

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Police and Emergency Services)

Emergencies Amendment Bill 2010

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(As presented)

(Minister for Police and Emergency Services)

Emergencies Amendment Bill 2010

A Bill for

An Act to amend the *Emergencies Act 2004*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Emergencies Amendment Act 2010*.

3 **2 Commencement**

4 This Act commences on a day fixed by the Minister by written
5 notice.

6 *Note 1* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 *Note 2* A single day or time may be fixed, or different days or times may be
9 fixed, for the commencement of different provisions (see Legislation
10 Act, s 77 (1)).

11 *Note 3* If a provision has not commenced within 6 months beginning on the
12 notification day, it automatically commences on the first day after that
13 period (see Legislation Act, s 79).

14 **3 Legislation amended**

15 This Act amends the *Emergencies Act 2004*.

16 *Note* This Act also amends the following legislation (see sch 1):

- 17 • *Territory Records Regulation 2009*
- 18 • *Utilities (Electricity Restrictions) Regulation 2004*
- 19 • *Utilities (Gas Restrictions) Regulation 2005*.

20 **4 Objects of Act**
21 **Section 3 (b)**

22 *substitute*

23 (b) to provide for effective emergency management that—

24 (i) has regard to the need to prepare for, prevent, respond to
25 and recover from emergencies; and

26 (ii) takes an all-hazards approach to emergency management;
27 and

1 **5 Commissioner's functions**
2 **New section 8 (4) (ga)**

3 *insert*
4 (ga) emphasise the importance of communicating information,
5 advice and warnings to the community during an emergency;
6 and

7 **6 Part 7.1 heading**

8 *substitute*

9 **Part 7.1 Security and Emergency**
10 **Management Senior Officials**
11 **Group**

12 **7 Section 141**

13 *substitute*

14 **141 Security and Emergency Management Senior Officials**
15 **Group**

16 The Security and Emergency Management Senior Officials Group
17 (*SEMSOG*) is established.

18 **8 Section 142 heading**

19 *substitute*

20 **142 Constitution of SEMSOG**

1 **9 Section 142 (1)**
2 *omit*
3 emergency management committee
4 *substitute*
5 SEMSOG

6 **10 New section 142 (1) (aa)**
7 *before paragraph (a), insert*
8 (aa) the chief executive; and

9 **11 Section 142 (2)**
10 *omit*
11 committee members
12 *substitute*
13 members of the SEMSOG

14 **12 Section 142 (3)**
15 *substitute*
16 (3) The chief executive is the chair of the SEMSOG.

17 **13 Section 143 heading**
18 *substitute*

19 **143 Functions of SEMSOG**

- 1 **14 Section 143**
- 2 *omit*
- 3 emergency management committee
- 4 *substitute*
- 5 SEMSOG
- 6 **15 Section 143 (3) (b)**
- 7 *substitute*
- 8 (b) to support the commissioner in emergency management,
- 9 including the preparation of the emergency plan or any part of
- 10 the plan;
- 11 **16 Section 143 (3) (c)**
- 12 *omit*
- 13 **17 Sections 144 to 146**
- 14 *omit*
- 15 **18 Emergency plan**
- 16 **Section 147 (1)**
- 17 *omit*
- 18 emergency management committee
- 19 *substitute*
- 20 the commissioner

1 **19 Section 147 (4) and (5)**

2 *omit*

3 emergency management committee

4 *substitute*

5 the commissioner

6 **20 Community and information plan**
7 **Section 149 (1)**

8 *omit*

9 during a declared state of alert or state of emergency

10 *substitute*

11 during an emergency

12 **21 Division 7.3.1 heading**

13 *substitute*

14 **Division 7.3.1 Application—pt 7.3**

15 **22 Section 150 heading**

16 *substitute*

17 **150 Application—pt 7.3**

18 **23 Section 150**

19 *omit*

20 division

21 *substitute*

22 part

24 **New division 7.3.1A**

after section 150, insert

Division 7.3.1A **Emergency controller—no declared state of emergency****150A** **Appointment of emergency controller—no declared state of emergency**

- (1) This section applies if the Chief Minister is satisfied that—
- (a) an emergency has happened, is happening or is likely to happen; but
 - (b) it is not necessary to declare a state of emergency.
- (2) The Chief Minister may appoint a person to be the emergency controller for the emergency.
- Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.
- Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).
- (3) The Chief Minister must review the appointment of the emergency controller not later than 48 hours after the appointment was made.
- (4) Unless sooner revoked, the appointment ends—
- (a) 7 days after the day the appointment was made; or
 - (b) if a state of emergency is declared.
- (5) The Chief Minister may be satisfied that an emergency is likely to happen if the Chief Minister is satisfied that an event that has happened or is happening, or a circumstance that exists, gives rise to the likelihood of an emergency.

- 1 **150B Functions of emergency controller—no declared state of**
2 **emergency**
- 3 (1) An emergency controller appointed under section 150A for an
4 emergency has the following functions in relation to the emergency:
- 5 (a) to manage the response to, and the recovery from, the
6 emergency by ensuring that entities dealing with the
7 emergency are appropriately deployed;
- 8 (b) to coordinate the disposition of other resources to manage the
9 emergency;
- 10 (c) to advise the Minister and the Chief Minister about the
11 emergency;
- 12 (d) to advise the community on anything relating to the emergency
13 that the emergency controller considers appropriate;
- 14 (e) any other function given to the emergency controller under this
15 Act or another territory law.
- 16 (2) However, the Chief Minister may direct, in writing—
- 17 (a) that the emergency controller is not to have a function (or part
18 of a function) mentioned in subsection (1); or
- 19 (b) that the emergency controller has another stated function.
- 20 *Note* A direction may be included in the instrument of appointment (see
21 Legislation Act, s 49).
- 22 (3) As far as practicable, the emergency controller must exercise the
23 emergency controller’s functions in accordance with the emergency
24 plan.

- 1 **150C Emergency powers—no declared state of emergency**
- 2 (1) This section applies if an emergency controller is appointed under
- 3 section 150A for an emergency.
- 4 (2) For the management of the emergency, the emergency controller
- 5 may—
- 6 (a) direct the movement of people, animals or vehicles within, into
- 7 or around the area to which the emergency applies (the
- 8 *emergency area*); and
- 9 (b) give directions regulating or prohibiting the movement of
- 10 people, animals or vehicles within, into or around the
- 11 emergency area; and
- 12 (c) direct, in writing, the owner of property in or near the
- 13 emergency area to place the property under the control, or at
- 14 the disposal, of an emergency controller; and
- 15 (d) take possession of any premises, animal substance or thing in
- 16 or near the emergency area; and
- 17 (e) excavate land, form tunnels or construct earthworks, barriers or
- 18 temporary structures in or near the emergency area; and
- 19 (f) control, use, close off or block a drainage facility in or near the
- 20 emergency area; and
- 21 (g) maintain, restore or prevent disruption of essential services;
- 22 and
- 23 (h) do anything else that the chief officer of an emergency service
- 24 may do under section 34 (General powers of chief officers).
- 25 *Note* A chief officer has a number of general powers including to enter land,
- 26 shut off a power or water supply, demolish or destroy a structure or
- 27 remove or destroy an animal.
- 28 (3) Subsection (1) operates despite any other territory law.

- 1 (4) However, the Chief Minister may direct, in writing—
2 (a) that the emergency controller is not to have a power (or part of
3 a power) mentioned in subsection (1); or
4 (b) that the emergency controller has another stated power.
5 *Note* A direction may be included in the instrument of appointment (see
6 Legislation Act, s 49).
7 (5) The emergency controller may delegate a function mentioned in
8 subsection (1) to the head of an entity.
9 (6) A person who is delegated a function under subsection (5) may
10 delegate the function to another member, officer, employee or
11 contractor of the entity.
12 *Note* For the making of delegations and the exercise of delegated functions,
13 see the Legislation Act, pt 19.4.
14 (7) In this section:
15 *owner*, of property, includes an occupier or someone apparently in
16 charge of the property.

17 **25 New division 7.3.1B heading**

18 *before section 151, insert*

19 **Division 7.3.1B Declared emergencies**

20 **26 Sections 159 and 160**

21 *omit*

22 territory controller

23 *substitute*

24 emergency controller

1 **27 New division 7.3.1C heading**

2 *before section 161, insert*

3 **Division 7.3.1C General provisions applying if**
4 **emergency controller appointed**

5 **28 Section 161 heading**

6 *substitute*

7 **161 Management executive for emergency**

8 **29 Section 161 (1) to (4)**

9 *substitute*

- 10 (1) As soon as possible after an emergency controller is appointed, the
11 emergency controller must establish a management executive for the
12 emergency.
- 13 (2) The management executive consists of people nominated by the
14 emergency controller and may include members of the SEMSOG.
- 15 (3) The management executive must provide support to the emergency
16 controller in the exercise of the emergency controller's functions.
- 17 (4) The emergency controller is not required to consult with the
18 management executive before exercising a function.

19 **30 Section 162**

20 *substitute*

21 **162 Management of emergency**

- 22 (1) For the management of an emergency for which an emergency
23 controller is appointed, the emergency controller may direct the
24 commissioner or the head of an entity to undertake response or
25 recovery operations.

1 (2) The emergency controller may not direct the person to undertake an
2 operation in a particular way.

3 **31 Section 163 heading**

4 *substitute*

5 **163 Emergency powers—declared state of emergency**

6 **32 Section 163**

7 *omit*

8 territory controller

9 *substitute*

10 emergency controller

11 **33 Section 163 (as amended)**

12 *relocate to division 7.3.1B as section 160A*

13 **34 Failure to comply with direction given under emergency
14 powers
15 Section 164 (1)**

16 *omit*

17 section 163 (2) (a), (b) or (c)

18 *substitute*

19 section 150C (2) (a), (b) or (c) or section 160A (2) (a), (b) or (c)

- 1 **35 Section 165**
- 2 *substitute*
- 3 **165 Chief Minister’s directions to emergency controller**
- 4 (1) The Chief Minister may give an emergency controller written
- 5 directions about the exercise of the controller’s functions.
- 6 (2) The emergency controller must give effect to a direction.
- 7 **36 Section 166 heading**
- 8 *substitute*
- 9 **166 Emergency controller to give information about**
- 10 **controller’s operations**
- 11 **37 Section 166**
- 12 *omit*
- 13 The territory controller
- 14 *substitute*
- 15 An emergency controller
- 16 **38 Section 167**
- 17 *substitute*
- 18 **167 Deployment of resources outside ACT in emergency**
- 19 During an emergency for which an emergency controller is
- 20 appointed, a person must not deploy Territory resources outside the
- 21 ACT, in relation to an emergency outside the ACT, without the
- 22 approval of the emergency controller.

1 **39 Power to remove person obstructing response**
2 **operations etc**
3 **Section 168 (1)**

4 *substitute*

- 5 (1) If an emergency controller believes, on reasonable grounds, that a
6 person is obstructing, or threatening to obstruct, response or
7 recovery operations in an emergency, the controller may remove the
8 person to another place.

9 **40 Section 169 heading**

10 *substitute*

11 **169 Compensation—emergencies**

12 **41 Section 169 (1)**

13 *substitute*

- 14 (1) A person who suffers loss because of an act or omission of an
15 emergency controller under section 150C (Emergency powers—no
16 declared state of emergency) or section 160A (Emergency powers—
17 declared state of emergency) is entitled to be paid reasonable
18 compensation by the Territory for the loss.

19 **42 Section 169 (3)**

20 *omit*

21 territory controller

22 *substitute*

23 emergency controller

1 **43 Recovery of compensation in court**
2 **Section 172**

3 *omit*
4 (Compensation—declared state of emergency)
5 *substitute*
6 (Compensation—emergencies)

7 **44 Section 173**

8 *substitute*

9 **173 Application—div 7.3.2**

10 This division applies to an emergency other than an emergency for
11 which an emergency controller is appointed.

12 **45 Sections 177 to 179**

13 *omit*
14 the territory controller
15 *substitute*
16 an emergency controller

17 **46 Authorised person's power to require name and address**
18 **Section 196**

19 *omit*
20 the territory controller
21 *substitute*
22 an emergency controller

1 **47 Compensation for exercise of functions etc**
2 **Section 199 (1) and note**

3 *substitute*

- 4 (1) A person may claim compensation from the Territory if the person
5 suffers loss because of the exercise, or purported exercise, of a
6 function under this Act (other than under section 150C (Emergency
7 powers—no declared state of emergency) or section 160A
8 (Emergency powers—declared state of emergency)).

9 *Note* For compensation for loss because of an act or omission under s 150C
10 or s 160A, see s 169.

11 **48 New section 203**

12 *insert*

13 **203 Review of Act**

- 14 (1) The Minister must review the operation of this Act as soon as
15 practicable after the end of every 5th year after the day this section
16 commences.
- 17 (2) The Minister must present a report on the review to the Legislative
18 Assembly within 3 months after the day the review is started.

19 **49 Dictionary, new definition of *emergency controller***

20 *insert*

21 *emergency controller* means—

- 22 (a) for a declared state of emergency—the person appointed under
23 section 159; and
24 (b) in any other case—the person appointed under section 150A.

1 **50 Dictionary, definition of *emergency management*,**
2 **paragraph (a)**

3 *substitute*

4 (a) the assessment of hazards and emergency risks; and

5 **51 Dictionary, definition of *emergency management***
6 ***committee***

7 *omit*

8 **52 Dictionary, new definition of *SEMSOG***

9 *insert*

10 *SEMSOG*—see section 141.

11 **53 Dictionary, definition of *territory controller***

12 *omit*

1 **Schedule 1 Consequential amendments**

2 (see s 3)

3 **Part 1.1 Territory Records Regulation**
4 **2009**

5 **[1.1] Schedule 1, item 9**

6 *omit*

7 **[1.2] Schedule 1, new item 19A**

8 *insert*

19A	SEMSOG	chief executive, Department of Justice and Community Safety
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9 **[1.3] Dictionary, definition of *ACT Emergency Management***
10 ***Committee***

11 *omit*

12 **[1.4] Dictionary, new definition of *SEMSOG***

13 *insert*

14 ***SEMSOG*** means the Security and Emergency Management Senior
15 Officials Group established under the *Emergencies Act 2004*,
16 section 141.

1 **Part 1.2** **Utilities (Electricity Restrictions)**
2 **Regulation 2004**

3 **[1.5] Section 3, note 1**

4 *substitute*

5 *Note 1* The dictionary at the end of this regulation defines certain terms used in
6 this regulation, and includes references (*signpost definitions*) to other
7 terms defined elsewhere.

8 For example, the signpost definition '*emergency controller*—see the
9 *Emergencies Act 2004*, dictionary' means that the term 'emergency
10 controller' is defined in that dictionary and the definition applies to this
11 regulation.

12 **[1.6] Section 12**

13 *omit*

14 the territory controller

15 *substitute*

16 an emergency controller

17 **[1.7] Dictionary, new definition of *emergency controller***

18 *insert*

19 *emergency controller*—see the *Emergencies Act 2004*, dictionary.

20 **[1.8] Dictionary, definition of *territory controller***

21 *omit*

1 **Part 1.3 Utilities (Gas Restrictions)**
2 **Regulation 2005**

3 **[1.9] Section 3, note 1**

4 *substitute*

5 *Note 1* The dictionary at the end of this regulation defines certain terms used in
6 this regulation, and includes references (*signpost definitions*) to other
7 terms defined elsewhere.

8 For example, the signpost definition '*emergency controller*—see the
9 *Emergencies Act 2004*, dictionary' means that the term 'emergency
10 controller' is defined in that dictionary and the definition applies to this
11 regulation.

12 **[1.10] Section 12**

13 *omit*

14 the territory controller

15 *substitute*

16 an emergency controller

17 **[1.11] Dictionary, note 2, 1st dot point**

18 *substitute*

- 19
 - chief executive (see s 163)

20 **[1.12] Dictionary, new definition of *emergency controller***

21 *insert*

22 *emergency controller*—see the *Emergencies Act 2004*, dictionary.

23 **[1.13] Dictionary, definition of *territory controller***

24 *omit*

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2010.

2 Notification

Notified under the Legislation Act on 2010.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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