

2014

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

EMERGENCIES AMENDMENT BILL 2014

**SUPPLEMENTARY
EXPLANATORY STATEMENT**

GOVERNMENT AMENDMENTS

**Presented by
Simon Corbell MLA
Minister for Police and Emergency Services**

EMERGENCIES AMENDMENT BILL 2014

GOVERNMENT AMENDMENTS

SUPPLEMENTARY EXPLANATORY STATEMENT

Definition of ‘Coordination of an Emergency’ for Section 8A

Amendment [1] inserts a definition of ‘coordination of an emergency’ for the purposes of Section 8A.

Coordination of an Emergency is defined as *the bringing together of the emergency services and other agencies and resources to support the response to the emergency*, which is derived from the Australasian Inter-Service Incident Management System (AIIMS) which is a common incident management system that supports all ACT emergency services in managing emergencies.

Inclusion of Section 8A in 2012

Section 8A was introduced through the *Emergencies (Commissioner Directions) Amendment Act 2012* to provide the Commissioner with the powers to direct a chief officer to undertake response and recovery operations in relation to an emergency.

The Explanatory Statement for that Act Bill stated,

“The Emergencies (Commissioners Directions) Bill (the Bill) provides the Emergency Services Commissioner (the commissioner) with the express authority to give directions to the chief officers of the emergency services.

The need to address this gap reflects contemporary findings and lessons learned, including those from the Victorian Bushfires Royal Commission and the initial observations of the report by Neil Comrie into the 2010-2011 floods in Victoria.

The Bill further strengthens the ACT’s statutory arrangements to ensure they remain at the forefront of emergency management nationally for high level control and coordination.

The existing functions of the commissioner provide for the overall strategic direction and management of the emergency services and ensure each agency is prepared for emergencies. Section s.35 (3) of the *Emergencies Act 2004* (the Act), provides that a direction by a chief officer “*must, if practicable, be in accordance with any direction of the commissioner and the commissioner’s guidelines*”, however no express provisions are established for the commissioner to give direction to chief officers during an emergency event, as defined by the *Emergencies Act 2004* (the Act).

While commissioners guidelines may be prepared under the Act to make provision for the operation of the emergency services, they do not necessarily provide for effective and timely decision making by the commissioner relating to the joint operations of services during specific emergency situations that allows consideration of the range of circumstances that may arise requiring immediate direction to be provided.

The Bill provides for the commissioner to direct a chief officer to undertake response or recovery operations in relation to the emergency. This section only applies to an emergency other than one for which an emergency controller is appointed, and the commissioner may not direct the chief officer to undertake an operation in a particular way.”

The explanatory statement further stated,

Under the Act, an emergency is defined as “*an actual or imminent event that requires a significant and coordinated response*”. In the context of this definition, the intended effect of the new Section 8A is that the commissioner should have the ability to give direction under certain situations, where the scale and complexity of the emergency is, or is likely to be, significant and may exceed the traditional scope of one or more emergency service.

For example if an incident occurred that was attended by a single emergency service, the commissioner may direct the chief officer of another service to provide additional resources to ensure the optimum capability of the Territory is made available to respond.

Likewise if an incident occurred that required the provision of supporting agencies or services to support response to an incident (for example: support for the provision of public information), the commissioner may direct a chief officer to establish arrangements for the provision of this support.

New Section 8A (3) establishes that the commissioner may not direct the chief officer to undertake an operation in a particular way. This clarifies that it is not intended that the commissioner’s direction making power should usurp, or result in ambiguity or conflict in relation to the powers of the chief officers during an emergency, and the existing responsibility of each chief officer to manage and control the emergency service he or she is appointed to lead.”

Interpretation of section 8A

There is concern that section 8A, which supports the Commissioner role, and particularly section 8A (3) which establishes that the commissioner may not direct the chief officer to undertake an operation in a particular way, could potentially lead to ambiguity and undermine a shared understanding of the Commissioners role and power in an emergency.

This amendment to Section 8A seeks to clarify the Commissioners responsibility for effective coordination of an emergency. Section 8A was introduced to ensure the Commissioner had sufficient power to play a direct role in coordinating an emergency response.

The amendment to Section 8A outlines that, for the effective coordination of the emergency, the commissioner may direct a chief officer to undertake response or recovery operations.

The insertion of ‘for the effective coordination of an emergency’, clarifies that the intent of the power is to ensure the Commissioner has overall responsibility and accountability for our emergency operations.

Coordination is a well defined emergency management concept that may be differentiated to command and control, and underpins any multi-agency response to an emergency.

The Victorian Royal Commission into the 2009 Bushfires stated it appeared to the Royal Commission that the concept of coordination became rather distorted, with senior fire agency personnel describing their role as ‘coordinating’ the response to the fires rather than actively exercising control or command. The Royal Commission further explained that in the emergency management context, ‘coordination’ describes a specific role, which necessitated active monitoring of an emergency situation and ensuring that specific outcomes were being achieved¹.

The Australasian Inter-service Incident Management System (AIIMS) framework states that uniform terminology is critical for incident management. It is imperative that there is a shared understanding of the concepts of command, control and coordination and that all emergency services and agencies work together to deliver the most effective and coordinated response in times of an emergency.

The following describes the concepts of command, control and coordination, which are derived from concepts explained in the Emergency Management Australia Multi-Agency Incident Management Manual (Manual 17)² and the Australasian Inter-Service Incident Management System 4th Edition³.

¹ Victorian Royal Commission into the 2009 Bushfires, Volume 2, page 74, www.royalcommission.vic.gov.au

² Emergency Management Australia (EMA), Multi-Agency Incident Management Manual 17 www.ema.gov.au

³ Australasian Fire and Emergency Service Authorities Council (AFAC), Australasian Inter-Service Incident Management System (AIIMS) 4th Edition www.afac.com.au

Command is the direction of members and resources in an emergency service, to achieve that agency's role and tasks. Command operates vertically within each emergency service.

In the ACT, the authority to command is established for Chief Officers of the Services through Chapter 3 of the *Emergencies Act 2004*.

Control is the overall direction of emergency management activities in an emergency or disaster situation. Control relates to situations and operates horizontally across the all resources deployed to the incident, irrespective of the service or agency. The function of control carries with it the responsibility for tasking other agencies in accordance with the needs of the situation.

In the ACT context, control of an emergency is achieved through the appointment of an Incident Controller, usually from the lead agency or service that is responsible for managing the response to the emergency. The powers of an Incident Controller are delegated from a Chief Officer or Emergency Controller which are contained in the *Emergencies Act*. Lead agencies for emergencies are outlined in the ACT Emergency Plan.

Coordination is the “*bringing together of organisations and other resources to support an emergency management response*” (AIIMS). Coordination is primarily concerned with the systematic acquisition and application of resources - organisational, personnel and equipment - in accordance with the requirements imposed by the hazard or impact of an emergency.

The amendment to Section 8A of the *ACT Emergencies Act 2004* clarifies the Commissioner's powers to provide direction to chief officers is to achieve the effective coordination of an emergency.

The amendments to Section 8A are consistent with recognised universal principles and doctrine underpinning the coordination of a response to emergencies.

The amendments and the wider emergency management framework make it clear that:

- Command is the responsibility of Chief Officers and delegated to Incident Controllers.
- Control occurs across services and agencies and is the responsibility of an Incident Controller.

- Coordination is the responsibility of the Emergency Services Commissioner, unless an Emergency Controller is appointed by the Chief Minister.

It is highly appropriate that the power and authority to direct Chief Officers for the effective coordination of an emergency in Section 8A, rests in the hands of the ACT Emergency Services Commissioner. The objects of the Act make it clear that it is the responsibility of the Commissioner to provide for the effective and cohesive management of the four emergency services and Section 8 (1) of the Act also clarifies the Emergency Services Commissioner is responsible for the overall strategic direction and management of the emergency services.

The amendments made to section 8A confirm the Commissioner has the power to provide direction to Chief Officers in an emergency for the purposes of effectively coordinating response and recovery operations. The power does not extend to the Commissioner giving commands to members or volunteers in each of the services, including Incident Controllers, or taking over the role of Incident Controller in controlling the response or recovery operations.