

# Emergency Management (Amendment) Bill

No.

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# LEGISLATIVE ASSEMBLY

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Read 1° 5 October 1994

*(Brought in by Mr McNamara and Mr Gude)*

## A BILL

to amend the **Emergency Management Act 1986** and the **Victoria State Emergency Service Act 1987** and for other purposes.

## **Emergency Management (Amendment) Act 1994**

The Parliament of Victoria enacts as follows:

### PART 1—PRELIMINARY

#### *1. Purpose*

5

The purpose of this Act is to amend the **Emergency Management Act 1986** to improve the effectiveness of Victoria's emergency prevention, response and recovery arrangements and to make consequential amendments to the **Victoria State Emergency Service Act 1987**.

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Section headings appear in bold italics and are not part of the Act.  
(See **Interpretation of Legislation Act 1984**.)

**2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

**PART 2—AMENDMENTS TO EMERGENCY MANAGEMENT ACT 1986**

**3. Section 1 substituted**

For section 1 of the **Emergency Management Act 1986** substitute—

**“1. Purpose**

The purpose of this Act is to provide for the organisation of emergency management in Victoria.”

**4. Amendment of section 4**

(1) In section 4 (1) of the **Emergency Management Act 1986** the definition of “casual emergency worker” is repealed.

(2) In section 4 (1) of the **Emergency Management Act 1986** in the definition of “emergency”—

(a) after “property in Victoria” insert “or endangers or threatens to endanger the environment or an element of the environment in Victoria”;

(b) in paragraph (g) for “seige” substitute “siege”.

(3) In section 4 (1) of the **Emergency Management Act 1986**, insert the following definitions—

“emergency activity” means—

(a) performing a role or discharging a responsibility of an agency in accordance with DISPLAN or the state emergency recovery plan; or

(b) training or practising for an activity referred to in paragraph (a) or being on active standby duty; or

(c) travelling to or from the place where an activity referred to in paragraph (a) or (b) has occurred or is to occur;

5

**“emergency area”** means an emergency area declared under section 36A;

**“emergency management”** means the organisation and management of resources for dealing with all aspects of emergencies;

10

**“volunteer emergency worker”** means a volunteer worker who engages in emergency activity at the request (whether directly or indirectly) or with the express or implied consent of the chief executive (however designated), or of a person acting with the authority of the chief executive, of an agency to which DISPLAN or the state emergency recovery plan applies;’.

15

(4) Section 4 (2) of the **Emergency Management Act 1992** is repealed.

**5. New section 4A inserted**

20

After section 4 of the **Emergency Management Act 1986** insert—

**“4A. Objectives of Act**

25

The objectives of this Act are to ensure that the following components of emergency management are organised within a structure which facilitates planning, preparedness, operational co-ordination and community participation—

30

(a) prevention—the elimination or reduction of the incidence or severity of emergencies and the mitigation of their effects;

35

(b) response—the combating of emergencies and the provision of rescue and immediate relief services;

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- (c) recovery—the assisting of persons and communities affected by emergencies to achieve a proper and effective level of functioning.”.

**6. Role of Co-ordinator in Chief**

5

For section 6 (a) of the **Emergency Management Act 1986** substitute—

- “(a) ensure that adequate emergency management measures are taken by government agencies; and”.

10

**7. Use of certain terms****(1) In the Emergency Management Act 1986—**

- (a) in section 4 (1), in the definitions of “Co-ordinator in Chief” and “Deputy Co-ordinator in Chief” for “Disaster Control” substitute “Emergency Management”;

15

- (b) in section 4 (1), in the definition of “Council” for “State Disasters Council” substitute “Victoria Emergency Management Council”;

- (c) in section 4 (1), in the definition of “DISPLAN” for “disaster” substitute “emergency”;

20

- (d) in section 5 (1), for “Disaster Control” substitute “Emergency Management”;

- (e) in section 5 (2), for “Disaster Control” substitute “Emergency Management”;

25

- (f) in sections 8 (1) and 10 (2), for “State Disasters Council” substitute “Victoria Emergency Management Council”;

- (g) in section 10 (1), for “disaster” substitute “emergency”.

30

**(2) Despite the changes of names or titles made by sub-section (1)—**

- (a) the Victoria Emergency Management Council is deemed to be the same body as the State Disasters Council;

35

(b) the Co-ordinator in Chief of Emergency Management is deemed to be the same person as the Co-ordinator in Chief of Disaster Control;

5 (c) the Deputy Co-ordinator in Chief of Emergency Management is deemed to be the same person as the Deputy Co-ordinator in Chief of Disaster Control;

(d) DISPLAN is deemed to be a state emergency response plan—

10 and no act, matter or thing is in any way abated or affected by that change.

(3) In sections 97A and 97B (1) of the **Country Fire Authority Act 1958** for “Disaster Control” substitute “Emergency Management”.

### 8. *Co-ordinators*

15 In the **Emergency Management Act 1986**—

(a) in section 4 (1) the definitions of “region” and “zone” are repealed;

20 (b) in section 13 (1) for “zone and for each region within every zone” substitute “region and municipal district”;

(c) in sections 13 (2) (a) and 13 (2) (b) for “region” (wherever occurring) substitute “municipal district”;

25 (d) in sections 13 (2) (b) and 13 (2) (c) for “zone” (wherever occurring) substitute “region”;

(e) in section 14 omit “zone”;

(f) after section 15 (d) insert—

“; and

30 (e) defining regions for the purpose of section 13.”.

### 9. *DISPLAN*

For section 15 (c) of the **Emergency Management Act 1986** substitute—

35 “(c) specifying the roles of agencies in the event of an emergency; and”.

**10. Control of emergency responses other than fire**

After section 16 of the Emergency Management Act 1986 insert—

**“16A. Control of emergency responses other than fire**

5

(1) At the request of a co-ordinator referred to in section 13 or of their own volition, the officers in charge of agencies having roles or responsibilities in relation to emergency response or the senior officer of each such agency may determine the priority of the responsibilities of those agencies either during or in anticipation of an emergency.

10

(2) In the absence of an agreement under subsection (1), the co-ordinator may determine the priority of the response roles of the agencies.

15

(3) This section does not apply to an emergency to which section 16 applies.”.

20

**11. New Part 3A inserted**

After Part 3 of the Emergency Management Act 1986 insert—

**“PART 3A—RECOVERY PLANNING AND MANAGEMENT**

25

**17A. Co-ordinator in Chief to prepare recovery plan**

(1) The Co-ordinator in Chief must arrange for the preparation and review from time to time of a state emergency recovery plan for the co-ordinated planning and management of emergency recovery.

30



- 5
- (2) The Co-ordinator in Chief must consult with the Victoria Emergency Management Council before arranging for the preparation or review of the state emergency recovery plan.

**17B. *Co-ordinating agency and State Recovery Co-ordinator***

- 10
- (1) The Co-ordinator in Chief must appoint an agency having a role or responsibility in relation to emergency recovery to be the co-ordinating agency for recovery.
  - (2) The co-ordinating agency must, in consultation with the Co-ordinator in Chief, appoint an officer or employee of the co-ordinating agency to be the State Recovery Co-ordinator.
- 15

**17C. *Delegation by State Recovery Co-ordinator***

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The State Recovery Co-ordinator may, by instrument, delegate to any person any power or function of the State Recovery Co-ordinator under this Act or the regulations or any other Act, other than this power of delegation.

**17D. *Regional Co-ordinators***

25

The State Recovery Co-ordinator must appoint a person to be a Co-ordinator of Recovery for each region.

**17E. *Recovery Committees***

30

The State Recovery Co-ordinator may establish at State and regional levels, such committees as are necessary to plan co-ordinated emergency recovery by all

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agencies having roles or responsibilities in relation to emergency recovery.

**17F. State emergency recovery plan**

The state emergency recovery plan is to contain provisions— 5

- (a) specifying the roles of agencies in emergency recovery;
- (b) relating to the co-ordination of the activities of agencies;
- (c) specifying the roles and responsibilities of co-ordinators appointed under section 17D; 10
- (d) defining regions for the purpose of section 17D.”

**12. Part 4 substituted** 15

For Part 4 of the Emergency Management Act 1986 substitute—

**‘PART 4—RESPONSIBILITIES OF MUNICIPAL COUNCILS**

**“18. Municipal councils may co-operate** 20

- (1) For the purposes of this Part, 2 or more municipal councils may co-operate in relation to emergency management.
  - (2) Unless section 19 applies, although 2 or more municipal councils may plan and act jointly in relation to emergency management, each of the municipal councils is separately responsible for discharging the responsibilities imposed on a municipal council by or under this Part. 25
- 30

**19. *Municipal councils may appoint a principal***

5 (1) For the purposes of this Part, 2 or more municipal councils may, with the approval of the Co-ordinator in Chief, appoint one of the municipal councils to be the principal municipal council in relation to emergency management.

10 (2) If a principal municipal council is appointed, this Part applies as if—

15 (a) a reference to a municipal council is a reference to the principal municipal council; and

(b) a reference to a municipal district is a reference to the whole area of the municipal districts of all the municipal councils which have appointed the principal municipal council.

**20. *Municipal emergency management plan***

20 (1) A municipal council must prepare and maintain a municipal emergency management plan.

25 (2) A municipal emergency management plan must contain provisions—

30 (a) identifying the municipal resources (being resources owned by or under the direct control of the municipal council) and other resources available for use in the municipal district for emergency prevention, response and recovery; and

(b) specifying how such resources are to be used for emergency prevention, response and recovery; and

35 (c) relating to any matter prescribed for the purposes of this sub-section.

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**21. *Municipal co-ordination and planning***

- (1) A municipal council must appoint a person or persons to be the municipal emergency resource officer or municipal emergency resource officers. 5
- (2) A municipal emergency resource officer is responsible to the municipal council for ensuring the co-ordination of municipal resources to be used in emergency response and recovery. 10
- (3) A municipal council must appoint a municipal emergency planning committee constituted by persons appointed by the municipal council being members and employees of the municipal council, response and recovery agencies and local community groups involved in emergency management issues. 15
- (4) The function of a municipal emergency planning committee is to prepare a draft municipal emergency management plan for consideration by the municipal council. 20
- (5) A municipal emergency planning committee must give effect to any directions or guidelines issued by the Co-ordinator in Chief. 25
- (6) Subject to the regulations, a municipal emergency planning committee may determine its own procedures. 30

**21A. *Audit of municipal emergency management plans***

- (1) A municipal emergency management plan must be audited during the period commencing 1 July 1995 and ending 31 December 1996 and thereafter at least once every 3 years by the Director of the 35

Victoria State Emergency Service to assess whether the plan complies with guidelines issued by the Co-ordinator in Chief.

5 (2) The Director of the Victoria State Emergency Service must during the audit invite submissions on the municipal plan from the regional DISPLAN committee and the regional recovery committee.

10 (3) A municipal council must within 3 months of receiving an audit report forward a copy of its written response to the audit report to the Director of the Victoria State Emergency Service.”.

15 **13. Definition of “registered emergency worker”**

In section 25 of the **Emergency Management Act 1986** the definition of “registered emergency worker” is repealed.

**14. Sections 26 and 27 substituted**

20 For sections 26 and 27 of the **Emergency Management Act 1986** substitute—

**“27. When is compensation payable?**

25 Compensation is payable under this Part if a volunteer emergency worker suffers personal injury (including death) or loss of or damage to property belonging to the worker or in the worker’s possession or control while engaged in emergency activity.”.

30 **15. Amendment of section 28**

(1) In section 28 of the **Emergency Management Act 1986** for “registered emergency worker or casual

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emergency worker” (where twice occurring) substitute “volunteer emergency worker”.

(2) After section 28 (2) of the **Emergency Management Act 1986** insert—

“(3) For the purposes of enabling the return to work of a volunteer emergency worker who suffers a personal injury while engaged in emergency activity, the Authority may— 5

(a) prepare a return to work plan under the **Accident Compensation Act 1985**; 10

(b) approve a provider of occupational rehabilitation services for the purposes of a return to work plan prepared under paragraph (a);

(c) provide alternative assistance or programs to the worker or in respect of the employment of the worker. 15

(4) Any costs and expenses incurred as a result of sub-section (3) are to be paid by the Authority under section 32 (2) as if the costs and expenses were a payment of compensation and section 32 (3) shall apply accordingly.”. 20

**16. Amendment of section 34**

In section 34 (2) of the **Emergency Management Act 1986** for “registered emergency worker or casual emergency worker” substitute “volunteer emergency worker”. 25

**17. Amendment of section 36**

Section 36 (2) of the **Emergency Management Act 1986** is repealed. 30

**18. New sections 36A–36C inserted**

After section 36 of the **Emergency Management Act 1986** insert—

**“36A. Declaration of emergency area**

5 (1) If the most senior officer of the police in attendance at an emergency, being an officer of or above the rank of inspector, is of the opinion that because of the size, nature or location of an emergency it is necessary to exclude persons from the area of the emergency so as to ensure—

(a) public safety; or

10 (b) security of evacuated premises; or

(c) the safety of, or prevention of obstruction, hindrance or interference to, persons engaging in emergency activity—

15 that officer of police may on the advice of the agency primarily responsible for responding to the emergency declare the area to be an emergency area.

20 (2) The declaration of an emergency area must be in writing and may be varied or revoked in writing.

25 (3) A copy of the declaration or a sign in a form authorised by the State Co-ordinator and containing the words “Declared Emergency Area” must be posted at points of access to the emergency area that are closed under the declaration while the declaration is in force.

30 (4) The declaration of an emergency area must be revoked immediately upon the circumstances in sub-section (1) ceasing to apply.

35 (5) If the declaration of an emergency area has not been revoked within the period of 24 hours after it is declared, the declaration is revoked at the end of the period unless sub-section (6) applies.

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- (6) The State Co-ordinator may if he or she is satisfied that the circumstances in sub-section (1) still apply, extend the declaration of an emergency area for a further period not exceeding 24 hours. 5
- (7) The State Co-ordinator must publish a notice of the declaration and revocation of an emergency area in the Government Gazette.

**36B. Powers in respect of emergency area** 10

- (1) An officer of the police on duty in or near the emergency area may exercise the following powers—
- (a) close or cause to be closed any road, footpath or open space otherwise providing access to the emergency area; 15
- (b) prohibit any person or vehicle from entering or passing through the emergency area; 20
- (c) direct any person on any road or footpath or in any open space or in any vehicle on any road, footpath or open space, within the emergency area to immediately leave the emergency area by the safest and shortest route; 25
- (d) authorise a person to enter or remain in the emergency area subject to such conditions as the officer considers appropriate. 30
- (2) Sub-section (1) also empowers a prohibition or direction to be given to a person who claims a pecuniary interest in property in the emergency area or goods or valuables in that property and is not in that property. 35



5 (3) Sub-section (1) (d) also empowers an authorisation subject to conditions to be given to a person who claims a pecuniary interest in property in the emergency area or goods or valuables in that property and is on that property.

10 (4) A direction, prohibition or authorisation under sub-section (1) may be broadcast, televised or communicated from a broadcasting station, television station or other communication centre in an announcement authorised by the State Co-ordinator.

15 (5) If an officer of the police on duty in or near the emergency area has reason to suspect that an offence against this Act is being or is about to be committed, the officer may order a person to leave the emergency area and may use such force as is reasonably necessary to remove the person from the emergency area or to prevent the person from entering the emergency area.

### **36C. Offences**

25 (1) A person who fails without reasonable excuse to obey a prohibition or direction or to act in accordance with the conditions of an authorisation, is guilty of an offence.

Penalty: 5 penalty units.

30 (2) A person who under section 36B (5) is ordered to leave or removed from the emergency area or prevented from entering the emergency area must not enter or attempt to enter the emergency area.

35 Penalty: 100 penalty units.”.

**19. Section 37 substituted**

For section 37 of the **Emergency Management Act 1987** substitute—

**“37. Immunity**

A volunteer emergency worker is not personally liable in respect of any loss or injury sustained by any other person as a result of the engagement of the volunteer emergency worker in emergency activity unless the loss or injury is caused by the negligence or wilful default of that worker.” 5  
10

**PART 3—AMENDMENTS TO VICTORIA STATE  
EMERGENCY SERVICE ACT 1987**

**20. Consequential amendments to section 3** 15

(1) In section 3 (1) of the **Victoria State Emergency Service Act 1987**—

- (a) the definition of “casual emergency worker” is repealed;
- (b) in the definition of “Co-ordinator in Chief” for “Disaster Control” substitute “Emergency Management”; 20
- (c) in the definition of “DISPLAN” for “disaster” substitute “emergency”;
- (d) the definition of “emergency management” is repealed; 25
- (e) in the definition of “emergency operations” after “DISPLAN” insert “and the state emergency recovery plan”;
- (f) after the definition of “State Co-ordinator” insert— 30

“state emergency recovery plan” means the state emergency recovery plan referred to

in section 17A of the **Emergency Management Act 1986**;’;

(g) after the definition of “Victorian waters” insert—

5                   “**volunteer emergency worker**” has the same meaning as in section 4 (1) of the **Emergency Management Act 1986**;’.

(2) For section 3 (2) of the **Victoria State Emergency Service Act 1987** substitute—

10           ‘(2) For the purposes of this Act—

(a) “**emergency management**” has the same meaning as in section 4 (1) of the **Emergency Management Act 1986**;

15           (b) “**prevention**”, “**response**” and “**recovery**” in relation to an emergency have the same meaning as in section 4A of the **Emergency Management Act 1986**.”.

### 21. *Amendment of section 5*

20           After section 5 (1) (i) of the **Victoria State Emergency Service Act 1987** insert—

“(j) To undertake such roles under the state emergency recovery plan as are determined by the State Recovery Co-ordinator with the approval of the Director.”.

### 25           22. *Amendment of section 8*

In section 8 of the **Victoria State Emergency Service Act 1987** after “regulations” insert “or any other Act”.

### 23. *Amendment of section 13*

30           In section 13 (1) of the **Victoria State Emergency Service Act 1987** for paragraph (b) substitute—

“(b) if 2 or more municipal councils appoint a principal municipal council under section 19 of

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the **Emergency Management Act 1986**, the principal municipal council.”.

**24. References to casual emergency workers**

In the **Victoria State Emergency Service Act 1987**—

5

(a) in section 17—

(i) **omit** “or casual emergency worker” (where first occurring);

(ii) for “, employee or worker” **substitute** “or employee”;

10

(iii) for “, employee or casual emergency worker” **substitute** “or employee”;

(b) in section 20 **omit** “or casual emergency worker”;

(c) in sections 22, 23 and 24 (1)—

15

(i) for “, probationary member or casual emergency worker” (wherever occurring) **substitute** “or probationary member”;

(ii) **omit** “or worker” (wherever occurring).

**25. Amendment of section 18**

20

In section 18 of the **Victoria State Emergency Service Act 1987** for “casual emergency worker” **substitute** “volunteer emergency worker”.

**26. Amendment of section 23**

After section 23 (2) of the **Victoria State Emergency Service Act 1987** **insert**—

25

“(3) For the purposes of enabling the return to work of a registered member or probationary member who is entitled to compensation under section 22 for personal injury, the Authority may—

30

(a) prepare a return to work plan under the **Accident Compensation Act 1985**;

(b) approve a provider of occupational rehabilitation services for the purposes of a return to work plan prepared under paragraph (a);

5 (c) provide alternative assistance or programs to the member or in respect of the employment of the member.

10 (4) Any costs and expenses incurred as a result of sub-section (3) are to be paid by the Authority under section 27 (2) as if the costs and expenses were a payment of compensation and section 27 (3) shall apply accordingly.”

