



Australian Capital Territory

Emergencies Amendment Act 2010

A2010-17

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Australian Capital Territory

Emergencies Amendment Act 2010

A2010-17

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

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

1 Name of Act

This Act is the *Emergencies Amendment Act 2010*.

2 Commencement

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

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

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

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

3 Legislation amended

This Act amends the *Emergencies Act 2004*.

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

- *Territory Records Regulation 2009*
- *Utilities (Electricity Restrictions) Regulation 2004*
- *Utilities (Gas Restrictions) Regulation 2005*.

4 Objects of Act Section 3 (b)

substitute

(b) to provide for effective emergency management that—

- (i) has regard to the need to prepare for, prevent, respond to and recover from emergencies; and
- (ii) takes an all-hazards approach to emergency management; and

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

insert

(ga) emphasise the importance of communicating information, advice and warnings to the community during an emergency; and

6 Part 7.1 heading

substitute

**Part 7.1 Security and Emergency
Management Senior Officials
Group**

7 Section 141

substitute

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

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

8 Section 142 heading

substitute

142 Constitution of SEMSOG

9 Section 142 (1)

omit

emergency management committee

substitute

SEMSOG

10 New section 142 (1) (aa)

before paragraph (a), insert

(aa) the chief executive; and

11 Section 142 (2)

omit

committee members

substitute

members of the SEMSOG

12 Section 142 (3)

substitute

(3) The chief executive is the chair of the SEMSOG.

13 Section 143 heading

substitute

143 Functions of SEMSOG

14 Section 143

omit

emergency management committee

substitute

SEMSOG

15 Section 143 (3) (b)

substitute

(b) to support the commissioner in emergency management, including the preparation of the emergency plan or any part of the plan;

16 Section 143 (3) (c)

omit

17 Sections 144 to 146

omit

**18 Emergency plan
Section 147 (1)**

omit

emergency management committee

substitute

the commissioner

19 Section 147 (4) and (5)

omit

emergency management committee

substitute

the commissioner

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

omit

during a declared state of alert or state of emergency

substitute

during an emergency

21 Division 7.3.1 heading

substitute

Division 7.3.1 Application—pt 7.3

22 Section 150 heading

substitute

150 Application—pt 7.3

23 Section 150

omit

division

substitute

part

24 New division 7.3.1A

after section 150, insert

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

- (1) This section applies if the Chief Minister is satisfied that—
 - (a) an emergency has happened, is happening or is likely to happen; but
 - (b) it is not necessary to declare a state of emergency.
- (2) The Chief Minister may appoint a person to be the emergency controller for the emergency.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (3) The Chief Minister must review the appointment of the emergency controller not later than 48 hours after the appointment was made.
- (4) Unless sooner revoked, the appointment ends—
 - (a) 7 days after the day the appointment was made; or
 - (b) if a state of emergency is declared.
- (5) The Chief Minister may be satisfied that an emergency is likely to happen if the Chief Minister is satisfied that an event that has happened or is happening, or a circumstance that exists, gives rise to the likelihood of an emergency.

150B Functions of emergency controller—no declared state of emergency

- (1) An emergency controller appointed under section 150A for an emergency has the following functions in relation to the emergency:
 - (a) to manage the response to, and the recovery from, the emergency by ensuring that entities dealing with the emergency are appropriately deployed;
 - (b) to coordinate the disposition of other resources to manage the emergency;
 - (c) to advise the Minister and the Chief Minister about the emergency;
 - (d) to advise the community on anything relating to the emergency that the emergency controller considers appropriate;
 - (e) any other function given to the emergency controller under this Act or another territory law.
 - (2) However, the Chief Minister may direct, in writing—
 - (a) that the emergency controller is not to have a function (or part of a function) mentioned in subsection (1); or
 - (b) that the emergency controller has another stated function.
- Note* A direction may be included in the instrument of appointment (see Legislation Act, s 49).
- (3) As far as practicable, the emergency controller must exercise the emergency controller's functions in accordance with the emergency plan.

150C Emergency powers—no declared state of emergency

- (1) This section applies if an emergency controller is appointed under section 150A for an emergency.
 - (2) For the management of the emergency, the emergency controller may—
 - (a) direct the movement of people, animals or vehicles within, into or around the area to which the emergency applies (the *emergency area*); and
 - (b) give directions regulating or prohibiting the movement of people, animals or vehicles within, into or around the emergency area; and
 - (c) direct, in writing, the owner of property in or near the emergency area to place the property under the control, or at the disposal, of an emergency controller; and
 - (d) take possession of any premises, animal substance or thing in or near the emergency area; and
 - (e) excavate land, form tunnels or construct earthworks, barriers or temporary structures in or near the emergency area; and
 - (f) control, use, close off or block a drainage facility in or near the emergency area; and
 - (g) maintain, restore or prevent disruption of essential services; and
 - (h) do anything else that the chief officer of an emergency service may do under section 34 (General powers of chief officers).
- Note* A chief officer has a number of general powers including to enter land, shut off a power or water supply, demolish or destroy a structure or remove or destroy an animal.
- (3) Subsection (1) operates despite any other territory law.

- (4) However, the Chief Minister may direct, in writing—
- (a) that the emergency controller is not to have a power (or part of a power) mentioned in subsection (1); or
 - (b) that the emergency controller has another stated power.

Note A direction may be included in the instrument of appointment (see Legislation Act, s 49).

- (5) The emergency controller may delegate a function mentioned in subsection (1) to the head of an entity.
- (6) A person who is delegated a function under subsection (5) may delegate the function to another member, officer, employee or contractor of the entity.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

- (7) In this section:

owner, of property, includes an occupier or someone apparently in charge of the property.

25 New division 7.3.1B heading

before section 151, insert

Division 7.3.1B Declared emergencies

26 Sections 159 and 160

omit

territory controller

substitute

emergency controller

27 New division 7.3.1C heading

before section 161, insert

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

28 Section 161 heading

substitute

161 Management executive for emergency

29 Section 161 (1) to (4)

substitute

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

30 Section 162

substitute

162 Management of emergency

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

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

31 Section 163 heading

substitute

163 Emergency powers—declared state of emergency

32 Section 163

omit

territory controller

substitute

emergency controller

33 Section 163 (as amended)

relocate to division 7.3.1B as section 160A

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

omit

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

substitute

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

35 Section 165

substitute

165 Chief Minister's directions to emergency controller

- (1) The Chief Minister may give an emergency controller written directions about the exercise of the controller's functions.
- (2) The emergency controller must give effect to a direction.

36 Section 166 heading

substitute

166 Emergency controller to give information about controller's operations

37 Section 166

omit

The territory controller

substitute

An emergency controller

38 Section 167

substitute

167 Deployment of resources outside ACT in emergency

During an emergency for which an emergency controller is appointed, a person must not deploy Territory resources outside the ACT, in relation to an emergency outside the ACT, without the approval of the emergency controller.

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

substitute

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

40 Section 169 heading

substitute

169 Compensation—emergencies

41 Section 169 (1)

substitute

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

42 Section 169 (3)

omit

territory controller

substitute

emergency controller

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

omit

(Compensation—declared state of emergency)

substitute

(Compensation—emergencies)

44 Section 173

substitute

173 Application—div 7.3.2

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

45 Sections 177 to 179

omit

the territory controller

substitute

an emergency controller

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

omit

the territory controller

substitute

an emergency controller

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

substitute

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

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

48 New section 203

insert

203 Review of Act

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

49 Dictionary, new definition of *emergency controller*

insert

emergency controller means—

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

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

substitute

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

51 Dictionary, definition of *emergency management committee*

omit

52 Dictionary, new definition of *SEMSOG*

insert

SEMSOG—see section 141.

53 Dictionary, definition of *territory controller*

omit

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Territory Records Regulation 2009

[1.1] Schedule 1, item 9

omit

[1.2] Schedule 1, new item 19A

insert

19A	SEMSOG	chief executive, Department of Justice and Community Safety
-----	--------	--

[1.3] Dictionary, definition of *ACT Emergency Management Committee*

omit

[1.4] Dictionary, new definition of *SEMSOG*

insert

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

Part 1.2 Utilities (Electricity Restrictions) Regulation 2004

[1.5] Section 3, note 1

substitute

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

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

[1.6] Section 12

omit

the territory controller

substitute

an emergency controller

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

insert

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

[1.8] Dictionary, definition of *territory controller*

omit

Part 1.3 Utilities (Gas Restrictions) Regulation 2005

[1.9] Section 3, note 1

substitute

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

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

[1.10] Section 12

omit

the territory controller

substitute

an emergency controller

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

substitute

- chief executive (see s 163)

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

insert

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

[1.13] Dictionary, definition of *territory controller*

omit

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 18 March 2010.

2 Notification

Notified under the Legislation Act on 12 May 2010.

3 Republications of amended laws

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

I certify that the above is a true copy of the Emergencies Amendment Bill 2010, which was passed by the Legislative Assembly on 6 May 2010.

Acting Clerk of the Legislative Assembly

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