

NORTHERN TERRITORY OF AUSTRALIA

EMERGENCY MANAGEMENT ACT 2013

Act No. 27 of 2013

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 27 of 2013

An Act to provide for matters relating to emergency management, and for related matters

[Assented to 8 November 2013]
[Second reading 28 August 2013]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

Division 1 Introductory matters

1 Short title

This Act may be cited as the *Emergency Management Act 2013*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Division 2 Operation of Act

3 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

4 Limitation on application of Act

This Act does not authorise a person to do, or make preparations to do, any of the following:

- (a) engage in armed combat;
- (b) put down a riot or other civil disturbance;
- (c) end a strike or lockout.

5 Interaction with other Acts

During an emergency situation, state of emergency or state of disaster, this Act prevails to the extent of any inconsistency with another Act.

6 Conflict of duties

- (1) This section applies to a police officer who is appointed as any of the following:
 - (a) a Regional Controller;
 - (b) a Local Controller;
 - (c) a Regional Recovery Coordinator;
 - (d) a Local Recovery Coordinator.
- (2) This Act prevails to the extent of any inconsistency between the police officer's duties under this Act and his or her duties under the *Police Administration Act*.

7 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 7

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Division 3 Interpretation

8 Definitions

In this Act:

affected area means:

- (a) for an emergency situation – the area in which the emergency situation exists; or
- (b) for a state of emergency – the area in which the state of emergency exists; or
- (c) for a state of disaster – the area in which the state of disaster exists.

approved emergency plan means a plan approved under section 10(3), 13(2) or 16(2).

authorised officer, see section 98.

chairperson means:

- (a) for the Council – the co-chairpersons of the Council mentioned in section 42; or
- (b) for a Regional Emergency Committee – the chairperson of the Committee mentioned in section 63; or
- (c) for a Regional Recovery Coordination Committee – the chairperson of the Committee mentioned in section 74; or
- (d) for a Local Emergency Committee – the chairperson of the Committee mentioned in section 85; or
- (e) for a Local Recovery Coordination Committee – the chairperson of the Committee mentioned in section 96.

Council means the Territory Emergency Management Council established by section 36.

Director means the Director of the NTES mentioned in section 48.

disaster means an event that requires a significant coordinated response using the combined resources of the Territory, non-government entities within the Territory and resources from outside the Territory.

emergency means an event that requires a significant coordinated response using the combined resources of the Territory and non-government entities within the Territory.

emergency management body means any of the following:

- (a) the Council;
- (b) a Regional Emergency Committee;
- (c) a Local Emergency Committee;
- (d) a Regional Recovery Coordination Committee;
- (e) a Local Recovery Coordination Committee.

emergency operation means an activity (including training) to prevent, minimise, prepare for and respond to an event.

emergency planning means establishing plans, structures and arrangements for future emergency and recovery operations.

emergency situation, see section 18(1).

event means an occurrence, whether natural or caused by human acts or omissions, that:

- (a) causes or threatens to cause:
 - (i) loss of, or damage to, property; or
 - (ii) loss of life or injury or distress to persons; or
- (b) in any way endangers the safety of the public.

Local Controller, for a locality, means the Local Emergency Controller for the locality mentioned in section 76(1).

Local Emergency Committee, for a locality, means the Committee established for the locality under section 80.

local government area means a part of the Territory constituted as a local government area under section 9(1) of the *Local Government Act*.

local government council means a council constituted for a local government area under section 7(b) of the *Local Government Act*.

Local Recovery Coordination Committee, for a locality, means the Committee established for the locality under section 91.

Local Recovery Coordinator, for a locality, means the Local Recovery Coordinator for the locality mentioned in section 87.

locality means an area within a region.

Northern Territory Emergency Service means the Northern Territory Emergency Service continued in existence under section 44.

NTES means Northern Territory Emergency Service.

Power and Water Corporation means the Power and Water Corporation established by section 4 of the *Power and Water Corporation Act*.

recovery operation means an activity to assist with recovery from the effects of an event.

region means a region specified in a *Gazette* notice under section 27.

Regional Controller, for a region, means the Regional Emergency Controller for the region mentioned in section 54.

Regional Emergency Committee, for a region, means the Committee established for the region by section 58.

Regional Recovery Coordination Committee, for a region, means the Committee established for the region by section 69.

Regional Recovery Coordinator, for a region, means the Regional Recovery Coordinator for the region mentioned in section 65.

state of disaster means a state of disaster declared under section 21.

state of emergency means a state of emergency declared under section 19.

Territory Controller means the Territory Emergency Controller mentioned in section 28.

Territory Recovery Coordinator means the Territory Recovery Coordinator mentioned in section 32.

volunteer member means a member of the NTES appointed under section 52.

Part 2 Emergency plans

Division 1 Territory emergency plan

9 Preparation of Territory emergency plan

- (1) The Director must ensure that an emergency plan is prepared for the Territory.
- (2) The plan must provide a basis for coordinated emergency and recovery operations in the Territory.

10 Consideration and approval of Territory emergency plan

- (1) The Director must submit the emergency plan to the Council for consideration.
- (2) Before approving the plan, the Council may:
 - (a) make changes to the plan; or
 - (b) return the plan to the Director with recommended changes.
- (3) The Council may approve the plan by *Gazette* notice specifying:
 - (a) the name of the plan; and
 - (b) the place (which may be a website) at which the plan can be inspected.
- (4) The Director must ensure the plan is available for inspection at the place specified in the notice.

11 Review of Territory emergency plan

The Director must review the operation and effectiveness of the approved emergency plan for the Territory at least once every 12 months.

Division 2 Regional emergency plan

12 Preparation of regional emergency plan

- (1) The Territory Controller must ensure that an emergency plan is prepared for each region.
- (2) The plan must provide a basis for coordinated emergency and recovery operations in the region.

13 Approval of regional emergency plan

- (1) Before approving the emergency plan, the Territory Controller must consult:
 - (a) the Regional Controller for the region; and
 - (b) the Director.
- (2) The Territory Controller may approve the plan by *Gazette* notice specifying:
 - (a) the name of the plan; and
 - (b) the place (which may be a website) at which the plan can be inspected.
- (3) The Territory Controller must ensure the plan is available for inspection at the place specified in the notice.

14 Review of regional emergency plan

The Territory Controller must review the operation and effectiveness of the approved emergency plan for the region at least once every 12 months.

Division 3 Local emergency plan

15 Preparation of local emergency plan

- (1) If directed by the Council, the Territory Controller must ensure that an emergency plan is prepared for a locality.
- (2) The plan must provide a basis for coordinated emergency and recovery operations in the locality.

16 Consideration and approval of local emergency plan

- (1) Before approving the emergency plan, the Territory Controller must consult:
 - (a) the Local Controller for the locality; and
 - (b) the Director.
- (2) The Territory Controller may approve the plan by *Gazette* notice specifying:
 - (a) the name of the plan; and

- (b) the place (which may be a website) at which the plan can be inspected.
- (3) The Territory Controller must ensure the plan is available for inspection at the place specified in the notice.

17 Review of local emergency plan

The Territory Controller must review the operation and effectiveness of the approved emergency plan for the locality at least once every 12 months.

Part 3 Emergency management mechanisms

Division 1 Emergency situation

18 When an emergency situation exists

- (1) An *emergency situation* exists in an area during the following periods:
 - (a) from the time the Minister declares under subsection (2) that the emergency situation exists until the Minister declares under subsection (3) that the emergency situation no longer exists;
 - (b) from the time a state of disaster or a state of emergency is declared for the area until the Minister declares under subsection (3) that the emergency situation no longer exists in the area;
 - (c) from the time a tropical cyclone watch or warning is issued for the area by the Bureau of Meteorology until the earlier of the following:
 - (i) the end of the 3rd day after the day the watch or warning is issued;
 - (ii) the Minister declares under subsection (3) that the emergency situation no longer exists in the area.
- (2) The Minister, acting on the advice of the Council, may declare that an emergency situation exists in an area if:
 - (a) an event has occurred or is reasonably likely to occur; and
 - (b) the Minister is satisfied that the special powers under section 23 are necessary in the area for effective emergency and recovery operations in response to the event.

- (3) The Minister, acting on the advice of the Council, may declare that an emergency situation no longer exists in an area:
- (a) the Minister is satisfied that the special powers under section 23 are no longer necessary in the area; and
 - (b) neither a state of emergency nor a state of disaster exist in the area.
- (4) In this section:

Bureau of Meteorology means the Commonwealth Bureau of Meteorology established by the *Meteorology Act 1955* (Cth).

Division 2 State of emergency

19 Declaration of state of emergency

The Minister may declare that a state of emergency exists in an area if:

- (a) an emergency has occurred; and
- (b) the Minister is satisfied that the special powers under section 24 are necessary in the area for effective emergency and recovery operations in response to the emergency.

20 Duration of state of emergency

- (1) The state of emergency:
- (a) begins as soon as it is declared; and
 - (b) continues until the end of the 3rd day after the day it is declared unless, before that time:
 - (i) the declaration is revoked; or
 - (ii) a state of disaster is declared in the same area; or
 - (iii) the declaration is extended under subsection (2).
- (2) The Minister may extend the declaration for the periods, not exceeding 3 days in each case, as he or she considers necessary.

Division 3 State of disaster

21 Declaration of state of disaster

- (1) The Administrator may declare that a state of disaster exists in an area if:
 - (a) a disaster has occurred; and
 - (b) the Administrator is satisfied that the special powers under section 24 are necessary in the area for effective emergency and recovery operations in response to the disaster.
- (2) If the Administrator is unable to exercise the power to declare a state of disaster, a state of disaster may be declared by 2 Ministers acting jointly.

22 Duration of state of disaster

- (1) The state of disaster:
 - (a) begins as soon as it is declared; and
 - (b) continues until the end of the 7th day after it is declared unless, before that time, the declaration is:
 - (i) revoked; or
 - (ii) extended under subsection (2).
- (2) The Administrator may extend the declaration for the periods, not exceeding 14 days in each case, as he or she considers necessary.

Division 4 Special powers and duties

23 Special powers during emergency situation

- (1) During an emergency situation, an authorised officer may do any of the following to carry out emergency operations or recovery operations or to ensure adequate protection of life or property:
 - (a) direct a person to evacuate from, and remain outside, a specified place in the affected area;
 - (b) remove or direct another person to remove a person who does not comply with a direction under paragraph (a) from the place;
 - (c) direct the owner of anything in or near the affected area to remove or secure the thing;

- (d) remove or secure, or direct another person to remove or secure, anything in or near the affected area if the owner of the thing:
 - (i) does not comply with a direction to remove or secure the thing under paragraph (c); or
 - (ii) cannot be found within a reasonable time to give the owner a direction under paragraph (c);
 - (e) direct the owner or occupier of property in or near the affected area to place the property under the control of the authorised officer.
- (2) An authorised officer, or a person acting in accordance with the directions of an authorised officer, may use reasonable force to remove a person under subsection (1)(b) if necessary.
 - (3) The cost of removing or securing a thing under subsection (1)(d) is a debt due and payable to the Territory by the owner or occupier of the thing.
 - (4) An owner or occupier of property who suffers loss because the property is placed under the control of an authorised officer under subsection (1)(e) is entitled to receive compensation for the loss in accordance with Part 6.

24 Special powers during state of emergency or disaster

- (1) During a state of emergency or disaster, an authorised officer may do any of the following to carry out emergency operations or recovery operations or to ensure adequate protection of life or property:
 - (a) direct a person to assist in tasks to save life or property in immediate danger in the affected area;
 - (b) direct the owner or person in charge of a place of business, worship or entertainment in the affected area to close the place to the public for a specified period;
 - (c) using reasonable force if necessary, enter a place in the affected area;
 - (d) close a place open to or used by the public, including a road.

Note for subsection (1)

Under section 18(1)(b), an emergency situation exists during a state of emergency or disaster. As a result, an authorised officer also has special powers under section 23 during a state of emergency or disaster.

(2) In this section:

road, see section 5(1) of the *Control of Roads Act*.

25 Duties of Chief Executive Officers

During an emergency situation, a state of emergency or a state of disaster, the Chief Executive Officer of an Agency must act in accordance with:

- (a) any relevant approved emergency plan; and
- (b) the directions of the Territory Controller in relation to emergency operations; and
- (c) the directions of the Territory Recovery Coordinator in relation to recovery operations.

Part 4 Emergency management structure

Division 1 Preliminary matters

26 Overview of emergency management structure

- (1) Emergency management in the Territory is organised on a Territory, regional and local level.
- (2) The Council oversees all emergency management, including recovery operations, in the Territory.
- (3) The Territory Controller controls and directs all emergency operations in the Territory and oversees the preparation of emergency plans for regions and localities.
- (4) The Territory Recovery Coordinator coordinates and directs all recovery operations in the Territory.
- (5) Regional and Local Emergency Committees oversee emergency planning and emergency operations in regions and localities.
- (6) Regional and Local Controllers supervise emergency planning and emergency operations in regions and localities.
- (7) Regional and Local Recovery Coordination Committees oversee recovery operations in regions and localities.
- (8) Regional and Local Recovery Coordinators supervise recovery operations in regions and localities.

- (9) The NTES conducts a wide range of emergency management activities, including emergency planning, emergency operations and recovery operations.

27 Regions

The Council may, by *Gazette* notice, divide the Territory into regions for this Act.

Division 2 Territory Emergency Controller

28 Territory Emergency Controller

The Commissioner of Police is the Territory Emergency Controller.

29 Functions of Territory Controller

The Territory Controller has the following functions:

- (a) to control and direct emergency operations in the Territory;
- (b) to ensure emergency plans are prepared for regions and localities and to consider such plans for approval;
- (c) any other functions conferred on the Territory Controller by the Council or by this or any other Act.

30 Powers of Territory Controller

The Territory Controller has the following powers:

- (a) the powers necessary to perform his or her functions;
- (b) any other powers conferred on the Territory Controller by this or any other Act.

31 Territory Controller subject to directions

The Territory Controller is subject to the directions of the Council.

Division 3 Territory Recovery Coordinator

32 Territory Recovery Coordinator

The Chief Executive Officer of the Department of the Chief Minister is the Territory Recovery Coordinator.

33 Functions of Territory Recovery Coordinator

The Territory Recovery Coordinator has the following functions:

- (a) to coordinate and direct recovery operations in the Territory;
- (b) any other functions conferred on the Territory Recovery Coordinator by the Council or by this Act.

34 Powers of Territory Recovery Coordinator

The Territory Recovery Coordinator has the following powers:

- (a) the powers necessary to perform his or her functions;
- (b) any other powers conferred on the Territory Recovery Coordinator by this Act.

35 Territory Recovery Coordinator subject to directions

The Territory Recovery Coordinator is subject to the directions of the Council.

Division 4 Territory Emergency Management Council

36 Establishment of Council

The Territory Emergency Management Council is established.

37 Functions of Council

The Council has the following functions:

- (a) to direct resources for emergency operations and recovery operations in the Territory;
- (b) to advise the Minister in relation to emergency planning, emergency operations and recovery operations in the Territory;
- (c) to consider emergency plans for the Territory for approval;
- (d) to advise, assist and, if necessary, direct the Territory Controller, the Territory Recovery Coordinator and the Director in the exercise of their powers and the performance of their functions;
- (e) any other functions conferred on it by this or any other Act.

38 Powers of Council

The Council has the following powers:

- (a) the powers necessary to perform its functions;
- (b) any other powers conferred on it by this or any other Act.

39 Council subject to directions

The Council is subject to the directions of the Minister.

40 Membership of Council

(1) The Council consists of the following members:

- (a) the Territory Controller;
- (b) the Territory Recovery Coordinator;
- (c) the Director;
- (d) subject to subsection (2), at least 3 other members appointed by the Minister.

(2) The Minister may appoint a member to represent the Commonwealth only with the consent of the Commonwealth.

41 How member may be appointed

For section 40(1)(d), the Minister may appoint:

- (a) a person by name; or
- (b) a person by reference to the office, position or designation held or occupied by the person; or
- (c) a person from time to time holding or occupying a named office, position or designation.

42 Co-chairpersons of Council

The Territory Controller and the Territory Recovery Coordinator are co-chairpersons of the Council.

43 Procedures of Council

The procedures of the Council are specified in Schedule 1.

Division 5 Northern Territory Emergency Service

44 Continuation of Northern Territory Emergency Service

The Northern Territory Emergency Service that was, immediately before the commencement of section 116 of this Act, in existence under section 17 of the *Disasters Act*, continues in existence under the same name.

45 Membership of NTES

The NTES consists of the following members:

- (a) the Director;
- (b) the Commissioner of Police;
- (c) each public sector employee employed in the NTES;
- (d) each volunteer member.

46 Functions of NTES

The NTES has the following functions:

- (a) to conduct rescue operations, emergency operations and recovery operations, whether or not a state of disaster, state of emergency or emergency situation exists;
- (b) to advise, assist, educate and train members of the public and organisations, including Agencies and volunteer organisations, in emergency planning and operations;
- (c) to develop and install communications and operational facilities that may be required by the NTES for emergency planning and emergency operations and recovery operations;
- (d) any other functions conferred on it by the Council or by this or any other Act.

47 Powers of NTES

The NTES has the following powers:

- (a) the powers necessary to perform its functions;
- (b) any other powers conferred on it by this or any other Act.

48 Director of NTES

The Minister must appoint a public sector employee to be the Director of the NTES.

49 Functions of Director

The Director has the following functions:

- (a) to determine the policy and procedures of the NTES;
- (b) to administer and direct the NTES;
- (c) to coordinate any Commonwealth support provided to the Territory for emergency planning, emergency operations and recovery operations;
- (d) to ensure emergency plans are prepared for the Territory;
- (e) to advise and assist Regional and Local Controllers in the performance of their functions;
- (f) any other functions conferred on the Director by the Council or by this or any other Act.

50 Powers of Director

The Director has the following powers:

- (a) the powers necessary to perform his or her functions;
- (b) any other powers conferred on the Director by this Act.

51 Director subject to directions

The Director is subject to the directions of the Territory Controller.

52 Volunteer members

The Director may appoint volunteer members of the NTES.

53 Volunteer units

- (1) The Director may establish a volunteer unit within the NTES for a locality.
- (2) The Director must appoint a volunteer member to be the unit officer for each volunteer unit.

- (3) The unit officer has the following functions:
 - (a) to supervise the activities of the unit and ensure that the Director's instructions and the policies and procedures of the NTES are complied with;
 - (b) to develop the capacity of the unit to effectively carry out emergency operations;
 - (c) during emergency operations – to maintain close liaison with the Local Controller for the locality and ensure that the volunteer unit provides the maximum assistance possible to the Local Controller;
 - (d) any other functions conferred on the unit officer by the Director or by this Act.
- (4) The unit officer has the powers necessary to perform his or her functions.
- (5) The unit officer is responsible for the care and maintenance of equipment made available to the volunteer unit by the Director.

Division 6 Regional Emergency Controller

54 Appointment of Regional Controller

For each region, the Territory Controller must appoint a police officer to be the Regional Emergency Controller.

55 Functions of Regional Controller

- (1) The Regional Controller for a region has the following functions:
 - (a) to supervise emergency operations in the region;
 - (b) to ensure that the Territory Controller's instructions, policies and procedures are complied with;
 - (c) any other functions conferred on the Regional Controller by the Territory Controller or by this Act.
- (2) The Regional Controller is responsible for the care and maintenance of equipment made available to the region by the NTES.

56 Powers of Regional Controller

The Regional Controller for a region has the following powers:

- (a) the powers necessary to perform his or her functions;
- (b) any other powers conferred on the Regional Controller by this Act.

57 Regional Controller subject to directions

Each Regional Controller is subject to the directions of the Territory Controller.

Division 7 Regional Emergency Committee

58 Establishment of Regional Emergency Committee

A Regional Emergency Committee is established for each region.

59 Functions of Regional Emergency Committee

The Regional Emergency Committee for a region has the following functions:

- (a) to direct resources for emergency operations in the region;
- (b) to advise and assist the Regional Controller of the region in the exercise of his or her powers and the performance of his or her functions;
- (c) any other functions conferred on the Committee by the Council or by this Act.

60 Powers of Regional Emergency Committee

A Regional Emergency Committee for a region has the following powers:

- (a) the powers necessary to perform its functions;
- (b) any other powers conferred on it by this Act.

61 Membership of Regional Emergency Committee

(1) The Regional Emergency Committee for a region consists of the following members:

- (a) the Regional Controller for the region;
- (b) each Local Controller for a locality in the region;

- (c) at least 12 persons appointed by the Council as mentioned in subsection (2);
 - (d) any other person the Committee considers necessary or desirable to appoint.
- (2) Of the persons appointed under subsection (1)(c):
- (a) one must be a member of the NTES mentioned in section 45(c) and nominated by the Director; and
 - (b) one must be nominated by the Chief Fire Officer (as defined in section 3(1) of the *Fire and Emergency Act*); and
 - (c) one must be nominated by the Bushfires Council established under section 6 of *Bushfires Act*; and
 - (d) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for health; and
 - (e) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for community welfare services; and
 - (f) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for infrastructure; and
 - (g) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for roads and transport; and
 - (h) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for education; and
 - (i) one must be nominated by the Chief Executive Officer of the Department of the Chief Minister; and
 - (j) one must be nominated by the Chief Executive Officer of the Power and Water Corporation; and
 - (k) each local government council for a local government area in (or partly in) the region must nominate one person; and
 - (l) one must be nominated by the Regional Controller for the region to represent non-government welfare agencies.

62 How member may be appointed

For section 61(1)(c) and (d), the Council or the Committee may appoint:

- (a) a person by name; or

- (b) a person by reference to the office, position or designation held or occupied by the person; or
- (c) a person from time to time holding or occupying a named office, position or designation.

63 Chairperson of Regional Emergency Committee

The Regional Controller for a region is the chairperson of the Regional Emergency Committee for the region.

64 Procedures of Regional Emergency Committee

The procedures of each Regional Emergency Committee are specified in Schedule 1.

Division 8 Regional Recovery Coordinator

65 Appointment of Regional Recovery Coordinator

The Territory Recovery Coordinator may appoint a Regional Recovery Coordinator for a region that has been affected by an event.

66 Functions of Regional Recovery Coordinator

- (1) The Regional Recovery Coordinator for a region has the following functions:
 - (a) to coordinate the assessment of recovery and restoration requirements in the region;
 - (b) to direct and coordinate recovery operations in the region in accordance with any relevant approved emergency plan;
 - (c) to ensure that the Territory Recovery Coordinator's instructions, policies and procedures are complied with;
 - (d) any other functions conferred on the Regional Recovery Coordinator by the Territory Recovery Coordinator or by this Act.
- (2) The Regional Recovery Coordinator is responsible for the care and maintenance of equipment made available to the region by the Territory.

67 Powers of Regional Recovery Coordinator

The Regional Recovery Coordinator for a region has the following powers:

- (a) the powers necessary to perform his or her functions;
- (b) any other powers conferred on the Regional Recovery Coordinator by this Act.

68 Regional Recovery Coordinator subject to directions

The Regional Recovery Coordinator for a region is subject to the directions of the Territory Recovery Coordinator.

Division 9 Regional Recovery Coordination Committee

69 Establishment of Regional Recovery Coordination Committee

If a Regional Recovery Coordinator is appointed for a region, a Regional Recovery Coordination Committee for the region is established.

70 Functions of Regional Recovery Coordination Committee

A Regional Recovery Coordination Committee for a region has the following functions:

- (a) to direct resources for recovery operations in the region;
- (b) to advise and assist the Regional Recovery Coordinator for the region in the exercise of his or her powers and the performance of his or her functions;
- (c) any other functions conferred on it by the Territory Recovery Coordinator or this Act.

71 Powers of Regional Recovery Coordination Committee

A Regional Recovery Coordination Committee has the following powers:

- (a) the powers necessary to perform its functions;
- (b) any other powers conferred on it by this Act.

72 Membership of Regional Recovery Coordination Committee

- (1) The Regional Recovery Coordination Committee for a region consists of the following members:
 - (a) the Regional Recovery Coordinator for the region;
 - (b) the Regional Controller for the region;
 - (c) each Local Recovery Coordinator for a locality in (or partly in) the region;
 - (d) at least 11 persons appointed by the Council as mentioned in subsection (2);
 - (e) any other person the Committee considers necessary or desirable to appoint.
- (2) Of the persons appointed under subsection (1)(d):
 - (a) one must be a member of the NTES mentioned in section 45(c) and nominated by the Director; and
 - (b) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for health; and
 - (c) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for community welfare services; and
 - (d) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for public housing; and
 - (e) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for infrastructure; and
 - (f) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for roads and transport; and
 - (g) one must be nominated by the Chief Executive Officer of the Agency primarily responsible for education; and
 - (h) one must be nominated by the Chief Executive Officer of the Department of the Chief Minister; and
 - (i) one must be nominated by the Chief Executive Officer of the Power and Water Corporation; and
 - (j) each local government council for a local government area in (or partly in) the region must nominate one person; and

- (k) one must be nominated by the Regional Recovery Coordinator for the region to represent non-government welfare agencies.

73 How member may be appointed

For section 72(1)(d) and (e), the Council or the Committee may appoint:

- (a) a person by name; or
- (b) a person by reference to the office, position or designation held or occupied by the person; or
- (c) a person from time to time holding or occupying a named office, position or designation.

74 Chairperson of Regional Recovery Coordination Committee

The Regional Recovery Coordinator for a region is the chairperson of the Regional Recovery Coordination Committee for the region.

75 Procedures of Regional Recovery Coordination Committee

The procedures of each Regional Recovery Coordination Committee are specified in Schedule 1.

Division 10 Local Emergency Controller

76 Appointment of Local Controller

- (1) The Territory Controller may appoint a Local Emergency Controller for a locality if the Territory Controller considers it necessary to do so.
- (2) The person appointed must be:
 - (a) if a police station is situated in the locality – the officer in charge of the police station; or
 - (b) otherwise – either:
 - (i) a resident of the locality; or
 - (ii) a police officer.

77 Functions of Local Controller

- (1) The Local Controller for a locality has the following functions:
 - (a) to supervise emergency operations in the locality;

- (b) to ensure that the instructions, policies and procedures of the Territory Controller and the Regional Controller for the region in which the locality is located are complied with;
 - (c) any other functions conferred on the Local Controller by the Territory Controller, the Regional Controller or by this Act.
- (2) The Local Controller is responsible for the care and maintenance of equipment made available to him or her by the NTES.

78 Powers of Local Controller

The Local Controller for a locality has the following powers:

- (a) the powers necessary to perform his or her functions;
- (b) any other powers conferred on the Local Controller by this Act.

79 Local Controller subject to directions

The Local Controller is subject to the directions of the Regional Controller for the region in which the locality is located.

Division 11 Local Emergency Committee

80 Establishment of Local Emergency Committee

If a Local Controller has been appointed for a locality, the Territory Controller may establish a Local Emergency Committee for the locality.

81 Functions of Local Emergency Committee

The Local Emergency Committee for a locality has the following functions:

- (a) to advise and assist the Local Controller for the locality in the exercise of his or her powers and the performance of his or her functions;
- (b) any other functions conferred on the Committee by the Council or by this Act.

82 Powers of Local Emergency Committee

The Local Emergency Committee has the following powers:

- (a) the powers necessary to perform its functions;
- (b) any other powers specified by this Act.

83 Membership of Local Emergency Committee

The Local Emergency Committee for a locality consists of the following members:

- (a) the Local Controller for the locality;
- (b) one person (who must be a member of the NTES mentioned in section 45(c)) appointed by the Council on the nomination of the Director;
- (c) any other person the Committee considers necessary or desirable to appoint.

84 How member may be appointed

For section 83(b) and (c), the Council or the Committee may appoint:

- (a) a person by name; or
- (b) a person by reference to the office, position or designation held or occupied by the person; or
- (c) a person from time to time holding or occupying a named office, position or designation.

85 Chairperson of Local Emergency Committee

The Local Controller for a locality is the chairperson of the Local Emergency Committee for the locality.

86 Procedures of Local Emergency Committee

The procedures of each Local Emergency Committee are specified in Schedule 1.

Division 12 Local Recovery Coordinator

87 Appointment of Local Recovery Coordinator

The Regional Recovery Coordinator for a region that has been affected by an event may appoint a Local Recovery Coordinator for a locality within the region.

88 Functions of Local Recovery Coordinator

- (1) The Local Recovery Coordinator for a locality has the following functions:
 - (a) to coordinate the assessment of recovery and restoration requirements in the locality;
 - (b) to direct and coordinate recovery operations in the locality in accordance with any relevant approved emergency plan;
 - (c) to ensure that the instructions, policies and procedures of the Territory Recovery Coordinator and the Regional Recovery Coordinator for the region in which the locality is located are complied with;
 - (d) any other functions conferred on the Local Recovery Coordinator by the Territory Recovery Coordinator, the Regional Recovery Coordinator or by this Act.
- (2) The Local Recovery Coordinator is responsible for the care and maintenance of equipment made available to the Local Recovery Coordinator by the Territory.

89 Powers of Local Recovery Coordinator

The Local Recovery Coordinator for a locality has the following powers:

- (a) the powers necessary to perform his or her functions;
- (b) any other powers conferred on the Local Recovery Coordinator by this or any other Act.

90 Local Recovery Coordinator subject to directions

The Local Recovery Coordinator for a locality is subject to the directions of the Regional Recovery Coordinator for the region in which the locality is located.

Division 13 Local Recovery Coordination Committee

91 Establishment of Local Recovery Coordination Committee

If a Local Recovery Coordinator is appointed for a locality, the Territory Recovery Coordinator may establish a Local Recovery Coordination Committee for the locality.

92 Functions of Local Recovery Coordination Committee

The Local Recovery Coordination Committee for a locality has the following functions:

- (a) to direct resources for recovery operations in the locality;
- (b) to advise and assist the Local Recovery Coordinator for the locality in the exercise of his or her powers and the performance of his or her functions;
- (c) any other functions conferred on it by the Territory Recovery Coordinator or the Regional Recovery Coordinator for the region in which the locality is located.

93 Powers of Local Recovery Coordination Committee

The Local Recovery Coordination Committee has the following powers:

- (a) the powers necessary to perform its functions;
- (b) any other powers conferred on it by this Act.

94 Membership of Local Recovery Coordination Committee

The Local Recovery Coordination Committee for a locality consists of the following members:

- (a) the Local Recovery Coordinator for the locality;
- (b) the Local Controller for the locality;
- (c) any other person the Committee considers necessary or desirable to appoint.

95 How member may be appointed

For section 94(c), the Committee may appoint:

- (a) a person by name; or
- (b) a person by reference to the office, position or designation held or occupied by the person; or
- (c) a person from time to time holding or occupying a named office, position or designation.

96 Chairperson of Local Recovery Coordination Committee

The Local Recovery Coordinator for a locality is the chairperson of the Local Recovery Committee for the locality.

97 Procedures of Local Recovery Coordination Committee

The procedures of each Local Recovery Committee are specified in Schedule 1.

Part 5 Enforcement

Division 1 Authorised officers

98 Authorised officers

- (1) Each of the following is an *authorised officer*.
- (a) the Territory Controller;
 - (b) the Territory Recovery Coordinator;
 - (c) the Director;
 - (d) within a region:
 - (i) the Regional Controller for the region; and
 - (ii) the Regional Recovery Coordinator for the region;
 - (e) within a locality:
 - (i) the Local Controller for the locality; and
 - (ii) the Local Recovery Coordinator for the locality;
 - (f) a police officer;
 - (g) a person appointed under subsection (2).
- (2) A person mentioned in subsection (1)(a) to (e) may appoint another person to be an authorised officer.

99 Issue of identity card

- (1) The Director must give each authorised officer who is not a police officer an identity card stating the person's name and that the person is an authorised officer.

- (2) The identity card must:
- (a) show a recent photograph of the authorised officer; and
 - (b) show the card's date of issue; and
 - (c) be signed by the authorised officer.

100 Return of identity card

- (1) A person who ceases to be an authorised officer must return the person's identity card to the Director within 21 days after the cessation.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

Division 2 Offences relating to authorised officers

101 Failure to comply with direction

- (1) A person commits an offence if:
- (a) an authorised officer gives the person a direction under section 23(1)(a), (c) or (e) or 24(1)(a) or (b); and
 - (b) the person knows the other person is an authorised officer acting in an official capacity; and
 - (c) the person engages in conduct that results in a contravention of the direction.

Maximum penalty: 100 penalty units or imprisonment for
12 months.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

102 Falsely representing to be authorised officer

- (1) A person commits an offence if the person:
- (a) represents, by words or conduct, that the person or another person is an authorised officer; and
 - (b) the representation is false; and

- (b) the officer was in a position to influence the conduct of the body corporate in relation to the commission of the offence; and
- (c) the officer failed to take reasonable steps to prevent the commission of the offence; and
- (d) the officer was reckless about whether the commission of the offence would happen.

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

- (2) This section does not affect the liability of the body corporate for the relevant offence.
- (3) This section applies whether or not the body corporate is prosecuted for, or convicted of, the relevant offence.
- (4) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.
- (5) In this section:

executive officer, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

Part 6 Compensation for loss

107 Definitions

In this Part:

claimant means the owner or occupier of property who suffers loss because the property is placed under the control of an authorised officer under section 23(1)(e).

108 Limitation on compensation

A claimant is not entitled to compensation from the Territory for a loss to the extent:

- (a) of any amount recovered or recoverable for the loss by the claimant under an insurance policy; or
- (b) that the conduct of the claimant contributed to the loss.

109 Application for compensation

- (1) The claimant may apply, in writing, to the Minister for compensation.
- (2) The application must state particulars of the loss, the amount claimed and the basis for the amount claimed.

110 Decision on application

- (1) The Minister must decide the application within 28 days after receiving it.
- (2) If the Minister is satisfied that the claimant is entitled to compensation, the Minister must accept the claim by giving written notice of acceptance to the claimant setting out:
 - (a) an offer to the claimant of the amount of compensation to which the Minister considers the claimant is entitled; and
 - (b) an explanation of how the amount was decided.
- (3) The claimant may, in writing:
 - (a) accept the offer; or
 - (b) reject the offer.
- (4) If the claimant accepts the offer, the Territory must pay the amount to the claimant.
- (5) If the Minister does not decide the application within 28 days after receiving it, the Minister is taken to have refused to pay compensation.

111 Application to court

If the Minister refuses to pay compensation or the claimant does not accept an offer of compensation, the claimant may apply to a court of competent jurisdiction to recover from the Territory the reasonable compensation that the court decides.

Part 7 Miscellaneous matters**112 Delegation**

- (1) Each of the following persons may delegate any of the person's powers and functions under this Act to another person:
 - (a) the Minister;

- (b) the Territory Controller;
 - (c) the Territory Recovery Coordinator;
 - (d) the Director;
 - (e) a Regional Controller;
 - (f) a Regional Recovery Coordinator;
 - (g) a Local Controller;
 - (h) a Local Recovery Coordinator.
- (2) However:
- (a) a Local Controller for a locality must not delegate any of his or her powers or functions without the written approval of the Regional Controller for the region in which the locality is located; and
 - (b) a Local Recovery Coordinator for a locality must not delegate any of his or her powers or functions without the written approval of the Regional Recovery Coordinator for the region in which the locality is located.

113 Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
- (a) a member of an emergency management body;
 - (b) an authorised officer;
 - (c) a member of the NTES.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

114 Protection of employment

- (1) This section applies if:
- (a) a person is required to conduct or assist in the conduct of functions under this Act during an emergency situation, a state of emergency or a state of disaster; and
 - (b) as a result, the person is absent from his or her usual employment.
- (2) The person is not liable for dismissal or loss of any of his or her usual employment rights or benefits (including long service leave, sick leave and recreation leave) only because the person is absent, whether or not the person's employer has consented to the absence.

115 Regulations

The Administrator may make regulations under this Act.

Part 8 Repeals and transitional matters

Division 1 Repeals

116 Repeals

The Acts specified in Schedule 2 are repealed.

Division 2 Transitional matters

Subdivision 1 Interpretation

117 Definitions

In this Division:

commencement day means the day on which section 116 commences.

repealed Act means the *Disasters Act* as in force immediately before the commencement day.

Subdivision 2 Office holders

118 Members of Council

A person who, immediately before the commencement day, was a member of the Northern Territory Counter Disaster Council appointed under section 7(2)(c) of the repealed Act is taken to be a member of the Territory Emergency Management Council appointed under section 40(1)(d) of this Act.

119 Members of Region Counter Disaster Planning Committee

A person who, immediately before the commencement day, was a member of a Region Counter Disaster Planning Committee for a region appointed under:

- (a) section 24(1)(b) of the repealed Act, is taken to be a member of the Regional Emergency Committee for the region appointed under section 61(1)(c) of this Act with reference to section 61(2)(a); and
- (b) section 24(1)(c) of the repealed Act, is taken to be a member of the Regional Emergency Committee for the region appointed under section 61(1)(c) of this Act with reference to section 61(2)(b); and
- (c) section 24(1)(d) of the repealed Act, is taken to be a member of the Regional Emergency Committee for the region appointed under section 61(1)(c) of this Act with reference to section 61(2)(c); and
- (d) section 24(1)(g) of the repealed Act, is taken to be a member of the Regional Emergency Committee for the region appointed under section 61(1)(c) of this Act with reference to section 61(2)(l).

120 Members of Local Counter Disaster Planning Committee

A person who, immediately before the commencement day, was a member of a Local Counter Disaster Council for a locality appointed under section 30(1)(b) of the repealed Act, is taken to be a member of the Local Emergency Committee for the locality appointed under section 83(b) of this Act.

121 Director of NTES

The person who, immediately before the commencement day, was the Director of the NTES under section 14 of the repealed Act, is taken to be the Director appointed under section 48 of this Act.

122 Regional Controllers

A person who, immediately before the commencement day, was a Regional Counter Disaster Controller for a region appointed under section 22 of the repealed Act, is taken to be the Regional Emergency Controller for the region appointed under section 54 of this Act.

123 Local Controllers

A person who, immediately before the commencement day, was a Local Counter Disaster Controller for a locality appointed under section 28 of the repealed Act, is taken to be the Local Emergency Controller for the locality appointed under section 76 of this Act.

124 Authorized persons

A person who, immediately before the commencement day, was an authorized person as defined in sections 37(4) and 38(5) of the repealed Act, is taken to be an authorised officer appointed under section 98(2) of this Act.

125 Voluntary members of NTES

A person who, immediately before the commencement day, was a voluntary member as defined in section 4 of the repealed Act is taken to be a volunteer member of the NTES appointed under section 52 of this Act.

Subdivision 3 Instruments

126 Regions

A notice of a division of the Territory into regions published in the *Gazette* under section 9(2)(b) of the repealed Act and in force immediately before the commencement day, is taken to be a notice dividing the Territory into regions published in the *Gazette* under section 27 of this Act.

127 Counter disaster plans

- (1) A counter disaster plan for the Territory approved by the Northern Territory Counter Disaster Council under section 9(1)(b) of the repealed Act and in force immediately before the commencement day, is taken to be an approved emergency plan for the Territory approved by the Territory Emergency Management Council under section 10(3) of this Act.

- (2) A counter disaster plan for a region approved by the Northern Territory Counter Disaster Council under section 9(1)(b) of the repealed Act and in force immediately before the commencement day, is taken to be an approved emergency plan for the region approved by the Territory Controller under section 13(2) of this Act.
- (3) A counter disaster plan for a locality approved by the Northern Territory Counter Disaster Council under section 9(1)(b) of the repealed Act and in force immediately before the commencement day, is taken to be an approved emergency plan for the locality approved by the Territory Controller under section 16(2) of this Act.
- (4) The Director must ensure a plan mentioned in subsection (1) is available for inspection by the public.
- (5) The Territory Controller must ensure a plan mentioned in subsection (2) or (3) is available for inspection by the public.

Part 9 Consequential amendments

128 Acts amended

Schedule 3 amends the Acts mentioned in it.

129 Regulations amended

Schedule 4 amends the regulations mentioned in it.

Schedule 1 Procedures of emergency management bodies

sections 43, 64, 75, 86 and 97

1 Procedures

Subject to this Act, an emergency management body may determine its own procedures.

2 Meetings

The chairperson of an emergency management body may convene a meeting of the body at any time.

3 Quorum at meeting

- (1) The quorum for a meeting of an emergency management body is a majority of members of the body, including the chairperson.
- (2) If a member of an emergency management body is unable to attend a meeting, the member may, in writing, appoint a person to attend the meeting as the member's proxy.

4 Presiding member at meeting

A meeting of an emergency management body must be presided over by the chairperson of the body.

5 Voting at meeting – Council

- (1) A decision at a meeting of the Council is determined by the majority vote of members present and voting.
- (2) If there is an equality of votes:
 - (a) the co-chairpersons have a joint casting vote; and
 - (b) if the co-chairpersons cannot agree how to cast the joint casting vote – the decision must be referred to the Minister for determination.

6 Voting at meeting – other bodies

- (1) A decision at a meeting of an emergency management body other than the Council is determined by the majority vote of members present and voting.
- (2) If there is an equality of votes, the chairperson has a casting vote.

7 Records of meetings

An emergency management body must keep accurate records of its meetings.

Schedule 2 Repealed Acts

section 116

| | |
|-------------------------------------|--------------------|
| <i>Disasters Act 1982</i> | Act No. 96 of 1982 |
| <i>Disasters Amendment Act 1988</i> | Act No. 52 of 1988 |
| <i>Disasters Amendment Act 2007</i> | Act No. 21 of 2007 |

Schedule 3 Acts amended

section 128

| Provision | Amendment | |
|---|---|---|
| | <i>omit</i> | <i>insert</i> |
| <i>Electricity Reform Act</i> | | |
| section 66 | <i>Disasters Act</i> | <i>Emergency Management Act</i> |
| <i>Fire and Emergency Act</i> | | |
| section 8(2)(d) | established under the <i>Disasters Act</i> | as defined in section 8 of the <i>Emergency Management Act</i> |
| <i>Food Act</i> | | |
| section 40 | <i>Disasters Act</i> (all references) | <i>Emergency Management Act</i> |
| <i>Notifiable Diseases Act</i> | | |
| section 28 | <i>Disasters Act</i> | <i>Emergency Management Act</i> |
| <i>Payroll Tax Act</i> | | |
| section 56(a) | section 4 of the <i>Disasters Act</i> | section 8 of the <i>Emergency Management Act</i> |
| <i>Public and Environmental Health Act</i> | | |
| section 47(1) | <i>Disasters Act</i> (all references) | <i>Emergency Management Act</i> |
| section 48(b) | Chairman of the Northern Territory Counter Disaster Council | chairperson, as defined in section 8 of the <i>Emergency Management Act</i> , of the Territory Emergency Management Council |
| section 48(b)(i) | <i>Disasters Act</i> | <i>Emergency Management Act</i> |

Rail Safety (National Uniform Legislation) Act

| | | |
|---|--|--|
| section 5(1), definition <i>emergency services</i> , paragraph (c) | mentioned in section 17 of the <i>Disasters Act</i> | defined in section 8 of the <i>Emergency Management Act</i> |
|---|--|--|

Water Supply and Sewerage Services Act

| | | |
|------------|----------------------|-------------------------------------|
| section 81 | <i>Disasters Act</i> | <i>Emergency Management Act</i> |
|------------|----------------------|-------------------------------------|

Workers Rehabilitation and Compensation Act

| | | |
|--------------|---|--|
| section 3(7) | Director, Regional Controller or Local Controller appointed under the <i>Disasters Act</i> | Territory, Regional or Local Controller, the Territory, Regional or Local Recovery Coordinator or the Director as defined in section 8 of the <i>Emergency Management Act</i> |
|--------------|---|--|

Schedule 4 Regulations amended

section 129

| Provision | Amendment | |
|---|--|--|
| | <i>omit</i> | <i>insert</i> |
| <i>Traffic Regulations</i> | | |
| regulations 3(1), definition <i>emergency vehicle</i> , 11, definition <i>provisional driver</i> , 55(1)(c) and 81C(1)(c) | within the meaning of the <i>Disasters Act</i> | under section 45 of the <i>Emergency Management Act</i> |
| <i>Work Health and Safety (National Uniform Legislation) Regulations</i> | | |
| regulation 5(1), definition <i>emergency service organisation</i> | under the <i>Disasters Act</i> | mentioned in section 52 of the <i>Emergency Management Act</i> |