

2020

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Police and Emergency Services)

Emergencies Amendment Bill 2020

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(Minister for Police and Emergency Services)

Emergencies Amendment Bill 2020

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 2020*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

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

7 **3 Legislation amended**

8 This Act amends the *Emergencies Act 2004*.

9 *Note* This Act also amends other legislation (see sch 1).

10 **4 Division 7.3.1A heading**

11 *substitute*

12 **Division 7.3.1A Emergency controller and deputy**
13 **emergency controller**

14 **5 Section 150A**

15 *substitute*

16 **150A Appointment of emergency controller**

17 (1) This section applies if the Chief Minister—

18 (a) is satisfied that—

19 (i) an emergency has happened, is happening or is likely to
20 happen; but

21 (ii) it is not necessary to declare a state of emergency; or

22 (b) declares that a state of emergency exists in relation to an
23 emergency.

- 1 (2) The Chief Minister—
- 2 (a) for subsection (1) (a)—may appoint a person to be the
- 3 emergency controller for the emergency; and
- 4 (b) for subsection (1) (b)—must appoint a person to be the
- 5 emergency controller for the declared state of emergency.
- 6 *Note 1* For the making of appointments (including acting appointments), see the
- 7 [Legislation Act](#), pt 19.3.
- 8 *Note 2* In particular, a person may be appointed for a particular provision of a
- 9 law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by
- 10 naming a person or nominating the occupant of a position (see [Legislation](#)
- 11 [Act](#), s 207).
- 12 *Note 3* If the Chief Minister is absent from duty or otherwise unable to exercise
- 13 the powers of Chief Minister, the Deputy Chief Minister acts as Chief
- 14 Minister (see [Australian Capital Territory \(Self-Government\)](#)
- 15 [Act 1988](#) (Cwlth), s 44).
- 16 (3) The [Legislation Act](#), division 19.3.3 (Appointments—Assembly
- 17 consultation) does not apply to an appointment under this section.
- 18 (4) The appointment of the emergency controller for an emergency under
- 19 subsection (1) (a) must be for a term of not longer than 28 days.
- 20 *Note* A person may be reappointed to a position if the person is eligible to be
- 21 appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1,
- 22 def *appoint*).
- 23 (5) If a person is appointed as the emergency controller for an emergency
- 24 under subsection (1) (a) and the Chief Minister declares a state of
- 25 emergency in relation to the emergency, the person is taken to be
- 26 appointed under subsection (2) (b) as the emergency controller for the
- 27 declared state of emergency.
- 28 (6) However, the Chief Minister may appoint someone else under
- 29 subsection (2) (b) to be the emergency controller for the declared state
- 30 of emergency.

- 1 (7) The appointment of a person as the emergency controller—
2 (a) for an emergency under subsection (1) (a)—ends on the earliest
3 of the following occurring:
4 (i) the appointment is revoked;
5 (ii) the person is taken to be the emergency controller for a
6 declared state of emergency under subsection (5);
7 (iii) another person is appointed to be the emergency controller
8 for a declared state of emergency as mentioned in
9 subsection (6);
10 (iv) the term of the appointment ends; or
11 (b) for a declared state of emergency under subsection (1) (b)—ends
12 if the appointment is revoked.
13 (8) The Chief Minister may be satisfied that an emergency is likely to
14 happen if the Chief Minister is satisfied that an event that has
15 happened or is happening, or a circumstance that exists, gives rise to
16 the likelihood of an emergency.

17 **6 Sections 150B and 150C headings**

18 *substitute*

19 **150B Functions of emergency controller**

20 **150C Emergency powers of emergency controller**

21 **7 Section 150C (2) (c)**

22 *omit*

23 an emergency controller

24 *substitute*

25 the emergency controller

1 **8 Section 150C (2) (d), new example**

2 *before the note, insert*

3 **Example—information**

4 personal health information or a health record

5 **9 Section 150C (2) (e)**

6 *omit*

7 animal substance

8 *substitute*

9 animal, substance

10 **10 New sections 150CA and 150CB**

11 *in division 7.3.1A, insert*

12 **150CA Appointment of deputy emergency controller**

13 (1) This section applies if the Chief Minister—

14 (a) is satisfied that—

15 (i) an emergency has happened, is happening or is likely to
16 happen; but

17 (ii) it is not necessary to declare a state of emergency; or

18 (b) declares that a state of emergency exists in relation to an
19 emergency.

- 1 (2) The Chief Minister may appoint a person to be the deputy emergency
2 controller for the emergency or declared state of emergency.
- 3 *Note 1* For the making of appointments (including acting appointments), see the
4 [Legislation Act](#), pt 19.3.
- 5 *Note 2* In particular, a person may be appointed for a particular provision of a
6 law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by
7 naming a person or nominating the occupant of a position (see [Legislation](#)
8 [Act](#), s 207).
- 9 *Note 3* If the Chief Minister is absent from duty or otherwise unable to exercise
10 the powers of Chief Minister, the Deputy Chief Minister acts as Chief
11 Minister (see [Australian Capital Territory \(Self-Government\)](#)
12 [Act 1988](#) (Cwth), s 44).
- 13 (3) The [Legislation Act](#), division 19.3.3 (Appointments—Assembly
14 consultation) does not apply to an appointment under this section.
- 15 (4) The appointment of the deputy emergency controller for an
16 emergency under subsection (1) (a) must be for a term of not longer
17 than 28 days.
- 18 *Note* A person may be reappointed to a position if the person is eligible to be
19 appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1,
20 def *appoint*).
- 21 (5) If a person is appointed as the deputy emergency controller for an
22 emergency under subsection (1) (a) and the Chief Minister declares a
23 state of emergency in relation to the emergency, the person is taken
24 to be appointed under subsection (2) as the deputy emergency
25 controller for the declared state of emergency.
- 26 (6) However, the Chief Minister may appoint someone else under
27 subsection (2) to be the deputy emergency controller for the declared
28 state of emergency.
- 29 (7) The Chief Minister may appoint a person to be the deputy emergency
30 controller only if the person has the management, professional and
31 technical expertise to exercise the deputy emergency controller’s
32 functions mentioned in section 150CB.

- 1 (8) The Chief Minister must consult the following people before
2 appointing a person to be the deputy emergency controller for the
3 emergency or declared state of emergency:
- 4 (a) if an emergency controller for the emergency has been
5 appointed under section 150A—the emergency controller;
- 6 (b) if an emergency controller for the emergency has not been
7 appointed under section 150A or will be appointed at the same
8 time as the deputy emergency controller—the Minister,
9 SEMSOG or both.
- 10 (9) The appointment of a person as the deputy emergency controller—
- 11 (a) for an emergency under subsection (1) (a)—ends on the earliest
12 of the following occurring:
- 13 (i) the appointment is revoked;
- 14 (ii) the person is taken to be the deputy emergency controller
15 for a declared state of emergency under subsection (5);
- 16 (iii) another person is appointed to be the deputy emergency
17 controller for a declared state of emergency as mentioned
18 in subsection (6);
- 19 (iv) the term of the appointment ends;
- 20 (v) the appointment of the emergency controller is revoked; or
- 21 (b) for a declared state of emergency under subsection (1) (b)—ends
22 if the appointment of the emergency controller is revoked.
- 23 (10) The Chief Minister may be satisfied that an emergency is likely to
24 happen if the Chief Minister is satisfied that an event that has
25 happened or is happening, or a circumstance that exists, gives rise to
26 the likelihood of an emergency.

1 **150CB Functions of deputy emergency controller**

2 The functions of the deputy emergency controller for an emergency
3 are—

4 (a) to support the emergency controller for the emergency to
5 perform the emergency controller's functions mentioned in
6 section 150B during the emergency, as directed by the
7 emergency controller; and

8 (b) if the emergency controller for the emergency is unavailable or
9 is, for any other reason, unable to perform the functions of the
10 emergency controller during the emergency—to act as the
11 emergency controller.

12 *Note* A person acting in a position under a standing acting arrangement has all
13 the functions (including authorities, duties and powers) of the occupant
14 of the position (in this case, the emergency controller)—see the
15 [Legislation Act](#), s 225B.

16 **11 Sections 159 to 160A**

17 *omit*

18 **12 Failure to comply with direction given under emergency
19 powers
20 Section 164 (1)**

21 *omit*

22 or section 160A (2) (a), (b), (c) or (d)

13 New sections 166A and 166B

insert

166A Emergency controller to advise Chief Minister and Minister

- (1) The emergency controller for an emergency must advise the Chief Minister and the Minister at least every 7 days about—
- (a) the status of the emergency; and
 - (b) if a state of alert is declared for the emergency—whether the emergency controller considers the declaration of the state of alert is still justified; and
 - (c) if a state of emergency is declared for the emergency—whether the emergency controller considers the declaration of the state of emergency is still justified; and
 - (d) whether the emergency controller considers the appointment of the emergency controller is still justified having regard to the status of the emergency.
- (2) A failure by the emergency controller to comply with subsection (1) (b), (c) or (d), does not affect the validity of the corresponding declaration under subsection (1) (b) or (c), or appointment under subsection (1) (d).

166B Revocation of state of alert and state of emergency declarations and appointment of emergency controller

- (1) The Minister must revoke a declaration of a state of alert, if the Minister decides, after taking into account any advice of the emergency controller under section 166A (1) (b), that the state of alert is no longer justified.

- 1 (2) The Chief Minister must revoke a declaration of a state of emergency,
2 if the Chief Minister decides, after taking into account any advice of
3 the emergency controller under section 166A (1) (c), that the state of
4 emergency is no longer justified.
- 5 (3) The Chief Minister must revoke the appointment of the emergency
6 controller if the Chief Minister decides, after taking into account any
7 advice of the emergency controller under section 166A (1) (d), that
8 the appointment is no longer justified.

9 **14 Compensation—emergencies**
10 **Section 169 (1)**

11 *omit*

12 section 150C (Emergency powers—no declared state of emergency)
13 or section 160A (Emergency powers—declared state of emergency)

14 *substitute*

15 section 150C (Emergency powers of emergency controller)

16 **15 Compensation for exercise of functions etc**
17 **Section 199 (1)**

18 *omit*

19 section 150C (Emergency powers—no declared state of emergency)
20 or section 160A (Emergency powers—declared state of emergency)

21 *substitute*

22 section 150C (Emergency powers of emergency controller)

23 **16 Section 199 (1), note**

24 *omit*

25 or s 160A

1 **17 Dictionary, new definition of *deputy emergency controller***

2 *insert*

3 *deputy emergency controller* means the person appointed under
4 section 150CA (2).

5 **18 Dictionary, definition of *emergency controller***

6 *substitute*

7 *emergency controller* means the person appointed under
8 section 150A (2).

1 **Schedule 1 Consequential amendments**

2 (see s 3)

3 **Part 1.1 Environment Protection Act 1997**

4 **[1.1] Section 6 (2), new definition of *emergency controller***

5 *insert*

6 *emergency controller*—see the [Emergencies Act 2004](#), dictionary.

7 **[1.2] Section 6 (2), definition of *relevant person*, new**
8 **paragraph (aa)**

9 *before paragraph (a), insert*

10 (aa) an emergency controller; or

11 **[1.3] Section 6 (2), definition of *relevant person*, new**
12 **paragraph (e) (ia)**

13 *before paragraph (e) (i), insert*

14 (ia) an emergency controller; or

15 **Part 1.2 Fuels Rationing Act 2019**

16 **[1.4] Section 16 (2), definition of *relevant person*, paragraph (a)**

17 *substitute*

18 (a) an emergency controller; or

19 **[1.5] Section 16 (2), definition of *relevant person*,**
20 **paragraph (f) (i)**

21 *substitute*

22 (i) an emergency controller; or

1 **Part 1.3** **Heritage Act 2004**

2 **[1.6] Section 7 (2), new definition of *emergency controller***

3 *insert*

4 *emergency controller*—see the [Emergencies Act 2004](#), dictionary.

5 **[1.7] Section 7 (2), definition of *relevant person*, new**
6 **paragraph (aa)**

7 *before paragraph (a), insert*

8 (aa) an emergency controller; or

9 **[1.8] Section 7 (2), definition of *relevant person*, new**
10 **paragraph (e) (ia)**

11 *before paragraph (e) (i), insert*

12 (ia) an emergency controller; or

13 **Part 1.4** **Lakes Act 1976**

14 **[1.9] Section 7 (2), new definition of *emergency controller***

15 *insert*

16 *emergency controller*—see the [Emergencies Act 2004](#), dictionary.

17 **[1.10] Section 7 (2), definition of *relevant person*, new**
18 **paragraph (aa)**

19 *before paragraph (a), insert*

20 (aa) an emergency controller; or

1 **[1.11] Section 7 (2), definition of *relevant person*, new**
2 **paragraph (e) (ia)**

3 *before paragraph (e) (i), insert*

4 (ia) an emergency controller; or

5 **Part 1.5 Nature Conservation Act 2014**

6 **[1.12] Section 7 (2), new definition of *emergency controller***

7 *insert*

8 *emergency controller*—see the [Emergencies Act 2004](#), dictionary.

9 **[1.13] Section 7 (2), definition of *relevant person*, new**
10 **paragraph (aa)**

11 *before paragraph (a), insert*

12 (aa) an emergency controller; or

13 **[1.14] Section 7 (2), definition of *relevant person*, new**
14 **paragraph (e) (ia)**

15 *before paragraph (e) (i), insert*

16 (ia) an emergency controller; or

17 **Part 1.6 Retirement Villages Act 2012**

18 **[1.15] Sections 107 (3A) (b) (i), note and 159 (2A) (b) (i), note**

19 *omit*

20 s 160A

21 *substitute*

22 s 150C

1 **Part 1.7** **Tree Protection Act 2005**

2 **[1.16] Section 19 (2), new definition of *emergency controller***

3 *insert*

4 *emergency controller*—see the [Emergencies Act 2004](#), dictionary.

5 **[1.17] Section 19 (2), definition of *relevant person*, new**
6 **paragraph (aa)**

7 *before paragraph (a), insert*

8 (aa) an emergency controller; or

9 **[1.18] Section 19 (2), definition of *relevant person*, new**
10 **paragraph (e) (ia)**

11 *before paragraph (e) (i), insert*

12 (ia) an emergency controller; or

13 **Part 1.8** **Waste Management and**
14 **Resource Recovery Act 2016**

15 **[1.19] Section 6 (2), new definition of *emergency controller***

16 *insert*

17 *emergency controller*—see the [Emergencies Act 2004](#), dictionary.

18 **[1.20] Section 6 (2), definition of *relevant person*, new**
19 **paragraph (aa)**

20 *before paragraph (a), insert*

21 (aa) an emergency controller; or

1 **[1.21] Section 6 (2), definition of *relevant person*, paragraph (b)**

2 *substitute*

3 (b) any other person under the control of—

4 (i) an emergency controller; or

5 (ii) the chief officer of an emergency service; or

6 **Part 1.9 Water Resources Act 2007**

7 **[1.22] Section 28 (3), new definition of *emergency controller***

8 *insert*

9 *emergency controller*—see the [Emergencies Act 2004](#), dictionary.

10 **[1.23] Section 28 (3), definition of *relevant person*, new**
11 **paragraph (aa)**

12 *before paragraph (a), insert*

13 (aa) an emergency controller; or

14 **[1.24] Section 28 (3), definition of *relevant person*, new**
15 **paragraph (e) (ia)**

16 *before paragraph (e) (i), insert*

17 (ia) an emergency controller; or

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 20 August 2020.

2 Notification

Notified under the [Legislation Act](#) on 2020.

3 Republications of amended laws

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