

Generally speaking, single incident rescues are subject to Part 2 but become subject to Part 3 if an incident requires a significant and co-ordinated response.

Clause 7 makes it clear that the proposed Act is not directed at preventing industrial disputes or controlling riots and other civil disturbances.

Clause 8 provides that the proposed Act authorises civil defence measures.

Clause 9 provides that the proposed Act binds the Crown.

PART 2 - STATE EMERGENCY MANAGEMENT

Division 1 - Emergency management at State level

Subdivision 1 - The Minister and the State Disasters Council

Clause 10 deals with the responsibilities and functions of the Minister under the proposed Act. Generally speaking, the Minister is responsible for the co-ordination of the activities of government agencies in relation to emergencies and the preparation and review of the State Disaster Plan. In addition the Minister is authorised to control and direct the emergency management organisations and officers under the proposed Act.

Clause 11 constitutes a State Disasters Council to provide advice to the Minister on all matters relating to emergencies and, in particular, the co-ordination of the activities of agencies.

Subdivision 2 - The State Disaster Plan

Clause 12 provides for a State Disaster Plan (called Displan) to ensure the co-ordinated response to emergencies by an agency having responsibilities and functions in emergencies.

Clause 13 provides for the activation of Displan by the Minister in the case of an emergency.

Subdivision 3 - The State Emergency Management Committee

Clause 14 establishes a State Emergency Management Committee comprising the State Emergency Operations Controller (as Chairperson) and representatives of relevant government and non-government agencies.

Clause 15 specifies the responsibilities and functions of the State Emergency Management Committee. The Committee is to be the principal committee established under the proposed Act for the purpose of emergency management throughout the State and, in particular, is to be responsible for emergency planning at a State level.

Clause 16 enables the Minister to direct the establishment of sub-committees of the State Emergency Management Committee in connection with functional areas, namely, categories of services involved in preparations for an emergency.

Clause 17 requires the State Emergency Management Committee to prepare an annual report for presentation to Parliament.

Subdivision 4 - State Emergency Operations Controller

Clause 18 provides for the appointment by the Governor of a State Emergency Operations Controller. The clause also provides that the Director of the State Emergency Service is to be the Deputy State Emergency Operations Controller.

Clause 19 specifies the responsibilities and functions of the State Emergency Operations Controller. The Controller is responsible for controlling the allocation

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of resources in responding to an emergency which affects more than 1 district under the proposed Act. For that purpose the Controller may issue necessary directions to agencies.

Clause 20 provides for the establishment of a State emergency operations centre as a centre of communication during an emergency.

Division 2 - Emergency management at district level

Clause 21 enables the Minister to divide the State into districts for the purposes of the proposed Act.

Clause 22 establishes a District Emergency Management Committee for each district and makes provision for its composition.

Clause 23 specifies that the responsibility of the District Emergency Management Committee is to prepare plans in relation to emergencies in the district for which it is constituted.

Clause 24 provides that the District Emergency Operations Controller for a district is to be the senior member of the Police Force stationed in that district.

Clause 25 provides that the District Emergency Operations Controller is to control the allocation of resources in response to an emergency which affects more than 1 local government area in the district.

Clause 26 makes provision for executive support for the District Emergency Management Committee and Operations Controller.

Division 3 - Emergency management at local level

Clause 27 defines "local government area" and provides that 2 or more councils may combine their emergency management arrangements.

Clause 28 establishes a Local Emergency Management Committee in each local government area and provides for its composition.

Clause 29 specifies that a Local Emergency Management Committee is responsible for the preparation of plans in relation to emergencies in the local government area for which it is constituted.

Clause 30 provides that the Local Emergency Operations Controller for a local government area is to be the senior member of the Police Force stationed within that area.

Clause 31 specifies that the Local Emergency Operations Controller is responsible for controlling the allocation of resources in response to an emergency in the area.

Clause 32 makes provision for executive support for Local Emergency Management Committees and Operations Controllers.

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Division 4 - State of emergency

Clause 33 authorises the Premier, in the case of an emergency that constitutes a significant and widespread danger to life and property, to declare a state of emergency.

Clause 34 requires the Premier to publish a declaration of a state of emergency.

Clause 35 makes provision for the duration of a state of emergency.

Clause 36 authorises the Minister during a state of emergency to control and co-ordinate all activities of government agencies and enables the Minister to issue directions for that purpose despite any Act or law to the contrary.

Clause 37 authorises the Minister to direct the evacuation of persons or prohibit the movement of persons in an area to which a state of emergency applies.

Clause 38 authorises the Minister to take possession and make use of any person's property for the purposes of responding to a state of emergency.

Clause 39 restricts the Minister's powers to the area and the emergency in respect of which a state of emergency is declared.

Clause 40 makes it an offence to obstruct or hinder the Minister or a person authorised by the Minister in the exercise of their functions under this Division.

Clause 41 exculpates from liability the Crown, a Minister or any other person or body in connection with any damage, loss or injury sustained during a state of emergency.

PART 3 - STATE RESCUE MANAGEMENT

Division 1 - State Rescue and Emergency Services Board

Clause 42 constitutes the State Rescue and Emergency Services Board of New South Wales as a corporate body representing the Crown.

Clause 43 provides for the composition of the Board. The Board is to consist of the State Emergency Operations Controller (as Chairperson) and the heads of the relevant emergency services.

Clause 44 gives effect to the Schedule relating to the constitution and procedure of the Board.

Clause 45 provides that the Board is subject to Ministerial control.

Clause 46 enables the appointment of public servants and other staff by the Board.

Division 2 - Functions of State Rescue and Emergency Services Board

Clause 47 specifies that the principal functions of the Board are:

- (a) to control and co-ordinate the rescue agencies in connection with rescue operations; and

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(b) to ensure the maintenance of efficient and effective rescue services.

Clause 48 specifies particular functions of the Board.

Clause 49 provides that an agency which manages or controls an accredited rescue unit is required to implement the decisions of the Board in connection with rescue operations.

Division 3 - Police control of rescue operations etc.

Clause 50 places the senior member of the Police Force present at the scene of a rescue operation in charge of co-ordinating and determining the priorities of action of the agencies engaged in the rescue operation. The clause does not apply in cases such as an actual fire, at which a member of a Fire Brigade is in charge.

Clause 51 requires the Fire Brigades and Ambulance Service to notify police of rescue incidents.

Division 4 - Accreditation of rescue units

Clause 52 defines a rescue unit.

Clause 53 makes it an offence to establish, manage or control a rescue unit which is not accredited by the Minister.

Clause 54 provides for the accreditation of rescue units by the Minister having regard to the recommendations of the State Rescue and Emergency Services Board.

Clause 55 enables the accreditation to be limited to particular rescue operations or particular areas.

Clause 56 deals with the duration of accreditation.

Clause 57 provides for a register of personnel of rescue units.

Division 5 - General provisions

Clause 58 enables arrangements to be made for inter-State rescue units to operate in New South Wales and for New South Wales rescue units to operate inter-State.

Clause 59 exculpates members of accredited rescue units and casual volunteers from personal liability in connection with rescue operations etc.

Clause 60 authorises the Minister to provide financial assistance to voluntary rescue organisations out of money to be provided by Parliament.

PART 4 - MISCELLANEOUS

Clause 61 defines for the purposes of the Part an emergency or rescue management organisation established under the proposed Act.

Clause 62 exculpates members and staff of emergency or rescue management organisations from personal liability in the execution of the proposed Act.

Clause 63 provides that the Act does not limit the operation of another Act or law.

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Clause 64 provides for the service of documents on an emergency or rescue management organisation.

Clause 65 provides that proof of certain matters relating to emergency or rescue management organisations is not required.

Clause 66 enables proceedings for offences to be dealt with summarily before a Local Court.

Clause 67 authorises the making of regulations.

Clause 68 gives effect to the schedule of savings, transitional and other provisions.

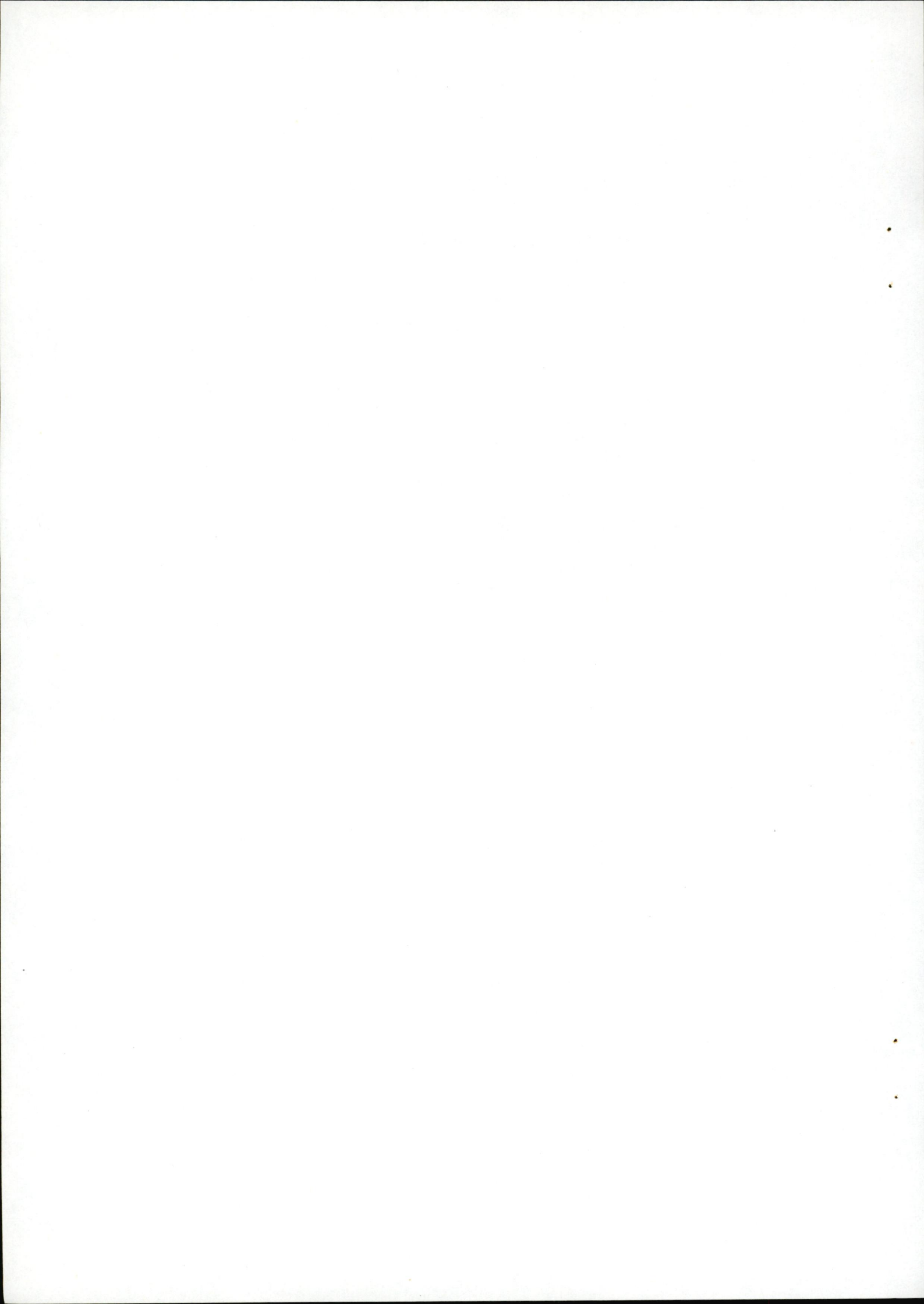
Clause 69 amends the Public Finance and Audit Act 1983 to provide for the accounts and annual reporting requirements of the State Rescue and Emergency Services Board.

Schedule 1 contains provisions relating to the emergency management organisations.

Schedule 2 contains provisions relating to members and procedure of emergency management organisations.

Schedule 3 contains provisions relating to the members and procedure of the State Rescue and Emergency Services Board.

Schedule 4 contains savings, transitional and other provisions.



FIRST PRINT

STATE EMERGENCY AND RESCUE MANAGEMENT BILL 1989

NEW SOUTH WALES



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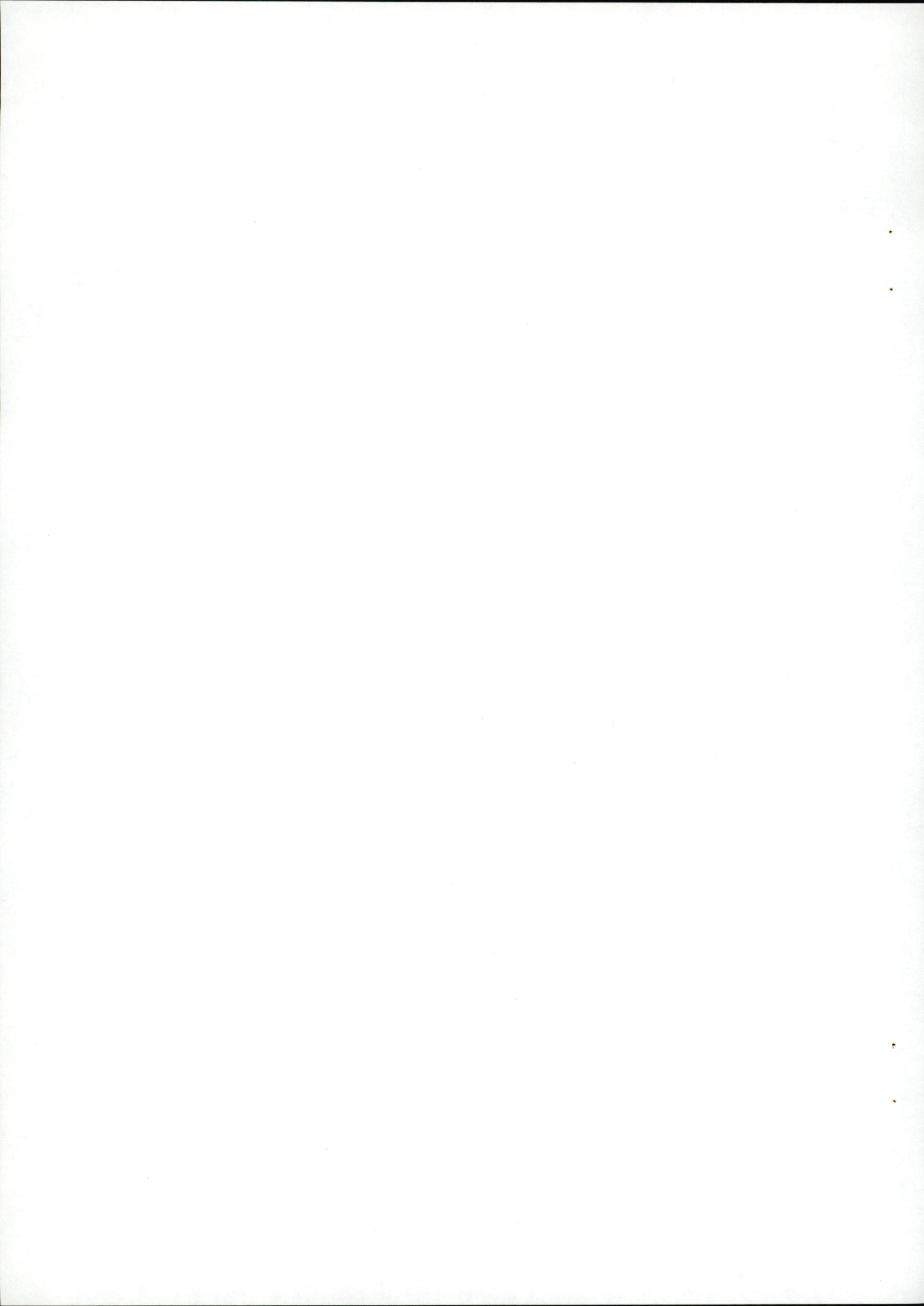
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STATE EMERGENCY AND RESCUE MANAGEMENT BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act relating to the management of State emergencies and rescues.

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the State Emergency and Rescue Management Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"**accredited rescue unit**" means a rescue unit accredited by the Minister under Division 4 of Part 3;

"**agency**" means a government agency or a non-government agency;

"**combat agency**" means the agency identified in Displan as the agency primarily responsible for responding to a particular emergency;

"**control**" means the overall direction of the activities, agencies or individuals concerned;

"**co-ordination**" means the bringing together of agencies and individuals to ensure effective emergency or rescue management, but does not include the control of agencies and individuals by direction;

"**Displan**" means the State Disaster Plan referred to in section 12;

"**district**" means a district established under section 21;

"**District Emergency Management Committee**" means a District Emergency Management Committee constituted under Part 2;

"**emergency**" has the meaning given by section 4;

"**emergency operations centre**" means a centre established under this Act at a State, district or local level as a centre of communication during an emergency;

"**emergency services organisation**" means the Police Force, Fire Brigades, Bush Fire Brigades, Ambulance Service, State Emergency Service, Volunteer Rescue Association or any other agency which manages or controls an accredited rescue unit;

"functional area" means a category of services involved in preparations for an emergency, including the following:

- (a) agricultural and animal services;
- (b) catering services;
- (c) communication services;
- (d) community welfare services;
- (e) the services of the Defence Forces;
- (f) emergency accommodation;
- (g) emergency financial grants, counselling and temporary accommodation;
- (h) engineering services;
- (i) emergency supply of clothing, bedding and personal requisites;
- (j) medical and hospital services (including nursing, ambulance and first-aid services);
- (k) media services;
- (l) registration inquiry systems;
- (m) land, sea and air transport services;

"government agency" means:

- (a) a government department or administrative office as defined in the Public Sector Management Act 1988;
- (b) a public authority, being a body (whether incorporated or not) established by or under an Act for a public purpose, other than:
 - (i) the Legislative Council or Legislative Assembly or a committee of either or both of those bodies; or
 - (ii) a court or other judicial tribunal;
- (c) the Police Force;
- (d) a local government council or other local authority; or
- (e) a member or officer of an agency referred to in paragraphs (a) - (d) or any other person in the service of the Crown who has statutory functions, other than:
 - (i) the Governor, the Lieutenant-Governor or the Administrator of the State;

- (ii) a Minister of the Crown;
- (iii) a member of the Legislative Council or Legislative Assembly or an officer of that Council or Assembly; or
- (iv) a judicial officer;

"Local Emergency Management Committee" means a Local Emergency Management Committee constituted under Part 2;

"local government area" means a city, municipality or shire within the meaning of the Local Government Act 1919 or combined local government areas as referred to in section 27;

"non-government agency" means a voluntary organisation or any other private individual or body, other than a government agency;

"rescue" means the safe removal of persons or animals from actual or threatened danger of physical harm;

"State Disasters Council" means the State Disasters Council constituted under Part 2;

"State Emergency Management Committee" means the State Emergency Management Committee constituted under Part 2;

"State Emergency Operations Controller" means the State Emergency Operations Controller appointed under Part 2;

"State Emergency Service" means State Emergency Services and Civil Defence;

"state of emergency" means a state of emergency declared under Division 4 of Part 2 and for the time being in force;

"State Rescue and Emergency Services Board" means the State Rescue and Emergency Services Board of New South Wales constituted under Part 3.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Definition of "emergency"

4. In this Act:

"emergency" means an emergency due to an actual or imminent occurrence (such as fire, flood, storm, earthquake, explosion, accident, epidemic or warlike action) which:

- (a) endangers, or threatens to endanger, the safety or health of persons in the State; or
- (b) destroys or damages, or threatens to destroy or damage, property in the State,

being an emergency which requires a significant and co-ordinated response.

Stages of emergency

5. For the purposes of this Act:

- (a) **prevention** in relation to an emergency includes the identification of hazards, the assessment of threats to life and property and the taking of measures to reduce potential loss to life or property; and
- (b) **preparation** in relation to an emergency includes arrangements or plans to deal with an emergency or the effects of an emergency; and
- (c) **response** in relation to an emergency includes the process of combating an emergency and of providing immediate relief for persons affected by an emergency; and
- (d) **recovery** in relation to an emergency includes the process of returning an affected community to its proper level of functioning after an emergency.

Relationship between Part 2 (State Emergency Management) and Part 3 (State Rescue Management)

6. (1) Part 3 applies to a rescue operation whether it relates to a single incident or an emergency.

(2) However, if a rescue operation relates to an emergency Part 2 prevails.

(3) A dispute as to whether a rescue operation relates to a single incident or an emergency may be determined by the Minister or

(subject to any determination of the Minister) by the State Emergency Operations Controller.

Limitation on operation of Act - industrial disputes and civil disturbances

7. This Act does not authorise the taking of measures directed at:
- (a) bringing an industrial dispute to an end; or
 - (b) controlling a riot or other civil disturbance (other than a riot or civil disturbance resulting from and occurring during a state of emergency).

Operation of Act in relation to civil defence

8. This Act authorises the taking of civil defence measures, not being actual military combat or preparations for military combat.

Act binds the Crown

9. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

PART 2 - STATE EMERGENCY MANAGEMENT

Division 1 - Emergency management at State level

Subdivision 1 - The Minister and the State Disasters Council

The Minister

10. (1) The Minister is responsible for:
- (a) ensuring that adequate measures are taken by government agencies to prevent, prepare for, respond to and assist recovery from emergencies; and
 - (b) co-ordinating the activities of government agencies in taking those measures; and
 - (c) arranging for the preparation and review from time to time of Displan.
- (2) The Minister is to discharge those responsibilities in consultation with, and having regard to the advice of, the State Disasters Council.
- (3) The following are, in the exercise of their functions under this Act, subject to the control and direction of the Minister:

- (a) the State Emergency Management Committee;
- (b) the State Emergency Operations Controller.

(4) The Minister may delegate to the State Emergency Operations Controller or other person the Minister's functions under this Act, other than:

- (a) the Minister's functions under this section; and
- (b) this power of delegation.

The State Disasters Council

11. (1) There is established by this Act a State Disasters Council.

(2) The function of the Council is to advise the Minister on all matters relating to the prevention of, preparation for, response to and recovery from emergencies (including the co-ordination of the activities of government and non-government agencies in connection with those matters).

(3) The Council is to consist of:

- (a) the Minister, who is to be the Chairperson of the Council; and
- (b) the State Emergency Operations Controller; and
- (c) representatives of such relevant government and non-government agencies as the Minister may from time to time determine.

(4) The representative of a government agency is to be nominated by the Minister responsible for the agency and the representative of a non-government agency is to be nominated by the agency.

(5) Schedule 2 has effect with respect to the members and procedure of the Council.

Subdivision 2 - The State Disaster Plan

State Disaster Plan

12. (1) There is to be a State Disaster Plan, to be called Displan.

(2) The object of Displan is to ensure the co-ordinated response to emergencies by all agencies having responsibilities and functions in emergencies.

- (3) Displan is to:
- (a) identify, in relation to each different form of emergency, the combat agency primarily responsible for responding to the emergency; and
 - (b) provide for the co-ordination of the activities of other agencies in support of a combat agency in the event of an emergency; and
 - (c) specify the tasks to be performed by all agencies in the event of an emergency; and
 - (d) specify the responsibilities of the Minister and the State, District or Local Emergency Operations Controllers.
- (4) As soon as practicable after Displan is prepared or altered following a review, the Minister must:
- (a) publish (in such manner as the Minister determines) a copy of Displan or the alterations to Displan; and
 - (b) forward a copy of Displan or the alterations to Displan to each agency to which Displan relates.

Activation of State Disaster Plan

13. (1) Displan may be activated by the Minister in connection with any emergency.

(2) Displan may be activated without the need for the declaration of a state of emergency.

(3) On the activation of Displan, the relevant provisions of Displan are to be put into effect.

Subdivision 3 - The State Emergency Management Committee

The State Emergency Management Committee

14. (1) There is established by this Act a State Emergency Management Committee.

(2) The Committee is to consist of:

- (a) the State Emergency Operations Controller, who is to be the Chairperson of the Committee; and
- (b) representatives of such relevant government and non-government agencies as the Minister may from time to time determine.

(3) The representative of a government agency is to be nominated by the Minister responsible for the agency and the representative of a non-government agency is to be nominated by the State Disasters Council.

(4) The persons so nominated are to be persons who have authority to plan and commit their agencies' resources in relation to the response and recovery stages of an emergency.

(5) Schedule 2 has effect with respect to the members and procedure of the State Emergency Management Committee.

Responsibility and functions of State Emergency Management Committee

15. (1) The State Emergency Management Committee is the principal committee established under this Act for the purposes of emergency management throughout the State and, in particular, is responsible for emergency planning at a State level.

(2) The State Emergency Management Committee has the following functions in relation to emergency management at a State level:

- (a) to identify, evaluate and monitor hazards and threats to life and property;
- (b) to establish and review appropriate emergency management structures at all levels;
- (c) to identify emergency resources both within and outside the State and make plans for the allocation and co-ordination of the use of those resources;
- (d) to establish and review systems for use in the control and co-ordination of emergency operations;
- (e) to review and recommend emergency management legislation (including legislation and proposals for legislation of other agencies);
- (f) to advise the Minister on the creation of combined local government emergency management arrangements;
- (g) to establish communication networks within and between functional areas at all levels;
- (h) to review plans at all levels and within each emergency services organisation and functional area;

- (i) to produce specific hazard management guidelines;
- (j) to arrange emergency management training for individuals, including individuals employed in emergency services organisations and functional areas;
- (k) to produce and disseminate educational material on established emergency management policies and procedures;
- (l) to arrange the conduct of training exercises to periodically test emergency management plans;
- (m) to advise the Minister on the declaration of states of emergencies;
- (n) to advise on the efficient use of local government resources in relation to Displan;
- (o) to assist in the selection and training of district and local government personnel for appointment to relevant organisations under this Part;
- (p) to act as the single point of contact for Commonwealth support to emergency operations in New South Wales in the absence of other arrangements;
- (q) to produce standing orders and instructions and standing operating procedures under Displan;
- (r) to assist the Minister, as required, in the preparation and review of Displan; and
- (s) to arrange for graduated warnings of emergencies to the public.

Functional area sub-committees of State Emergency Management Committee

16. (1) The State Emergency Management Committee is required to establish such sub-committees as the Minister directs in connection with functional areas.

(2) A sub-committee established for a functional area is to co-ordinate the provision of functional area support for emergency operations.

Annual report by State Emergency Management Committee

17. (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the State Emergency Management Committee is to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year.

(2) The Minister is to lay any such report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

Subdivision 4 - The State Emergency Operations Controller

State Emergency Operations Controller

18. (1) The Governor may, on the recommendation of the Minister, appoint a State Emergency Operations Controller.

(2) The person so appointed must be a person who is, in the opinion of the Minister, experienced in emergency management.

(3) The Director of the State Emergency Service is to be the Deputy State Emergency Operations Controller and, during the absence or a vacancy in the office of the State Emergency Operations Controller, has all the functions of that Controller.

(4) Schedule 1 has effect with respect to the State Emergency Operations Controller.

Responsibility and functions of State Emergency Operations Controller

19. (1) The State Emergency Operations Controller is responsible, in the event of an emergency which affects more than one district, for controlling in accordance with this Act the allocation of resources in response to the emergency.

(2) The State Emergency Operations Controller may:

(a) issue directions to agencies who have functions in connection with responses to emergencies for the purposes of controlling the allocation of those resources; and

(b) appoint an officer of an agency to have overall control of particular activities in response to an emergency where a number of combat agencies are involved, the controlling authority is not otherwise determined and those agencies cannot agree on the matter.

(3) The functions of the State Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.

State emergency operations centre

20. (1) The State Emergency Operations Controller is to establish and control a State emergency operations centre.

(2) The State emergency operations centre is to have:

- (a)** communication facilities for independent control and co-ordination of districts; and
- (b)** discrete communication facilities with heads of emergency services organisations and functional areas; and
- (c)** independent communications with the public broadcasting media network; and
- (d)** independent media information facilities.

(3) The State Rescue and Emergency Services Board is required to provide the State Emergency Operations Controller with the necessary staff and facilities to establish and operate the State emergency operations centre.

Division 2 - Emergency management at district level

Establishment of districts

21. (1) For the purposes of this Act, the State is divided into such districts as the Minister may determine by order published in the Gazette.

(2) Any such order may describe the boundaries of a district by reference to Police districts (as defined by section 6 of the Justices Act 1902), local government areas, maps or otherwise.

District Emergency Management Committees

22. (1) There is established by this Act a District Emergency Management Committee for each district.

(2) Each such Committee is to consist of:

- (a)** the senior member of the Police Force stationed within the relevant district, who is to be the Chairperson of the Committee; and
- (b)** a senior representative of the council of each local government area within the relevant district; and
- (c)** a senior representative of each emergency services organisation operating in the relevant district; and

(d) representatives of such organisations providing services in functional areas in the relevant district as the Minister may from time to time determine.

(3) The representative of a council or an organisation is to be nominated by the council or organisation.

(4) A District Emergency Management Committee is to establish a District Rescue Sub-committee, chaired by the Chairperson of the Committee and comprising the senior representatives of emergency services organisations operating in the relevant district.

(5) Schedule 2 has effect with respect to the members and procedure of a District Emergency Management Committee.

Functions of District Emergency Management Committees

23. (1) A District Emergency Management Committee is responsible for preparing plans in relation to the prevention of, preparation for, response to and recovery from emergencies in the district for which it is constituted.

(2) In the exercise of its functions, any such Committee is responsible to the State Emergency Management Committee.

District Emergency Operations Controller

24. The senior member of the Police Force stationed within a district is to be the District Emergency Operations Controller for that district.

Functions of District Emergency Operations Controller

25. (1) The District Emergency Operations Controller is responsible, in the event of an emergency which affects more than one local government area in the district, for controlling in accordance with this Act the allocation of resources in response to the emergency.

(2) The District Emergency Operations Controller may issue directions to agencies who have functions in connection with responses to emergencies for the purposes of controlling the allocation of those resources.

(3) The functions of the District Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.

(4) The District Emergency Operations Controller is to establish and control a District emergency operations centre.

(5) The District Emergency Operations Controller is subject to the direction of the State Emergency Operations Controller.

SES to provide executive support for District Emergency Management Committee and Operations Controller

26. (1) The State Emergency Service is to provide executive support facilities for each District Emergency Management Committee and District Emergency Operations Controller in its area.

(2) The principal executive officer is to be known as the District Emergency Management Officer.

Division 3 - Emergency management at local level

Combination of local government areas

27. If the councils of 2 or more local government areas agree (with the approval of the Minister) to combine their emergency management arrangements under this Part, a reference in this Part:

- (a) to a local government area is a reference to the combined local government areas concerned; and
- (b) to the council of that combined local government area is a reference to the principal council nominated in the agreement.

Local Emergency Management Committees

28. (1) There is established by this Act a Local Emergency Management Committee for each local government area.

- (2) Each such Committee is to consist of:
 - (a) a senior representative of the council of the relevant local government area nominated by that council, who is to be the Chairperson of the Committee; and
 - (b) a senior representative of each emergency services organisation operating in the relevant local government area; and
 - (c) representatives of such organisations providing services in functional areas in the relevant local government area as the council of that area may from time to time determine.

(3) The Chairperson of a Committee is to be a person who has the authority of the council to co-ordinate the use of the council's

resources in the prevention of, preparation for, response to and recovery from emergencies.

(4) A council may appoint an officer of the State Emergency Service as Chairperson of a Committee.

(5) The representative of an organisation is to be nominated by the organisation.

(6) A Local Emergency Management Committee is to establish a Local Rescue Sub-committee, chaired by the Local Emergency Operations Controller and comprising the senior representatives of emergency services organisations operating in the relevant local government area.

(7) Schedule 2 has effect with respect to the members and procedure of a Local Emergency Management Committee.

Functions of Local Emergency Management Committees

29. (1) A Local Emergency Management Committee is responsible for the preparation of plans in relation to the prevention of, preparation for, response to and recovery from emergencies in the local government area for which it is constituted.

(2) In the exercise of its functions, any such Committee is responsible to the relevant District Emergency Management Committee.

Local Emergency Operations Controller

30. The senior member of the Police Force stationed within a local government area is to be the Local Emergency Operations Controller for that area.

Functions of Local Emergency Operations Controller

31. (1) The Local Emergency Operations Controller for an area is responsible, in the event of an emergency which affects only that area, for controlling in accordance with this Act the allocation of resources in response to the emergency.

(2) The Local Emergency Operations Controller may issue directions to agencies who have functions in connection with responses to emergencies for the purposes of controlling the allocation of those resources.

(3) The functions of the Local Emergency Operations Controller may be exercised without the need for a declaration of a state of emergency, but during a state of emergency the exercise of those functions is subject to Division 4.

(4) The Local Emergency Operations Controller is to establish and control a local emergency operations centre.

(5) The Local Emergency Operations Controller is subject to the direction of the relevant District Emergency Operations Controller.

Councils to provide executive support for Local Emergency Management Committee and Operations Controller

32. (1) A council is to provide executive support facilities for the Local Emergency Management Committee and the Local Emergency Operations Controller in its area.

(2) The principal executive officer is to be known as the Local Emergency Management Officer.

Division 4 - State of emergency

Declaration of state of emergency

33. (1) If the Premier is satisfied that an emergency constitutes a significant and widespread danger to life or property in New South Wales, the Premier may, by order in writing, declare that a state of emergency exists in the whole, or in any specified part or parts, of New South Wales in relation to that emergency.

(2) The Premier may, by order in writing, revoke a declaration of a state of emergency at any time.

Publication of declaration

34. As soon as practicable after making or revoking a declaration of a state of emergency, the Premier must:

- (a) cause notice of the declaration or revocation to be broadcast by a television or radio station in the State; and
- (b) cause a copy of the relevant order to be published in the Gazette.

Duration of state of emergency

35. (1) An order declaring a state of emergency has effect immediately on its being made.

(2) Unless it is sooner revoked, the declaration of a state of emergency remains in force for such period (not exceeding 30 days) as is specified in the declaration.

(3) The declaration of a state of emergency does not prevent the declaration of further states of emergencies in relation to the same or a different emergency.

Power to direct government agencies etc. during state of emergency

36. (1) In a state of emergency, the Minister is responsible for controlling and co-ordinating the activities of such government agencies, and the allocation of such available resources of the Government, as the Minister considers necessary or desirable for responding to the emergency.

(2) For that purpose, the Minister may direct any government agency to do or refrain from doing any act, or to exercise or refrain from exercising any function.

- (3) If a direction is given to a government agency under this section:
- (a) the government agency must comply with the direction; and
 - (b) the direction prevails over anything to the contrary in any Act or law, except the Essential Services Act 1988.

Power to evacuate persons etc.

37. (1) The Minister may, if satisfied that it is necessary or convenient to do so for the purpose of responding to an emergency, direct, or authorise an emergency services officer to direct, a person to do any or all of the following:

- (a) to leave any particular premises and to move out of an emergency area or any part of an emergency area;
- (b) to take any children or adults present in any particular premises who are in the person's care and to move them outside the emergency area or any part of the emergency area;
- (c) not to enter the emergency area or any part of the emergency area.

(2) If the person does not comply with the direction, an emergency services officer may do all such things as are reasonably necessary to ensure compliance with it, using such force as is reasonably necessary in the circumstances.

(3) The regulations may limit the circumstances, and regulate the manner, in which the powers conferred by this section may be exercised.

(4) In this section:

"**emergency area**" means the area in which a state of emergency is declared to exist;

"**emergency services officer**" means a member of the Police Force or of any other emergency service organisation;

"**premises**" includes place, building, vehicle, vessel or aircraft.

Power to take possession of property

38. (1) In a state of emergency, the Minister may, for the purposes of responding to the emergency, take possession and make use of any person's property.

(2) If the property of a person is taken or used under this section that person is to receive such compensation as may be determined by the Minister, but is not entitled to receive compensation.

(3) Any such person may apply to the Premier for a review of any determination as to compensation made by the Minister under this section.

Limitation on operation of this Division

39. The functions of the Minister under this Division are only exercisable in relation to:

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

Offence to obstruct etc. Minister or emergency personnel

40. A person must not obstruct or hinder the Minister, or any other person acting with the authority of the Minister, in the exercise of a function under this Division.

Maximum penalty: 50 penalty units.

Exculpation from liability during state of emergency

41. A person may not bring proceedings against the Crown, a Minister or any body or person acting in the execution of this Division for any damage, loss, death or injury sustained because of anything done or omitted to be done in good faith under this Division during a state of emergency.

PART 3 - STATE RESCUE MANAGEMENT

Division 1 - State Rescue and Emergency Services Board

Constitution of Board

42. (1) There is constituted by this Act a corporation with the corporate name of the State Rescue and Emergency Services Board of New South Wales.

(2) The Board:

- (a) has the functions conferred or imposed on it by or under this or any other Act; and
- (b) is, for the purposes of any Act, a statutory body representing the Crown.

Composition of Board

43. (1) The State Rescue and Emergency Services Board is to consist of not less than 7 members, being:

- (a) the State Emergency Operations Controller, who is to be the Chairperson of the Board;
- (b) the Director of the State Emergency Service, who is to be the Deputy Chairperson of the Board;
- (c) the State Commander of the Police Force;
- (d) the Chief Officer of the New South Wales Fire Brigades;
- (e) the Chief Co-ordinator of Bush Fire Fighting;
- (f) the State Superintendent of the New South Wales Ambulance Service;
- (g) the President of the Volunteer Rescue Association of New South Wales; and
- (h) the heads of any other volunteer rescue agencies approved for the time being by the Minister.

(2) If the Director of the State Emergency Service acts as Chairperson of the Board in the absence of the Chairperson from a meeting, the Deputy Director of that Service may act as a member for that meeting.

Provisions relating to members and procedure of Board

44. Schedule 3 has effect.

Board subject to Ministerial control

45. The State Rescue and Emergency Services Board is, in the exercise of its functions, subject to the control and direction of the Minister.

Staff of Board

46. (1) Such staff as may be necessary to enable the State Rescue and Emergency Services Board to exercise its functions are to be employed under Part 2 of the Public Sector Management Act 1988.

(2) The State Rescue and Emergency Services Board may, with the approval of the Minister, arrange for the use of the services of any staff or facilities of a government department, administrative office or public or local authority.

(3) The staff of the State Rescue and Emergency Services Board is to provide such secretarial and other services to the State Disasters Council, the State Emergency Management Committee and functional area sub-committees of that Management Committee.

**Division 2 - Functions of State Rescue
and Emergency Services Board**

Principal functions of Board

47. The principal functions of the State Rescue and Emergency Services Board are:

- (a) to control and co-ordinate the rescue agencies in connection with rescue operations; and
- (b) to ensure the maintenance of efficient and effective rescue services.

Particular functions of Board

48. (1) The State Rescue and Emergency Services Board is required to:

- (a) formulate plans for the provision of comprehensive, balanced and co-ordinated rescue services throughout New South Wales;
- (b) make recommendations to the Minister on policy matters relating to the rescue and emergency services;
- (c) prepare, co-ordinate and review planning for single incident rescues within the State;
- (d) produce and disseminate standing orders and instructions and standing operating procedures for rescue operations;
- (e) produce and disseminate educational material on established rescue management policies and procedures;
- (f) ensure proper liaison and co-ordination with Federal and other State organisations in connection with rescue services;
- (g) provide advice and recommendations on the purchase, allocation and compatibility of rescue equipment, including communications equipment;
- (h) make recommendations to the Minister on the accreditation of rescue units (both permanent and volunteer) for participation in rescue operations;
- (i) make recommendations to the Minister on levels of Government support (including financial assistance under section 60) to volunteer organisations providing rescue services;
- (j) arrange for training by Federal, State and local agencies in those areas pertinent to rescue;
- (k) conduct training exercises in rescue operations;
- (l) monitor the training standards of the permanent and volunteer services in rescue;
- (m) review proposals for amendment of legislation relating to rescue and make recommendations to the Minister; and
- (n) make reports or recommendations to the Minister on any matter referred to the Board by the Minister.

(2) Rescue sub-committees of District and Local Emergency Management Committees are to assist the State Rescue and Emergency Services Board in the exercise of its functions within the district or local government area concerned.

Board's decisions to be implemented by rescue agencies

49. (1) The agency which manages or controls any accredited rescue unit is required to implement (in accordance with law) the decisions of the State Rescue and Emergency Services Board under this Part in connection with rescue operations carried out by that rescue unit.

(2) Except as provided by subsection (1), nothing in this Part affects the exercise by such an agency of its functions or the exercise of the management functions of the chief executive of the agency.

Division 3 - Police control of rescue operations etc.

Police at scene to co-ordinate etc. rescue operation

50. (1) The senior member of the Police Force present at the scene of a rescue operation is responsible for co-ordinating and determining the priorities of action of the agencies engaged in the rescue operation.

(2) This section applies whether the agency so engaged in the rescue operation is a permanent or volunteer agency.

(3) This section does not apply to a rescue operation if the control of the rescue operation is vested by law in some other person or agency, such as:

- (a) a rescue operation in which the person or property is endangered by fire and at which a member of a Fire Brigade is in charge; or
- (b) a rescue operation which results from an emergency and which is subject to the control of some other person or agency in accordance with Part 2.

(4) This section applies despite anything to the contrary in the Fire Brigades Act 1909, the Ambulance Services Act 1976 or any other Act.

Notification of rescue incidents to police

51. (1) In this section:

"relevant rescue agency" means:

- (a) the agency which manages or controls Fire Brigades;
- (b) the agency which manages or controls the Ambulance Service.

(2) Immediately after a relevant rescue agency becomes aware of an incident which requires or is likely to require the rescue of any person,

the agency must notify a member of the Police Force of all relevant information concerning the incident.

(3) A relevant rescue agency is not required to notify a member of the Police Force of any such incident if it is aware that the incident has already been notified to a member of the Police Force.

Division 4 - Accreditation of rescue units

Definition of "rescue unit"

52. In this Division:

"rescue unit" means a unit (comprising a group of persons) which carries out rescue operations for the protection of the public or a section of the public.

Offence to operate rescue unit without accreditation

53. (1) A person who establishes, manages or controls a rescue unit which is not accredited under this Division is guilty of an offence.

Maximum penalty: 50 penalty units.

(2) A rescue unit is required to be accredited even though:

- (a) it is a unit of the Police Force, the Fire Brigades, the Ambulance Service, the State Emergency Service or any other government agency; or
 - (b) it is a unit of a volunteer agency; or
 - (c) it carries out, in addition to operations for the rescue of persons, other operations such as the rescue of animals or the recovery of property.
- (3) A rescue unit is not required to be accredited:
- (a) if it is a unit only engaged in surf life-saving; or
 - (b) if it is a unit managed or controlled by the Maritime Services Board or other agency and is principally concerned in the salvage of vessels; or
 - (c) if it is a unit which only carries out rescues under the Mines Rescue Act 1925; or
 - (d) in any other circumstances prescribed by the regulations.

Accreditation of rescue units by Minister

54. (1) Application may be made to the Minister for the accreditation of a rescue unit.

(2) An application for accreditation is required to be lodged with the State Rescue and Emergency Services Board.

(3) The State Rescue and Emergency Services Board is to report to the Minister on the need for the rescue unit concerned, the standard of equipment and training and the affect of accreditation of the unit on the control and co-ordination of rescue services.

(4) The Minister may accept or refuse an application for accreditation.

(5) The Minister is to have regard to any recommendation made by the State Rescue and Emergency Services Board on an application for accreditation, but is not bound by the recommendation.

Limitation on accreditation

55. (1) The accreditation of a rescue unit may be limited by the Minister to the carrying out of rescue operations in a particular area or of a particular kind, or otherwise.

(2) An accredited rescue unit which carries out rescue operations in contravention of any such limitation is to be taken to be not accredited for the purposes of this Division.

Duration of accreditation

56. (1) The Minister may accredit a rescue unit for a specified period or indefinitely.

(2) The Minister may at any time cancel the accreditation of a rescue unit.

Register of personnel of rescue units

57. (1) The agency which manages or controls an accredited rescue unit is required to maintain a register of the personnel who comprise the unit.

(2) That agency is to provide a copy of the register to the State Rescue and Emergency Services Board as soon as practicable after the accreditation of the rescue unit and every 6 months thereafter.

Division 5 - General provisions

Arrangements for inter-State co-operation in rescue

58. (1) The State Rescue and Emergency Services Board may make arrangements with any agency which manages or controls inter-State rescue units:

- (a) for those rescue units to carry out rescue operations in New South Wales; or
- (b) for accredited rescue units under this Division to carry out rescue operations outside New South Wales.

(2) An inter-State rescue unit which carries out a rescue operation in New South Wales in accordance with any such arrangement is not required to be accredited under Division 4, but is to be regarded as an accredited rescue unit for the purposes of this Division.

(3) In this section:

"inter-State rescue unit" means a rescue unit established and operating in another State or in a Territory of the Commonwealth.

Personal liability of members of rescue units and volunteers

59. (1) A matter or thing done by:

- (a) a member of an accredited rescue unit; or
- (b) a casual volunteer,

does not, if the matter or thing was done in good faith in connection with a rescue operation or otherwise in response to an emergency, subject the member or volunteer personally to any action, liability, claim or demand.

(2) In this section:

"casual volunteer" means a person who:

- (a) assists an accredited rescue unit in carrying out a rescue operation with the consent of the person in charge of the rescue operation; or

- (b) assists, on his or her own initiative, in a rescue operation or otherwise in response to an emergency in circumstances in which the assistance was reasonably given.

Financial assistance to volunteer rescue agencies

60. (1) The Minister may, out of money to be provided by Parliament, provide financial assistance to volunteer rescue agencies approved by the Minister.

(2) The Minister may approve an agency for the purposes of this section if:

- (a) it is a non-profit agency whose members carry out rescue operations on a voluntary basis; and
- (b) it manages or controls accredited rescue units; and
- (c) it meets any other requirements of the Minister.

(3) The form of financial assistance and the maximum amount of financial assistance is to be determined by the Minister.

PART 4 - MISCELLANEOUS

Definition of "emergency or rescue management organisation"

61. In this Part:

"**emergency or rescue management organisation**" means:

- (a) the State Disasters Council; or
- (b) the State Emergency Management Committee; or
- (c) a District Emergency Management Committee; or
- (d) a Local Emergency Management Committee; or
- (e) the State Rescue and Emergency Services Board; or
- (f) a committee or sub-committee of a body referred to in paragraphs (a) - (e).

Personal liability of members of management organisations etc.

62. A matter or thing done by:

- (a) an emergency or rescue management organisation; or
- (b) a member of any such organisation or of the staff of any such organisation (in the person's capacity as such a member),

- (c) the State Emergency Operations Controller or a District or Local Emergency Operations Controller (in the person's capacity as such a controller),

does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the member or controller personally to any action, liability, claim or demand.

This Act not to limit other Acts or laws

63. Except as expressly provided by this Act, this Act does not limit the operation of any other Act or law.

Service of documents

64. (1) A document may be served on an emergency or rescue management organisation by leaving it at, or by sending it by registered post to, the office of the organisation.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on an emergency or rescue management organisation in a manner not provided for by this section.

Proof of certain matters not required

65. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of an emergency or rescue management organisation; or
- (b) any resolution of such an organisation; or
- (c) the appointment of, or the holding of office by, any member of such an organisation; or
- (d) the presence of a quorum at any meeting of such an organisation.

Proceedings for offences

66. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

SCHEDULE 1 - PROVISIONS RELATING TO STATE
EMERGENCY OPERATIONS CONTROLLER - *continued*

Hours of duty

3. The Controller is to devote such time to the duties of his or her office as the Minister may from time to time require.

Remuneration

4. The Controller is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Governor may from time to time determine in respect of the Controller.

Casual vacancies

5. (1) The office of the Controller becomes vacant if the Controller:
- (a) dies; or
 - (b) completes a term of office and is not re-appointed; or
 - (c) resigns the office by instrument in writing addressed to the Minister; or
 - (d) is retired or removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
 - (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may remove the Controller from office at any time.

**SCHEDULE 1 - PROVISIONS RELATING TO STATE
EMERGENCY OPERATIONS CONTROLLER - *continued***

Filling of vacancy in office of the Controller

6. If the office of the Controller becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Part 2 of Public Sector Management Act 1988 not to apply

7. Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of the Controller.

**SCHEDULE 2 - PROVISIONS RELATING TO MEMBERS
AND PROCEDURE OF EMERGENCY MANAGEMENT
ORGANISATIONS**

(Secs. 11 (5), 14 (5), 22 (5) and 28 (7))

Definitions

1. In this Schedule:

"member" means a member of a relevant organisation;

"relevant organisation" means:

- (a) the State Disasters Council; or
- (b) the State Emergency Management Committee; or
- (c) a District Emergency Management Committee; or
- (d) a Local Emergency Management Committee.

Deputies of members

2. (1) A member may, from time to time, appoint a person to be the member's deputy, and the member may revoke any such appointment.

(2) In the absence of a member, the member's deputy:

- (a) may, if available, act in the place of the member; and
- (b) while so acting, has all the functions of the member and is to be taken to be a member.

SCHEDULE 2 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF EMERGENCY MANAGEMENT
ORGANISATIONS - *continued*

Terms of office

3. Subject to this Schedule, a member (other than an ex-officio member) holds office until a successor is appointed.

Vacancy in office

4. (1) The office of a member (other than an ex-officio member) becomes vacant if:

- (a) the member dies; or
- (b) a successor to the member is duly appointed; or
- (c) the member resigns the office by instrument in writing addressed to the person who appointed the member; or
- (d) the member is removed from office by the person who appointed the member.

(2) If the office of any such member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

5. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member.

(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

General procedure

6. The procedure for the calling of meetings of a relevant organisation and for the conduct of business at those meetings is,

SCHEDULE 2 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF EMERGENCY MANAGEMENT
ORGANISATIONS - *continued*

subject to this Act and the regulations, to be as determined by that organisation.

Quorum

7. The quorum for a meeting of a relevant organisation is a majority of the members of the organisation for the time being.

Presiding member

8. (1) The Chairperson of a relevant organisation or, in the absence of the Chairperson, the Deputy Chairperson (if any) or, in the absence of both, another member elected to chair the meeting by the members present is to preside at a meeting of the organisation.

(2) The person presiding at any meeting of a relevant organisation has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

9. A decision supported by a majority of the votes cast at a meeting of a relevant organisation at which a quorum is present is the decision of the organisation.

Committees

10. (1) A relevant organisation may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the relevant organisation.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the relevant organisation or (subject to any determination of that organisation) by the committee.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS
AND PROCEDURE OF STATE RESCUE AND EMERGENCY
SERVICES BOARD**

(Sec. 44)

Definitions

1. In this Schedule:

"Board" means the State Rescue and Emergency Services Board;

"member" means a member of the Board.

Allowances

2. A member referred to in section 43 (1) (g) or (h) is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member.

General procedure

3. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

Quorum

4. The quorum for a meeting of the Board is 4 members.

Presiding member

5. (1) The Chairperson of the Board or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another member elected to chair the meeting by the members present) is to preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

6. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF STATE RESCUE AND EMERGENCY
SERVICES BOARD - *continued*

Transaction of business outside meetings or by telephone etc.

7. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be taken to be a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Committees of Board

8. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the Board.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF STATE RESCUE AND EMERGENCY
SERVICES BOARD - *continued***

First meeting

9. The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

**SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS**

(Sec. 68)

Part 1 - General

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 - Provisions consequent on this Act

Accreditation of rescue units - existing units

2. (1) A person who manages or controls a rescue unit established before the commencement of section 53 (Offence to operate rescue unit without accreditation) is not guilty of an offence under that section during the transition period.

SCHEDULE 4 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

(2) For the purposes of this clause, the transition period is the period between the commencement of section 53 and the expiry of 3 months after that commencement.
