

**Authorised Version No. 011**  
**Emergency Management Act 2013**  
**No. 73 of 2013**

Authorised Version incorporating amendments as at  
1 August 2016

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**No. 73 of 2013**

Authorised Version incorporating amendments as at  
1 August 2016

**The Parliament of Victoria enacts:**

**Part 1—Preliminary**

**1 Purpose**

The purpose of this Act is to—

- (a) establish new governance arrangements for emergency management in Victoria; and
- (b) repeal the **Fire Services Commissioner Act 2010**; and
- (c) consequentially amend emergency management legislation and certain other Acts.

**2 Commencement**

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision referred to in subsection (1) does not come into operation before 1 September 2014, it comes into operation on that day.

**3 Definitions**

In this Act—

*Chief Officer*—

- (a) means the following—
  - (i) the Chief Officer of the Metropolitan Fire and Emergency Services Board;

- (ii) the Chief Officer of the Country Fire Authority;
  - (iii) the Chief Fire Officer, Department of Environment and Primary Industries;
  - (iv) the Chief Officer, Operations of the Victoria State Emergency Service Authority; and
- (b) includes any person nominated by a person referred to in paragraph (a) to exercise the powers of that person under section 38;

***Class 1 emergency*** means—

- (a) a major fire; or
- (b) any other major emergency for which the Metropolitan Fire and Emergency Services Board, the Country Fire Authority or the Victoria State Emergency Service Authority is the control agency under the state emergency response plan;

***Class 2 emergency*** means a major emergency which is not—

- (a) a Class 1 emergency; or
- (b) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; or
- (c) a hi-jack, siege or riot;

***consequence management*** has the meaning given by section 45;

***Country Fire Authority*** means the Country Fire Authority established under the **Country Fire Authority Act 1958**;

***Department*** has the same meaning as it has in section 4(1) of the **Public Administration Act 2004**;

***Department Head*** has the same meaning as it has in section 4(1) of the **Public Administration Act 2004**;

***emergency*** means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person in Victoria or which destroys or damages, or threatens to destroy or damage, any property in Victoria or endangers or threatens to endanger the environment or an element of the environment in Victoria including, without limiting the generality of the foregoing—

- (a) an earthquake, flood, wind-storm or other natural event; and
- (b) a fire; and
- (c) an explosion; and
- (d) a road accident or any other accident; and
- (e) a plague or an epidemic or contamination; and
- (f) a warlike act or act of terrorism, whether directed at Victoria or a part of Victoria or at any other State or Territory of the Commonwealth; and
- (g) a hi-jack, siege or riot; and
- (h) a disruption to an essential service;

***Emergency Management Commissioner*** means the office established under section 24;



***emergency management sector*** means the sector comprising all agencies, bodies, Departments and other persons who have a responsibility, function or other role in emergency management;

***Emergency Management Victoria*** means the body corporate established under section 14;

***Emergency Services Telecommunications Authority*** means the Authority established under Division 1 of Part 2 of the **Emergency Services Telecommunications Authority Act 2004**;

***fire services agency*** means any of the following—

- (a) the Metropolitan Fire and Emergency Services Board;
- (b) the Country Fire Authority;
- (c) the Secretary to the Department of Environment and Primary Industries;

***fire services reform action plan*** means the plan developed under section 12 of the **Fire Services Commissioner Act 2010** as in force immediately before the commencement of section 77;

***IBAC*** has the same meaning as it has in the **Independent Broad-based Anti-corruption Commission Act 2011**;

***incident management operating procedures*** means operating procedures developed under section 50;

***Inspector-General for Emergency Management*** means the office established under section 61;

**major emergency** means—

- (a) a large or complex emergency (however caused) which—
  - (i) has the potential to cause or is causing loss of life and extensive damage to property, infrastructure or the environment; or
  - (ii) has the potential to have or is having significant adverse consequences for the Victorian community or a part of the Victorian community; or
  - (iii) requires the involvement of 2 or more agencies to respond to the emergency; or
- (b) a Class 1 emergency; or
- (c) a Class 2 emergency;

**major fire** means a large or complex fire (however caused) which—

- (a) has the potential to cause or is causing loss of life and extensive damage to property, infrastructure or the environment; or
- (b) has the potential to have or is having significant adverse consequences for the Victorian community or a part of the Victorian community; or
- (c) requires the involvement of 2 or more fire services agencies to suppress the fire; or
- (d) will, if not suppressed, burn for more than one day;

S. 3 def. of  
*police officer*  
inserted by  
No. 37/2014  
s. 10(Sch.  
item 53.1).

***Metropolitan Fire and Emergency Services Board*** means the Metropolitan Fire and Emergency Services Board established under the **Metropolitan Fire Brigades Act 1958**;

***police officer*** has the same meaning as in the **Victoria Police Act 2013**;

***recovery*** means the assisting of persons and communities affected by emergencies to achieve a proper and effective level of functioning;

***responder agency*** means the following—

- (a) the Metropolitan Fire and Emergency Services Board;
- (b) the Country Fire Authority;
- (c) the Victoria State Emergency Service Authority;
- (d) the Secretary to the Department of Environment and Primary Industries;
- (e) any other agency prescribed to be a responder agency;

***response*** means the combating of emergencies and the provision of rescue services;

S. 3 def. of  
*Secretary to the Department of Environment and Primary Industries*  
amended by  
No. 41/2014  
s. 13.

***Secretary to the Department of Environment and Primary Industries*** means the Secretary to the Department of Environment and Primary Industries when performing its fire suppression functions, including under section 62(2)(a) of the **Forests Act 1958**;

***State Crisis and Resilience Council*** means the Council established under section 6;

*state emergency recovery plan* means the state emergency recovery plan prepared under section 59;

*state emergency response plan* means the state emergency response plan prepared under section 53;

*State Response Controller* means a person appointed as a State Response Controller under section 37;

*Strategic Action Plan* means the plan prepared under section 12;

*Victoria State Emergency Service Authority* means the Victoria State Emergency Service Authority established under the **Victoria State Emergency Service Act 2005**;

*work program* means a work program for an agency included in a Strategic Action Plan.

#### **4 Interpretation**

- (1) This Act must be read and construed as one with the **Emergency Management Act 1986**.
- (2) Unless inconsistent with the context or subject-matter, words or expressions defined in the **Emergency Management Act 1986** have the same meaning in this Act.

#### **5 Objectives of Act**

The objectives of this Act are to—

- (a) foster a sustainable and efficient emergency management system that minimises the likelihood, effect and consequences of emergencies; and

- (b) establish efficient governance arrangements that—
  - (i) clarify the roles and responsibilities of agencies; and
  - (ii) facilitate cooperation between agencies; and
  - (iii) ensure the coordination of emergency management reform within the emergency management sector; and
- (c) implement an "all hazards—all agencies" approach based on networked arrangements and greater interoperability.

## **Part 2—State Crisis and Resilience Council**

### **6 State Crisis and Resilience Council**

The State Crisis and Resilience Council is established.

### **7 Role of State Crisis and Resilience Council**

The role of the State Crisis and Resilience Council is—

**S. 7  
substituted by  
No. 43/2015  
s. 4.**

- (a) to act as the peak crisis and emergency management advisory body in Victoria responsible for providing advice to the Minister in relation to—
  - (i) the whole of government policy and strategy for emergency management in Victoria; and
  - (ii) the implementation of that policy and strategy; and
- (b) to consider any state emergency response plan or updated state emergency response plan submitted by the Emergency Management Commissioner to the State Crisis and Resilience Council for approval.

### **8 Constitution of the State Crisis and Resilience Council**

- (1) The State Crisis and Resilience Council consists of the following members—
  - (a) the Department Head of each Department;
  - (b) the Chief Commissioner of Police;
  - (c) the Chief Executive, Emergency Management Victoria;
  - (d) the Emergency Management Commissioner;
  - (e) the Inspector-General for Emergency Management as an observer;

- (f) the Chief Executive Officer of the Municipal Association of Victoria as a representative of local government.
- (2) The Secretary for the Department of Premier and Cabinet is the Chairperson of the State Crisis and Resilience Council.
- (3) The Secretary for the Department of Justice is the Deputy Chairperson of the State Crisis and Resilience Council.
- (4) A member of the State Crisis and Resilience Council may nominate a person who holds a specified office to act as alternate member.
- (5) An alternate member has, while acting for the member, the powers and authority of the member.
- (6) The Inspector-General for Emergency Management cannot vote on any matter or propose a resolution at a meeting of the State Crisis and Resilience Council but is otherwise entitled to participate in the business of the meeting.
- (7) The Chief Executive, Emergency Management Victoria and the Emergency Management Commissioner are responsible for advising the State Crisis and Resilience Council in relation to any matter being considered by the State Crisis and Resilience Council on behalf of the following—
  - (a) the Metropolitan Fire and Emergency Services Board;
  - (b) the Country Fire Authority;
  - (c) the Victoria State Emergency Service Authority;
  - (d) the Emergency Services Telecommunications Authority.

## **9 Procedure of the State Crisis and Resilience Council**

- (1) Subject to this Act, the State Crisis and Resilience Council may regulate its own procedure.
- (2) The State Crisis and Resilience Council must meet at least 4 times each year.
- (3) A quorum at a meeting of the State Crisis and Resilience Council consists of the Chairperson and 4 other members other than the Inspector-General for Emergency Management.

## **10 Standing subcommittees**

- (1) The State Crisis and Resilience Council may establish as many standing subcommittees as it considers necessary to enable it to perform its functions.
- (2) The State Crisis and Resilience Council must determine the terms of reference of a standing subcommittee.
- (3) The State Crisis and Resilience Council must appoint the members of a standing subcommittee.
- (4) The State Crisis and Resilience Council must appoint one of the members of a standing subcommittee to be the chairperson.

## **11 Work plans**

- (1) A standing subcommittee must complete a work plan having regard to—
  - (a) its terms of reference; and
  - (b) any relevant provisions of the Strategic Action Plan.
- (2) A work plan must include things to be done, projects to be undertaken or measures to be met, to enhance emergency management in relation to the designated subject matter area of the standing subcommittee.



- (3) A standing subcommittee must submit a work plan to the State Crisis and Resilience Council for approval—
  - (a) each year; or
  - (b) at any other interval determined by the State Crisis and Resilience Council.

## **12 Strategic Action Plan**

- (1) The State Crisis and Resilience Council must develop a rolling three-year Strategic Action Plan to be submitted to the Minister for approval.
- (2) In preparing the Strategic Action Plan, the State Crisis and Resilience Council may include any provisions and actions included in the fire services reform action plan which the State Crisis and Resilience Council considers are necessary or appropriate to be continued under the new emergency management governance arrangements.
- (3) Without limiting the generality of subsection (2), the Strategic Action Plan must include a work program for each agency.
- (4) A work program must include in respect of the agency to which it applies—
  - (a) things to be done, projects to be undertaken or measures to be met by the agency to enhance the agency's operational capacity and capability including, where relevant, encouraging, strengthening and maintaining the capacity and capability of volunteers and the community; and

- (b) things to be done, projects to be undertaken or measures to be met, to improve the agency's capacity to operate together with other agencies in planning and preparing for the response to, and in responding to, major emergencies.
- (5) The State Crisis and Resilience Council must consult with each agency in developing a work program.
- (6) The State Crisis and Resilience Council must in developing a work program have regard to the resources of the agency.
- (7) Before approving the Strategic Action Plan, the Minister must consult with other relevant Ministers.
- (8) The Minister may approve the Strategic Action Plan.
- (9) The State Crisis and Resilience Council must cause the Strategic Action Plan, as approved by the Minister, to be published on Emergency Management Victoria's Internet site.
- (10) In this section and section 13, *agency* means a responder agency or the Emergency Services Telecommunications Authority.

### **13 Implementation of the Strategic Action Plan and work programs**

- (1) Without limiting the generality of section 13 of the **Public Administration Act 2004**, the responsibility of a Department Head under that section includes ensuring that the Department implements any relevant part of the Strategic Action Plan.

- (2) The Chief Executive, Emergency Management Victoria and the Emergency Management Commissioner must use their best endeavours to ensure that an agency implements its work program.
- (3) An agency must implement its work program.
- (4) The State Crisis and Resilience Council must—
  - (a) monitor the implementation of the Strategic Action Plan and work programs; and
  - (b) report to the Minister at regular intervals on the progress of implementation of the Strategic Action Plan and work programs.

## **Part 3—Emergency Management Victoria**

### **14 Establishment of Emergency Management Victoria**

Emergency Management Victoria is established.

### **15 Emergency Management Victoria is a body corporate**

- (1) Emergency Management Victoria—
  - (a) is a body corporate with perpetual succession; and
  - (b) has an official seal; and
  - (c) may sue and be sued; and
  - (d) may acquire, hold and dispose of real and personal property; and
  - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (2) All courts must take judicial notice of the official seal of Emergency Management Victoria affixed to a document and, until the contrary is proved, must presume that it was duly affixed.
- (3) The official seal of Emergency Management Victoria must—
  - (a) be kept in such custody as Emergency Management Victoria determines; and
  - (b) not be used except as authorised by Emergency Management Victoria.

### **16 Constitution of Emergency Management Victoria**

Emergency Management Victoria consists of 2 members being—

- (a) the Chief Executive, Emergency Management Victoria; and
- (b) the Emergency Management Commissioner.

## **17 Functions of Emergency Management Victoria**

- (1) Emergency Management Victoria has the functions conferred on Emergency Management Victoria under this Act or any other Act.
- (2) Without limiting the generality of subsection (1), Emergency Management Victoria has the following functions—
  - (a) to act as the agency responsible for the coordination of the development of the whole of government policy for emergency management in Victoria;
  - (b) to provide policy advice to the Minister in relation to emergency management;
  - (c) to implement emergency management reform initiatives given to Emergency Management Victoria by the Minister;
  - (d) to liaise with the Commonwealth Government on emergency management;
  - (e) to provide support to the Emergency Management Commissioner to enable the Emergency Management Commissioner to perform the functions conferred on the Emergency Management Commissioner under this Act.
- (3) In performing its functions, Emergency Management Victoria must—
  - (a) have regard to decisions made by the State Crisis and Resilience Council; and
  - (b) collaborate and consult with the emergency management sector; and
  - (c) have regard to the fundamental importance of the role that volunteers play in the performance of emergency management functions in Victoria.

## **18 Powers of Emergency Management Victoria**

Emergency Management Victoria has power to do all things that are necessary or convenient to be done for or in connection with, the performance of its functions.

## **19 Delegation**

Emergency Management Victoria, by instrument, may delegate any function or power of Emergency Management Victoria under this Act or any other Act, other than this power of delegation, to—

- (a) any person or class of persons employed or engaged in the administration of this Act; or
- (b) any person employed under Part 3 of the **Public Administration Act 2004**.

## **20 Chief Executive, Emergency Management Victoria**

- (1) There is to be a Chief Executive, Emergency Management Victoria.
- (2) The Chief Executive, Emergency Management Victoria is to be employed under Part 3 of the **Public Administration Act 2004**.
- (3) The Chief Executive, Emergency Management Victoria is responsible to the Secretary for the Department of Justice for—
  - (a) the general management and conduct of the activities of Emergency Management Victoria; and
  - (b) the effective, efficient and economical performance and exercise by Emergency Management Victoria of its functions and powers.

## **21 Functions of the Chief Executive, Emergency Management Victoria**

Without derogating from the functions of the Chief Executive, Emergency Management Victoria, the functions of the Chief Executive, Emergency Management Victoria include the following—

- (a) to provide advice and make recommendations to the Minister on any issue relating to the functions of—
  - (i) Emergency Management Victoria; or
  - (ii) the Chief Executive, Emergency Management Victoria—

having regard where relevant to any guidance or advice provided to the Chief Executive, Emergency Management Victoria by the State Crisis and Resilience Council;

- (b) to take a lead role in coordinating investment planning and large-scale strategic projects on behalf of the responder agencies including but not limited to matters relating to the following—
  - (i) major procurement;
  - (ii) communications and information systems;
  - (iii) emergency management planning processes for the purpose of achieving greater efficiency and effectiveness in the delivery of emergency management services.

## **22 Powers of the Chief Executive, Emergency Management Victoria**

- (1) The Chief Executive, Emergency Management Victoria has power to do all things that are necessary or convenient to be done for or in connection with, the performance of the functions of the Chief Executive, Emergency Management Victoria.
- (2) The Chief Executive, Emergency Management Victoria, by instrument, may delegate any function or power of the Chief Executive, Emergency Management Victoria under this Act, other than this power of delegation, to any person or class of persons employed or engaged in the administration of this Act.

## **23 Provision of staff and contractors**

- (1) The Secretary for the Department of Justice must ensure that persons employed under Part 3 of the **Public Administration Act 2004** are made available to assist Emergency Management Victoria in the performance of the functions and the exercise of the powers of Emergency Management Victoria.
- (2) Emergency Management Victoria may enter into agreements or arrangements with a person or body for the purpose of obtaining appropriate expertise to assist Emergency Management Victoria in the performance of the functions and the exercise of the powers of Emergency Management Victoria.



## **Part 4—Emergency Management Commissioner**

### **Division 1—Appointment, functions and general powers**

#### **24 Establishment**

- (1) There is to be an Emergency Management Commissioner.
- (2) The Emergency Management Commissioner is the successor in law to the Fire Services Commissioner under the **Fire Services Commissioner Act 2010** as in force immediately before the commencement of section 77.

#### **25 Appointment**

- (1) Subject to subsection (2), the Governor in Council may appoint a person as Emergency Management Commissioner.
- (2) A person is not eligible for appointment unless the Governor in Council is satisfied that the person has appropriate management, professional, technical and operational expertise in emergency management.

#### **26 Remuneration and allowances**

- (1) The Emergency Management Commissioner is entitled to be paid the remuneration and allowances that are determined by the Governor in Council.
- (2) The remuneration of the Emergency Management Commissioner cannot be reduced during his or her term of office unless he or she consents to the reduction.

## **27 Terms and conditions**

- (1) The Emergency Management Commissioner—
  - (a) holds office for the period, not exceeding 5 years, specified in his or her instrument of appointment; and
  - (b) is eligible for re-appointment; and
  - (c) holds office on the terms and conditions determined by the Governor in Council.
- (2) The Emergency Management Commissioner must be appointed on a full-time basis.

## **28 Resignation or vacancy in office**

The Emergency Management Commissioner ceases to hold office if he or she—

- (a) resigns by notice in writing delivered to the Governor in Council; or
- (b) becomes an insolvent under administration; or
- (c) is convicted of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence; or
- (d) nominates for election for the Parliament of Victoria or of the Commonwealth or of another State or a Territory of the Commonwealth; or
- (e) is suspended or removed from office under section 29.

## **29 Suspension and removal from office**

The Governor in Council may suspend or remove the Emergency Management Commissioner from office on any of the following grounds—

- (a) misconduct;
- (b) neglect of duty;

- (c) inability to perform the duties of the office;
- (d) any other ground on which the Governor in Council is satisfied that the Emergency Management Commissioner is unfit to hold office.

### **30 Acting Emergency Management Commissioner**

(1) If the Emergency Management Commissioner ceases to hold office in accordance with section 28, the Minister must appoint a person to act in the office of Emergency Management Commissioner.

S. 30(1A)  
inserted by  
No. 43/2015  
s. 5(1).

(1A) The Minister may appoint a person to act in the office of the Emergency Management Commissioner during a period when the Emergency Management Commissioner is absent from duty.

S. 30(2)  
amended by  
No. 43/2015  
s. 5(2).

(2) Subject to this section, a person appointed under subsection (1) or (1A) can be appointed for a period not exceeding 12 weeks.

(3) If the Minister considers it necessary to do so, the Minister may extend the period of appointment under subsection (2) for a further period not exceeding 12 weeks or further periods each of which must not exceed 12 weeks.

(4) While a person is acting in the office of Emergency Management Commissioner, the person—

(a) has and may exercise all the powers and must perform all the functions of that office; and

(b) is entitled to be paid the remuneration and allowances which the Emergency Management Commissioner would have been entitled to.

- (5) If the Emergency Management Commissioner is unable to perform the duties of the office of Emergency Management Commissioner and the Minister has not appointed a person to act in the office of Emergency Management Commissioner, the Chief Commissioner of Police must by virtue of this subsection, act in the office of the Emergency Management Commissioner until—
- (a) the Emergency Management Commissioner is able to perform the duties of the office of Emergency Management Commissioner; or
  - (b) the Minister appoints a person to act in the office of the Emergency Management Commissioner; or
  - (c) the Governor in Council appoints a person to be the Emergency Management Commissioner—
- whichever first occurs.
- (6) If the Chief Commissioner of Police is acting in the office of Emergency Management Commissioner under subsection (5), the Chief Commissioner of Police has and may exercise all the powers and must perform all the functions of that office.

### **31 Delegation**

The Emergency Management Commissioner, by instrument, may delegate any function or power conferred on the Emergency Management Commissioner by or under this Act (other than this power of delegation) or any other Act to any person who in the opinion of the Emergency Management Commissioner has relevant emergency management experience.

### **32 Functions of the Emergency Management Commissioner**

- (1) The functions of the Emergency Management Commissioner are to—
- (a) be responsible for the coordination of the activities of agencies having roles or responsibilities in relation to the response to Class 1 emergencies or Class 2 emergencies; and
  - (b) ensure that control arrangements are in place during a Class 1 emergency or a Class 2 emergency and that the relevant agencies act in accordance with the state emergency response plan and any directions made under section 55A(4); and
  - (c) appoint a State Response Controller in relation to a Class 1 emergency; and
  - (d) manage the State's primary control centre on behalf of, and in collaboration with, all agencies that may use the primary control centre for emergencies; and
  - (e) ensure that the Minister is provided with timely and up to date information in relation to—
    - (i) the actual or imminent occurrence of events which may lead to major emergencies; and
    - (ii) the response to major emergencies; and
  - (f) be responsible for consequence management for a major emergency in accordance with section 45; and
  - (g) be responsible for coordinating recovery under Division 5; and

S. 32(1)(b)  
amended by  
No. 43/2015  
s. 6.

- (h) lead and promote the implementation of the Strategic Action Plan to the extent that it relates to the improvement of the operational capability of responder agencies; and
  - (i) where relevant, oversee the continuation of the operational reforms provided for in the fire services reform action plan; and
  - (j) develop and maintain operational standards for the performance of emergency management functions by responder agencies; and
  - (k) develop and maintain incident management operating procedures for responder agencies; and
  - (l) coordinate data collection and impact assessment processes; and
  - (m) provide advice to the Minister on any matter relating to the functions of the Emergency Management Commissioner; and
  - (n) perform any other function conferred on the Emergency Management Commissioner by or under this or any other Act.
- (2) In performing the functions specified in this section, the Emergency Management Commissioner must have regard to the fundamental importance of the role that volunteers play in the performance of emergency management functions in Victoria.

### **33 Powers of the Emergency Management Commissioner**

The Emergency Management Commissioner has power to do all things that are necessary or convenient to be done for or in connection with the performance of the functions of the Emergency Management Commissioner.

S. 33  
amended by  
No. 43/2015  
s. 7.

### **34 Information to be provided to Emergency Management Commissioner**

- (1) For the purpose of enabling the Emergency Management Commissioner to perform the functions specified in section 32(1)(a), (b) and (e), the appointed State Response Controller or relevant control agency under the state emergency response plan must provide such information in relation to control arrangements to the Emergency Management Commissioner as the Emergency Management Commissioner may request.
- (2) For the purpose of enabling the Emergency Management Commissioner to perform the function specified in section 32(1)(f), an agency must provide such information in relation to consequence management to the Emergency Management Commissioner as the Emergency Management Commissioner may request.

### **35 Information gathering**

- (1) The Emergency Management Commissioner, by written notice, may require an agency or a Department to give to the Emergency Management Commissioner any information that the Emergency Management Commissioner reasonably believes is necessary for the purposes of performing the functions specified in section 32(1)(j), (k) and (l).
- (2) Within 28 days of receiving a notice under subsection (1), the agency or Department must give the information to the Emergency Management Commissioner, unless—

- (a) the Emergency Management Commissioner has agreed to allow an extension of time for the giving of the information; or
  - (b) the Emergency Management Commissioner has agreed that the agency or Department is not able to give the information.
- (3) If the Emergency Management Commissioner reasonably believes that it is urgent that information that he or she has required to be given under a notice under subsection (1), be given within a lesser time than that specified in subsection (2), the Emergency Management Commissioner may specify a lesser period for the giving of the information and the information must be given within the period so specified.
- (4) If the Emergency Management Commissioner has agreed to allow an extension of time under subsection (2), the agency or Department must give the information to the Emergency Management Commissioner within the time agreed on.

### **36 Constraints on access to information not to apply**

- (1) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or furnished to persons employed in the public service or by an agency, if imposed by or under an Act or rule of law, applies to the disclosure of information required by the Emergency Management Commissioner under section 35.
- (2) The Emergency Management Commissioner or any other person must not divulge or communicate, except to another person performing duties under this Act, any information which has come to the knowledge of the Emergency Management Commissioner by



reason, directly or indirectly of subsection (1), if the person from whom that information was obtained could not, but for that subsection, lawfully have divulged that information to the Emergency Management Commissioner or other person.

## **Division 2—Control of response activities**

### **37 Control of emergency response to Class 1 emergency**

S. 37(1)  
substituted by  
No. 43/2015  
s. 8(1).

- (1) The Emergency Management Commissioner (acting in accordance with the state emergency response plan) must appoint a State Response Controller to be responsible for the control of response activities in relation to—
  - (a) planning for each anticipated Class 1 emergency in any area of the State; and
  - (b) each Class 1 emergency in any area of the State that is occurring or has occurred.
- (2) The Emergency Management Commissioner must appoint as the State Response Controller a person who in the opinion of the Emergency Management Commissioner has relevant expertise in managing hazards relevant to the Class 1 emergency.
- (3) The appointment of the State Response Controller under subsection (1) has effect for the period specified in writing by the Emergency Management Commissioner.
- (4) If the Emergency Management Commissioner considers that it is necessary to do so because the control response is not being exercised effectively, the Emergency Management Commissioner may—

S. 37(3)  
substituted by  
No. 43/2015  
s. 8(2).

- (a) direct the State Response Controller as to the exercise of specified control response activities; or
- (b) override or exercise specified control response activities.
- (5) A State Response Controller (acting in accordance with the state emergency response plan) may appoint one or more controllers for a Class 1 emergency who has or have relevant expertise in managing hazards relevant to the Class 1 emergency.
- (6) The appointment of a controller under subsection (5) has effect for the period specified in writing by the State Response Controller.
- (6A) The Emergency Management Commissioner—
- (a) may endorse persons who have relevant expertise in managing hazards relevant to a Class 1 emergency as controllers; and
- (b) must ensure that a current list of endorsed controllers is maintained.
- (6B) In accordance with the state emergency response plan, a State Response Controller (or a controller as directed by a State Response Controller) may deploy to a Class 1 emergency a person who is endorsed as a controller under subsection (6A)(a).
- (6C) The State Response Controller must ensure that a written record of the deployment of a controller under subsection (6B) is made within 24 hours after the period of the deployment commences.
- (7) The State Response Controller or an appointed or deployed controller has in relation to the Class 1 emergency all the powers and authorities that the Chief Officer of the relevant control agency under the state emergency response plan has conferred

S. 37(5)  
substituted by  
No. 43/2015  
s. 8(3).

S. 37(6)  
substituted by  
No. 43/2015  
s. 8(3).

S. 37(6A)  
inserted by  
No. 43/2015  
s. 8(3).

S. 37(6B)  
inserted by  
No. 43/2015  
s. 8(3).

S. 37(6C)  
inserted by  
No. 43/2015  
s. 8(3).

S. 37(7)  
amended by  
No. 43/2015  
s. 8(4).

on that Chief Officer by the relevant Act under which the relevant control agency is established.

### **38 Control of response to fire other than a major fire**

- (1) In this section, *fire* means a fire other than a major fire.
- (2) This section applies if there is a fire which is burning, or a fire may occur or which has occurred, in any area of the State.
- (3) The Chief Officers of the fire services agencies may, by agreement, appoint the Chief Officer or another officer of one of the agencies to have the overall control of response activities in relation to the fire.
- (4) In the absence of an agreement under subsection (3), the Emergency Management Commissioner may direct a Chief Officer of a fire services agency to appoint a Chief Officer or another officer of one of the fire services agencies to have the overall control of response activities in relation to the fire.
- (5) A Chief Officer or other officer appointed under subsection (3) or (4) may—
  - (a) appoint one or more controllers for the fire; or
  - (b) transfer control of any response activity to one or more other persons.
- (6) An appointment of an officer under subsection (3) or (4) or a controller under subsection (5)(a) has effect for the period specified in the instrument of appointment.
- (7) Any officer appointed under subsection (3) or (4) or a controller appointed under subsection (5)(a) may exercise the powers and authorities conferred by the **Country Fire Authority Act 1958** on the Chief Officer of the Country Fire Authority in

S. 38(5)(a)  
amended by  
No. 43/2015  
s. 9(1).

S. 38(6)  
amended by  
No. 43/2015  
s. 9(2).

S. 38(7)  
amended by  
No. 43/2015  
s. 9(3).

relation to the control of response activities in relation to the fire in relation to which he or she has overall control.

### **39 Control of emergency response to Class 2 emergencies**

(1) The officer in charge of an agency having overall control of response activities in relation to a Class 2 emergency may, with the consent of the officer in charge of another agency and in accordance with the state emergency response plan, transfer control of any response activity in relation to that emergency to any officer of that other agency.

S. 39(1)  
substituted by  
No. 43/2015  
s. 10(1).

(2) Acting in accordance with the state emergency response plan, the officer in charge of an agency having overall control of response activities in relation to a Class 2 emergency or an officer in charge of another agency to which control of any response activity is transferred under subsection (1) may—

S. 39(2)  
substituted by  
No. 43/2015  
s. 10(1).

(a) appoint one or more controllers in relation to—

- (i) planning for each anticipated Class 2 emergency in any area of the State; and
- (ii) each Class 2 emergency in any area of the State that is occurring or has occurred; or

(b) transfer control of any response activity to one or more other persons.

\* \* \* \* \*

S. 39(3)(4)  
repealed by  
No. 43/2015  
s. 10(1).

(5) An appointment of a controller under subsection (2)(a) has effect for the period specified in the instrument of appointment.

S. 39(5)  
amended by  
No. 43/2015  
s. 10(2).

S. 39(6)  
amended by  
No. 43/2015  
s. 10(3).

- (6) The officer in charge of another agency to which control of any response activity is transferred under subsection (1) or a controller appointed under subsection (2)(a) may exercise the powers of the chief operational officer of the agency having overall control of response activities in relation to the emergency.

#### **40 Emergency Management Commissioner may advise or direct officers to exercise control powers**

The Emergency Management Commissioner may advise, or if the Emergency Management Commissioner considers it necessary, direct—

S. 40(b)  
amended by  
No. 43/2015  
s. 11.

- (a) a Chief Officer or other officer appointed under section 38(3) or (4) to exercise his or her power under section 38(5); or
- (b) the officer in charge of an agency having overall control of response activities in relation to a Class 2 emergency, or an officer in charge of another agency to which control of any response activity is transferred under section 39(1), to exercise his or her power under section 39(2).

#### **41 Division to prevail**

This Division prevails over—

- (a) sections 33(2) and 93B(1) of the **Country Fire Authority Act 1958**; and
- (b) section 55E of the **Metropolitan Fire Brigades Act 1958**; and
- (c) section 39 of the **Victoria State Emergency Service Act 2005**—

to the extent of any inconsistency.

### **Division 3—Community warnings about fires**

#### **42 Emergency Management Commissioner must ensure community is warned about fires**

- (1) The Emergency Management Commissioner must ensure that warnings are issued and information is provided to the community in relation to fires in Victoria for the purposes of protecting life and property.
- (2) In complying with this section, the Emergency Management Commissioner must have regard to any guidelines, procedures and operating protocols issued under section 44.

#### **43 Responsibility to issue warnings and provide information**

- (1) If a fire is a major fire, the State Response Controller is responsible for issuing warnings and providing information to the community in relation to the major fire for the purposes of protecting life and property.
- (2) If a fire is a fire other than a major fire, the officer who has overall control of response activities in relation to the fire is responsible for issuing warnings and providing information to the community in relation to the fire for the purposes of protecting life and property.
- (3) In complying with this section, the State Response Controller or the officer who has overall control of response activities in relation to the fire, must have regard to any guidelines, procedures and operating protocols issued under section 44.

**44 Emergency Management Commissioner may issue guidelines, procedures and protocols in relation to duty to warn the community**

- (1) The Emergency Management Commissioner may issue guidelines, procedures or operating protocols for the purposes of this Division.
- (2) Before issuing any guidelines, procedures or protocols referred to in subsection (1), the Emergency Management Commissioner must consult with the fire services agencies.
- (3) Guidelines, procedures or operating protocols in force under section 25 of the **Fire Services Commissioner Act 2010** immediately before the commencement of section 77 are to be taken to have been issued under this section.

**Division 4—Consequence management**

**45 Consequence management**

- (1) Consequence management means the coordination of agencies, including agencies who engage the skills and services of non-government organisations, which are responsible for managing or regulating services or infrastructure which is, or may be, affected by a major emergency.
- (2) The objective of consequence management is to minimise the adverse consequences to users of services or infrastructure caused by the interruption to the services or infrastructure as a consequence of the major emergency while having regard to the need to ensure that—
  - (a) safety considerations are paramount; and
  - (b) if the major emergency is due to—
    - (i) a hi-jack, siege or riot; or

(ii) a warlike act or an act of terrorism—  
the exercise of police powers is not to be  
interfered with.

### **Division 5—Recovery**

#### **46 Emergency Management Commissioner to be responsible for recovery coordination**

The Emergency Management Commissioner is responsible for the coordination of the activities of organisations, including agencies, having roles or responsibilities under the state emergency recovery plan in relation to recovery from all emergencies.

#### **47 Provision of information in relation to recovery**

Organisations, including agencies, having roles or responsibilities in relation to recovery from all emergencies, must provide information to the Emergency Management Commissioner to enable the Emergency Management Commissioner to perform the functions specified in section 32(1)(g) and (m).

### **Division 6—Operational standards for responder agencies**

#### **48 Emergency Management Commissioner to develop operational standards for responder agencies**

- (1) The Emergency Management Commissioner must develop, and review from time to time, operational standards in relation to the performance by responder agencies of their functions.
- (2) The Emergency Management Commissioner must consult with the responder agencies and Emergency Management Victoria in developing or reviewing the standards.



- (3) A responder agency must cooperate with the Emergency Management Commissioner in any consultation under subsection (2).
- (4) The Emergency Management Commissioner must—
  - (a) develop or review a standard in a manner that is reasonable; and
  - (b) in developing or reviewing a standard, have regard to the resources available to a responder agency in the performance of any functions to which the standard relates.
- (5) Performance standards in force under section 19 of the **Fire Services Commissioner Act 2010** immediately before the commencement of section 77 are to be taken to be operational standards developed under this section.

**49 Emergency Management Commissioner must give operational standards to certain persons**

The Emergency Management Commissioner must—

- (a) give the operational standards developed under section 48 for a responder agency to—
  - (i) the responder agency; and
  - (ii) Emergency Management Victoria; and
  - (iii) the Inspector-General for Emergency Management; and
- (b) publish the operational standards on Emergency Management Victoria's Internet site.

## **Division 7—Incident management operating procedures**

### **50 Incident management operating procedures**

- (1) The Emergency Management Commissioner must develop, and review from time to time, operating procedures for the planning and preparation for the response to and responding to, emergencies, including—
  - (a) training, development and accreditation of incident management personnel; and
  - (b) incident management facilities; and
  - (c) incident management systems; and
  - (d) the management of the State's primary control centre for the response to emergencies.
- (2) In developing, or reviewing, incident management operating procedures, the Emergency Management Commissioner must—
  - (a) consult with the responder agencies and Emergency Management Victoria; and
  - (b) have regard to any procedures of a similar kind that a responder agency has in place for the planning and preparation of the response to, and responding to, emergencies, including any joint procedures with other responder agencies.
- (3) A responder agency must cooperate with the Emergency Management Commissioner in any consultation under subsection (2)(a).
- (4) The Emergency Management Commissioner must develop or review incident management operating procedures in a manner that is reasonable.

- (5) If incident management operating procedures developed under this section are inconsistent with procedures of a similar kind that a responder agency has in place for the planning and preparation of the response to, and responding to, an emergency, including any joint procedures with other responder agencies, the incident management operating procedures prevail to the extent of the inconsistency.
- (6) Incident management operating procedures in force under section 21 of the **Fire Services Commissioner Act 2010** immediately before the commencement of section 77 are to be taken to have been developed under this section.

**51 Emergency Management Commissioner must give incident management operating procedures to certain persons**

The Emergency Management Commissioner must give incident management operating procedures developed under section 50 to—

- (a) each responder agency; and
- (b) Emergency Management Victoria; and
- (c) the Inspector-General for Emergency Management.

**52 Publication of incident management operating procedures on Internet**

The Emergency Management Commissioner must publish incident management operating procedures developed under section 50 on Emergency Management Victoria's Internet site unless the Emergency Management Commissioner considers that it is not in the public interest to do so.

## **Part 5—State emergency response plan**

### **53 Preparation, approval and updating of state emergency response plan**

S. 53  
substituted by  
No. 43/2015  
s. 12.

- (1) The Emergency Management Commissioner must—
  - (a) arrange for the preparation of a state emergency response plan for the coordinated response to emergencies by all agencies having roles or responsibilities in relation to the response to emergencies; and
  - (b) as required, ensure that the state emergency response plan is updated.
- (2) After a state emergency response plan is prepared or updated, the Emergency Management Commissioner must submit the state emergency response plan or updated state emergency response plan to the State Crisis and Resilience Council for approval.
- (3) The State Crisis and Resilience Council may approve the state emergency response plan or updated state emergency response plan.
- (4) The state emergency response plan which is in force under this section immediately before the commencement of section 12 of the **Emergency Management (Control of Response Activities and Other Matters) Act 2015** is taken to have been prepared and approved under this section.

### **53A Urgent update of state emergency response plan**

S. 53A  
inserted by  
No. 43/2015  
s. 12.

- (1) This section applies if the Emergency Management Commissioner is of the opinion that an update to the state emergency response plan is urgent and—

- (a) there is a significant risk that life or property will be endangered if the state emergency response plan is not updated; and
  - (b) complying with the requirements of section 53 is not practicable in the circumstances.
- (2) The Emergency Management Commissioner is not required to comply with the requirements in section 53 in relation to updating the state emergency response plan.
- (3) The Emergency Management Commissioner may update the state emergency response plan in accordance with this section.
- (4) An update to the state emergency response plan made by the Emergency Management Commissioner under this section—
- (a) comes into operation when it is published in accordance with section 55(a); and
  - (b) remains in force for a period of 3 months after it is published.
- (5) The State Crisis and Resilience Council may revoke any update made to the state emergency response plan under this section.

#### **54 Contents of state emergency response plan**

The state emergency response plan must contain provisions—

- (a) identifying, in relation to each form of emergency specified, the agency primarily responsible for responding to the emergency (the control agency); and
- (b) relating to the coordination of the activities of other agencies in support of a responsible agency in the event of an emergency; and

- (c) specifying the roles of agencies in the event of an emergency; and
- (d) with respect to any act, matter or thing relating to consequence management; and
- (e) specifying the roles and responsibilities of coordinators appointed under section 56; and
- (ea) specifying the process by which the State Response Controller is appointed and controllers in relation to Class 1 emergencies are appointed or deployed under section 37; and  
S. 54(ea) inserted by No. 43/2015 s. 13.
- (eb) specifying the process by which controllers in relation to Class 2 emergencies are appointed under section 39; and  
S. 54(eb) inserted by No. 43/2015 s. 13.
- (ec) specifying the roles and responsibilities of the State Response Controller and controllers who are appointed or deployed under section 37 or 39, as the case may be; and  
S. 54(ec) inserted by No. 43/2015 s. 13.
- (ed) enabling the determination of the priority of the response roles of agencies having roles or responsibilities under the state emergency response plan; and  
S. 54(ed) inserted by No. 43/2015 s. 13.
- (f) defining regions for the purposes of section 56.

**55 Publication of state emergency response plan or updated state emergency response plan**

S. 55 substituted by No. 43/2015 s. 14.

As soon as practicable after the state emergency response plan or updated state emergency response plan is approved under section 53(3) or made under 53A, the Emergency Management Commissioner must—

- (a) publish the state emergency response plan or updated state emergency response plan in a manner determined by the Emergency Management Commissioner; and
-

- (b) forward a copy of the state emergency response plan or updated state emergency response plan to each agency to which it applies.

S. 55A  
inserted by  
No. 43/2015  
s. 15.

#### **55A Compliance with state emergency response plan**

- (1) Subject to subsection (3), an agency that has a role or responsibility under the state emergency response plan in relation to the emergency response to a Class 1 emergency or a Class 2 emergency must act in accordance with the state emergency response plan.
- (2) Subsection (3) applies if there is a conflict between the state emergency response plan and any duty, function or power conferred on an agency referred to in subsection (1) by—
  - (a) the common law; or
  - (b) an Act or regulation (whether of Victoria, another State or the Commonwealth); or
  - (c) a licence granted under an Act or regulation referred to in paragraph (b); or
  - (d) an intergovernmental agreement, arrangement or plan that is specified in the state emergency response plan and relates to the emergency response to a Class 1 emergency or a Class 2 emergency; or
  - (e) a term or condition of an agreement to which an agency referred to in subsection (1) is a party and that is in relation to the emergency response to a Class 1 emergency or a Class 2 emergency.
- (3) The Act, regulation, common law, intergovernmental agreement, arrangement or plan or term or condition referred to in subsection (2) prevails to the extent of its inconsistency with the

state emergency response plan and the agency referred to in subsection (1) is taken to have complied with the state emergency response plan if it performs that duty, function or power.

- (4) The Emergency Management Commissioner may direct in writing an agency referred to in subsection (1) to act in accordance with the state emergency response plan if the Emergency Management Commissioner is of the opinion that—
- (a) the agency has failed to act in accordance with the state emergency response plan; and
  - (b) the agency's failure is likely to have significant consequences.
- (5) If requested by the Emergency Management Commissioner, an agency referred to in subsection (1) must provide reasons in writing to the Emergency Management Commissioner for any failure on its part to act in accordance with a direction given under subsection (4) that has significant consequences.

## **56 Regional and municipal district emergency response coordinators**

- (1) The Chief Commissioner of Police must, on the request of the Emergency Management Commissioner, appoint a police officer to be an emergency response coordinator for each region and municipal district.
- (2) In the event of an emergency, directions, in accordance with the state emergency response plan, which concern the allocation of resources in responding to that emergency may be given to all relevant agencies having roles or responsibilities in relation to the response to emergencies by—

S. 56(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 53.2).

S. 56(2)  
amended by  
No. 43/2015  
s. 16.



- (a) in the case of an emergency which affects one municipal district only, the coordinator appointed for that municipal district; or
- (b) in the case of an emergency that affects more than one municipal district within a region, the coordinator appointed for that region; or
- (c) in the case of an emergency which affects more than one region, the Emergency Management Commissioner.

### **57 Senior Police Liaison Officer**

S. 57(1)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 53.3).

- (1) The Chief Commissioner of Police must appoint a police officer to be the Senior Police Liaison Officer.
- (2) The functions of the Senior Police Liaison Officer are to—
  - (a) provide advice to the Emergency Management Commissioner under subsection (3); and
  - (b) deal with requests to, or from, any police officer appointed as an emergency response coordinator for a region or municipal district under section 56.
- (3) If as part of the Emergency Management Commissioner's function under section 32(1)(a) the Emergency Management Commissioner is performing functions relating to the coordination of regional or municipal response, the Emergency Management Commissioner must take into account the advice of the Senior Police Liaison Officer.

S. 57(2)(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 53.3).

### **58 Regional emergency response committees**

The Emergency Management Commissioner may establish such committees as are necessary at regional levels to plan the coordinated response to emergencies by all agencies having roles or responsibilities in relation to the response to emergencies.

## **Part 6—State emergency recovery plan**

### **59 Preparation and review of state emergency recovery plan**

- (1) The Minister must arrange for the preparation and review of a state emergency recovery plan for the coordinated planning and management of emergency recovery.
- (2) The Minister must consult with the State Crisis and Resilience Council before arranging for the preparation and review of the state emergency recovery plan.
- (3) The Minister may, by instrument, delegate any function or power of the Minister under this section, other than this power of delegation, to the Emergency Management Commissioner.
- (4) The state emergency recovery plan which is in force under section 17A of the **Emergency Management Act 1986** immediately before the commencement of this section is to be taken to have been prepared under this section.

### **60 Contents of state emergency recovery plan**

The state emergency recovery plan must contain provisions—

- (a) specifying the roles of agencies in emergency recovery; and
- (b) specifying the Department or agency with responsibility for coordinating particular aspects of recovery, including recovery at the regional level; and
- (c) relating to the coordination of the activities of agencies; and
- (d) defining regions for the purposes of regional recovery coordination.

## Part 7—Inspector-General for Emergency Management

### 60A Definition

In this Part—

*relevant agency* means any of the following—

- (a) an agency or Department;
- (b) the Emergency Management Commissioner;
- (c) the Emergency Services Telecommunications Authority;
- (d) Victoria Police as established by section 6 of the **Victoria Police Act 2013**;
- (e) any municipal council;
- (f) any other public entity within the meaning of section 5 of the **Public Administration Act 2004**;
- (g) any non-government body or organisation prescribed for the purposes of this Part.

S. 60A  
inserted by  
No. 43/2015  
s. 17.

### 61 Inspector-General for Emergency Management

- (1) There is to be an Inspector-General for Emergency Management.
- (2) The Inspector-General for Emergency Management is to be employed under Part 3 of the **Public Administration Act 2004**.

### 62 Objectives of the Inspector-General for Emergency Management

The objectives of the Inspector-General for Emergency Management are to—

- (a) provide assurance to the Government and the community in respect of emergency management arrangements in Victoria; and

- (b) foster continuous improvement of emergency management in Victoria.

### **63 Delegation**

The Inspector-General for Emergency Management, by instrument, may delegate any function or power conferred on the Inspector-General for Emergency Management by or under this Act (other than this power of delegation) or any other Act to any person who in the opinion of the Inspector-General for Emergency Management has relevant emergency management experience.

### **64 Functions of the Inspector-General for Emergency Management**

- (1) The functions of the Inspector-General for Emergency Management are to—
  - (a) develop and maintain a monitoring and assurance framework for emergency management, including outcome measures, against which the capacity, capability and performance of the emergency management sector is to be assessed; and
  - (b) undertake system-wide reviews, including reviewing the emergency management functions of responder agencies and Departments in relation to the monitoring and assurance framework; and
  - (ba) monitor and report to the Minister on the implementation of recommendations arising from reviews referred to in paragraph (b); and
  - (c) at the request of the Minister, provide advice to, or prepare a report for, the Minister on any matter relating to the functions of the Inspector-General for Emergency Management; and

S. 64(1)(ba)  
inserted by  
No. 43/2015  
s. 18(1).

(ca) at the request of the Minister, monitor and report to the Minister on the implementation of recommendations arising from reports referred to in paragraph (c) and from reports in relation to the emergency management sector in whole or in part; and

S. 64(1)(ca)  
inserted by  
No. 43/2015  
s. 18(2).

(d) evaluate state-wide training and exercising arrangements to maintain and strengthen emergency management capability; and

(e) monitor and report to the Minister on the implementation of the Strategic Action Plan by—

(i) responder agencies; and

(ii) Departments; and

(iii) the Emergency Services  
Telecommunications Authority; and

S. 64(1)(e)(ii)  
re-numbered  
as  
s. 64(1)(e)(iii)  
by  
No. 21/2015  
s. 3(Sch. 1  
item 17).

(iv) Emergency Management Victoria; and

(f) monitor and investigate the performance (in matters that are not financial matters) of the Emergency Services Telecommunications Authority in relation to the provision of services by the Emergency Services Telecommunications Authority to emergency services and other related services organisations; and

(g) make recommendations to the Minister about matters arising from any monitoring or investigation of the Emergency Services Telecommunications Authority; and

S. 64(1)(ga)  
inserted by  
No. 76/2014  
s. 4.

(ga) monitor, review and assess critical infrastructure resilience at a system level; and

(h) perform any other functions conferred on the Inspector-General for Emergency Management by or under this or any other Act.

(2) In making recommendations when performing functions under this section, the Inspector-General for Emergency Management must have regard to the resources that agencies have to implement the recommendations.

(3) In performing the functions conferred on the Inspector-General for Emergency Management, the Inspector-General for Emergency Management may, subject to sections 65(1) and 67, consult with relevant stakeholders.

S. 64(4)  
inserted by  
No. 43/2015  
s. 18(3).

(4) In performing the function of monitoring under this section in relation to recommendations or the Strategic Action Plan, the Inspector-General for Emergency Management may assess—

(a) the progress of the relevant agency in implementing the recommendations or the Strategic Action Plan; and

(b) the effectiveness of the method used by the relevant agency in implementing the recommendations or the Strategic Action Plan; and

(c) the efficacy of the implemented recommendations or the Strategic Action Plan.

## **65 Provisions relating to the monitoring and assurance framework**

- (1) In performing functions under section 64(1)(a), the Inspector-General for Emergency Management must consult with—
  - (a) the parts of the emergency management sector affected by the monitoring and assurance framework; and
  - (b) the State Crisis and Resilience Council.
- (2) The Inspector-General for Emergency Management must in developing a monitoring and assurance framework submit the monitoring and assurance framework to the Minister for approval.
- (3) Before approving the monitoring and assurance framework, the Minister must consult with other relevant Ministers.
- (4) The Minister may approve the monitoring and assurance framework.

## **66 Provisions relating to system review**

- (1) For the purpose of performing the functions under section 64(1)(b), the Inspector-General for Emergency Management must prepare an annual forward plan of reviews.
- (2) In preparing the annual forward plan of reviews, the Inspector-General for Emergency Management must consult with the agencies or Departments affected.
- (3) The Inspector-General for Emergency Management must provide a copy of the annual forward plan of reviews to the Minister.

## **67 Provisions relating to advice and reports**

In performing functions under section 64(1)(b) and (c), the Inspector-General for Emergency Management must—



- (a) take into account the role and functions of the Coroner, Victoria Police, the Director of Public Prosecutions, the Commissioner for Law Enforcement Data Security and the IBAC; and
- (b) consult with the Coroner, Victoria Police, the Director of Public Prosecutions, the Commissioner for Law Enforcement Data Security and the IBAC, as the Inspector-General for Emergency Management considers appropriate to ensure that the Inspector-General for Emergency Management does not prejudice the performance of their functions.

#### **68 Powers of the Inspector-General for Emergency Management**

The Inspector-General for Emergency Management has power to do all things necessary or convenient to be done for or in connection with, the performance of the functions of the Inspector-General for Emergency Management.

#### **69 Information gathering for purpose of section 64(1)(b), (ba), (c), (ca), (f), (g) or (ga)**

- (1) The Inspector-General for Emergency Management, by written notice, may require a relevant agency to give to the Inspector-General for Emergency Management any information that the Inspector-General for Emergency Management reasonably believes is necessary for the purposes of performing a function specified in section 64(1)(b), (ba), (c), (ca), (f), (g) or (ga).
- (2) Within 28 days of receiving a notice under subsection (1), the relevant agency must give the information to the Inspector-General for Emergency Management, unless—

S. 69  
(Heading)  
amended by  
No. 43/2015  
s. 19(1).

S. 69(1)  
amended by  
No. 43/2015  
s. 19(2).

- (a) the Inspector-General for Emergency Management has agreed to allow an extension of time for the giving of the information; or
  - (b) the Inspector-General for Emergency Management has agreed that the relevant agency is not able to give the information.
- (3) If the Inspector-General for Emergency Management reasonably believes that it is urgent that information required to be given under a notice under subsection (1), be given within a lesser time than that specified in subsection (2), the Inspector-General for Emergency Management may specify a lesser period for the giving of the information and the information must be given within the period so specified.
- (4) If the Inspector-General for Emergency Management has agreed to allow an extension of time under subsection (2), the relevant agency must give the information to the Inspector-General for Emergency Management within the time agreed on.

\* \* \* \* \*

S. 69(5)  
repealed by  
No. 43/2015  
s. 19(3).

**70 Provisions for reviews and reports for the purposes of section 64(1)(b), (ba), (c), (ca) or (ga)**

S. 70  
(Heading)  
amended by  
No. 43/2015  
s. 20(1).

- (1) If a review or report for the purposes of section 64(1)(b), (ba), (c), (ca) or (ga), relates to a relevant agency, the Inspector-General for Emergency Management must provide a draft copy of the review or report to the relevant agency for comment and response.

S. 70(1)  
amended by  
No. 43/2015  
s. 20(2).

- (2) A person who receives a draft copy of a review or report under subsection (1) must not disclose the contents of the review or report, except to the extent necessary for the purposes of the relevant agency providing comment or response.

Penalty: 5 penalty units.

- (3) The Inspector-General for Emergency Management must take into account any comment or response received under subsection (1) in preparing the final review or report.
- (4) The Inspector-General for Emergency Management must provide a copy of the final review or report to the Minister.
- (5) If a review or report contains any matter relating to an area of responsibility of another Minister, the Minister must consult with that Minister.
- (6) The Minister may, with the agreement of any other relevant Minister, make the review or report or any part of the review or report publicly available.
- (7) If the final review or report is to be made publicly available, the review or report must not include any information that discloses the identity of any person.
- (8) If the Minister considers it appropriate to do so, the Minister may, with the agreement of any other relevant Minister, provide the review or report or any part of the review or report to the State Crisis and Resilience Council for implementation.

S. 70A  
inserted by  
No. 43/2015  
s. 21.

#### **70A Power of entry**

- (1) Subject to subsection (2), if the Inspector-General for Emergency Management reasonably believes it is necessary for the purposes of enabling the Inspector-General for Emergency Management to perform any function or exercise any power under

this Part, the Inspector-General for Emergency Management or any person performing any function or exercising any power on behalf of the Inspector-General for Emergency Management or engaged by the Inspector-General for Emergency Management may—

- (a) enter the premises of a relevant agency or a relevant agency's vehicle, vessel or aircraft at any time; and
  - (b) inspect any document or other thing found at those premises or in that vehicle, vessel or aircraft; and
  - (c) remain at the premises or in the vehicle, vessel or aircraft and observe the operation of a system, procedure, thing or activity.
- (2) The Inspector-General for Emergency Management or a person referred to in subsection (1) may not enter the premises, vehicle, vessel or aircraft of a relevant agency under subsection (1) unless the Inspector-General for Emergency Management or that person—
- (a) has in writing requested consent from the relevant agency in relation to the proposed entry; and
  - (b) has obtained consent from the relevant agency.
- (3) Within 7 days after receiving a request for consent under subsection (2)(a), a relevant agency must provide the Inspector-General for Emergency Management or the person requesting consent with a written response to the request for consent.
- (4) A relevant agency must not unreasonably refuse to give consent.

- (5) If the Inspector-General for Emergency Management reasonably believes that it is urgent that the premises, vehicle, vessel or aircraft of a relevant agency be entered under subsection (1) before the 7 days specified in subsection (3), the Inspector-General for Emergency Management may specify a shorter period within which a response is to be provided under subsection (3).

S. 70B  
inserted by  
No. 43/2015  
s. 21.

**70B Reasonable assistance to be given to Inspector-General for Emergency Management**

The Inspector-General for Emergency Management may, by written notice and to the extent that is reasonably necessary to enable the Inspector-General for Emergency Management or any person performing any function or exercising any power on behalf of the Inspector-General for Emergency Management or engaged by the Inspector-General for Emergency Management to perform any function or exercise any power under this Part, require a relevant agency to give reasonable assistance to the Inspector-General for Emergency Management or that person.

**71 Monitoring of Emergency Services Telecommunications Authority**

- (1) The Inspector-General for Emergency Management must, from time to time, arrange for the monitoring and investigation of the performance (in matters that are not financial matters) of the Emergency Services Telecommunications Authority in relation to the provision of services by the Authority to emergency services and other related services organisations.
- (2) The Inspector-General for Emergency Management may make an arrangement for the monitoring and investigation of the performance

of the Emergency Services Telecommunications Authority under subsection (1) either—

- (a) of his or her own motion; or
  - (b) at the request of the Minister; or
  - (c) at the request of an emergency services and other related services organisation to whom the Emergency Services Telecommunications Authority has provided services.
- (3) The Inspector-General for Emergency Management may make recommendations to the Minister about any matter arising from any monitoring or investigation of the performance of the Emergency Services Telecommunications Authority under subsection (1).

## **72 Confidential information**

- (1) The Inspector-General for Emergency Management or any person performing any function or exercising any power on behalf of the Inspector-General for Emergency Management or engaged by the Inspector-General for Emergency Management must not, directly or indirectly, provide or disclose any confidential information acquired by the Inspector-General for Emergency Management or that person by reason of, or in the course of, the performance of the functions or the exercise of the powers of the Inspector-General for Emergency Management under this Act except—
- (a) for the performance of the functions or the exercise of the powers of the Inspector-General for Emergency Management under this Act; or

S. 72(1)(b)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 53.4).

- (b) where the confidential information may relate to matters relevant to the commission of a criminal offence and the Inspector-General for Emergency Management considers that it would be in the public interest to do so, for the purpose of disclosing that confidential information to the Director of Public Prosecutions or a police officer; or
- (c) where the confidential information is requested by the Coroner or where the Inspector-General for Emergency Management considers that it would be in the public interest to provide the confidential information to the Coroner having regard to the functions of the Coroner; or
- (d) where the confidential information is provided or disclosed to—
  - (i) the Commissioner for Law Enforcement Data Security; or
  - (ii) the IBAC.

Penalty: 5 penalty units.

S. 72(2)  
amended by  
No. 43/2015  
s. 22.

- (2) In this section, *confidential information* means information acquired by the Inspector-General for Emergency Management or another person, by reason of, or in the course of, conducting a review or preparing a report for the purposes of section 64(1)(b), (ba), (c), (ca) or (ga) which is information that is not already available in the public domain.

S. 73(1)  
amended by  
No. 43/2015  
s. 23.

### **73 Constraints on access to information not to apply**

- (1) No obligation to maintain secrecy or other restriction on the disclosure of information acquired by persons employed in the public service or by a relevant agency, if imposed by or under an Act or rule of law, applies to the

disclosure of information required by the Inspector-General for Emergency Management under section 69.

- (2) The Inspector-General for Emergency Management or any other person must not divulge or communicate, except to another person performing duties under this Part, any information which has come to the knowledge of the Inspector-General for Emergency Management by reason, directly or indirectly of subsection (1), if the person from whom that information was obtained could not, but for that subsection, lawfully have divulged that information to the Inspector-General for Emergency Management or other person.

#### **74 Protection of person providing information**

Information provided by any person to the Inspector-General for Emergency Management under section 69 or 70B which is not otherwise accessible cannot be used in any proceeding against that person.

**S. 74**  
**amended by**  
**No. 43/2015**  
**s. 24.**



## Part 7A—Critical infrastructure resilience

### Division 1—Preliminary

Part 7A  
(Headings  
and ss 74A–  
74X)  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### 74A Object of this Part

S. 74A  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

The object of this Part is to provide for emergency risk management arrangements for critical infrastructure resilience.

#### 74B Definitions

S. 74B  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

In this Part—

***critical infrastructure*** means any infrastructure which is—

- (a) assessed by the relevant Minister to be significant critical infrastructure or major critical infrastructure; or
- (b) designated by the Governor in Council to be vital critical infrastructure;

***criticality assessment methodology*** means the methodology prescribed in any regulations or specified in any guidelines;

***essential service*** has the meaning given by section 74C;

***exercise*** means an exercise required by section 74Q;

***guidelines*** means guidelines issued under section 74W;

***Industry Accountable Officer*** means a person nominated under section 74I;

***infrastructure*** means—

- (a) any premises, asset, good or system used for the purpose of the generation, production, extraction, storage, transmission, distribution or operation of an essential service; and
- (b) any communication system used for the delivery of an essential service, including any system used to generate, send, receive, store or otherwise process any electronic communication for the purpose of an essential service;

***major critical infrastructure*** means any infrastructure assessed by the relevant Minister to be infrastructure the disruption of which could adversely impact—

- (a) the continuity of the supply of an essential service to more than one region of Victoria; or
- (b) the economic or social well-being of more than one region of Victoria;

***Order*** means an Order of the Governor in Council;

***premises*** includes—

- (a) land; and
- (b) a building or vehicle; and
- (c) a part of a building or vehicle; and
- (d) any place, whether built on or not;

***region*** means an area of Victoria specified in the guidelines;

***relevant Department*** means the Department responsible for providing support to the relevant Minister in respect of the relevant infrastructure;

***relevant Minister*** means the Minister designated as the relevant Minister under section 74F;

***resilience improvement cycle*** means the period of 12 months commencing when a statement of assurance is submitted to the relevant Minister;

***responsible entity*** means the person designated as the responsible entity under section 74H;

***significant critical infrastructure*** means any infrastructure assessed by the relevant Minister to be infrastructure the disruption of which could adversely impact—

- (a) the continuity of the supply of an essential service to one region of Victoria; or
- (b) the economic or social well-being of one region of Victoria;

***statement of assurance*** means a statement submitted under section 74N;

***Victorian Critical Infrastructure Register*** means the register established and maintained under section 74J;

***vital critical infrastructure*** means any infrastructure—

- (a) assessed by the relevant Minister to be infrastructure the disruption of which could adversely impact—
  - (i) the continuity of the supply of an essential service to Victoria; or

- (ii) the economic or social well-being of Victoria; and
- (b) designated as vital critical infrastructure under section 74E.

**74C What is an essential service?**

For the purposes of this Part, *essential service* means any of the following services—

- (a) transport;
- (b) fuel (including gas);
- (c) light;
- (d) power;
- (e) water;
- (f) sewerage;
- (g) a service specified to be an essential service by the Governor in Council for the purposes of paragraph (g) of the definition of *essential service* within the meaning of section 3 of the **Essential Services Act 1958**.

S. 74C  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

**Division 2—Assessment of infrastructure**

**74D Assessment of infrastructure**

- (1) The relevant Minister must—
  - (a) assess or reassess, having regard to the criticality assessment methodology, whether any infrastructure is or has ceased to be—
    - (i) major critical infrastructure or significant critical infrastructure; or
    - (ii) vital critical infrastructure; and
  - (b) advise the Minister as to the outcome of the assessment or reassessment.

S. 74D  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

- (2) The Minister may request the relevant Minister to assess or reassess any infrastructure under this section.

S. 74E  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74E Designation of vital critical infrastructure**

- (1) Subject to this section, the Governor in Council on the recommendation of the relevant Minister may by Order—
- (a) designate infrastructure specified in the Order to be vital critical infrastructure; or
  - (b) revoke the designation of infrastructure specified in the Order to be vital critical infrastructure.
- (2) The relevant Minister may make a recommendation under subsection (1) based on the assessment or reassessment, having regard to the criticality assessment methodology, by the relevant Department of any infrastructure as vital critical infrastructure.
- (3) The relevant Minister must provide a copy of an Order made under subsection (1) to the following—
- (a) the responsible entity of the relevant vital critical infrastructure;
  - (b) Emergency Management Victoria;
  - (c) the Chief Commissioner of Police;
  - (d) the Chief Executive Officer of any municipal council in the municipal district of which the relevant vital critical infrastructure is wholly or partly located.
- (4) A failure to comply with subsection (3) in relation to an Order does not affect the validity, operation or effect of the Order.

- (5) Despite subsection (4), the responsible entity of the relevant vital critical infrastructure is not required to comply with this Part until it receives a copy of the Order under subsection (3).

### **Division 3—Responsibilities in relation to critical infrastructure**

#### **74F Who is the relevant Minister?**

For the purposes of this Part, *relevant Minister* means the Minister designated by the Governor in Council by Order as the relevant Minister in respect of—

- (a) infrastructure; or
- (b) a class or type of infrastructure—  
as specified in the Order.

S. 74F  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74G Delegation by relevant Minister**

- (1) A relevant Minister, by instrument, may delegate to a public sector employee within the meaning of section 4(1) of the **Public Administration Act 2004** any function or power of the relevant Minister under this Part other than—
- (a) this power of delegation; or
  - (b) a function or power conferred on the relevant Minister under section 74E or 74O(2).
- (2) A relevant Minister must provide a copy of any instrument making or revoking a delegation under subsection (1) to the Minister.
- (3) Emergency Management Victoria must maintain a record of delegations in force under this section.

S. 74G  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

S. 74H  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74H Who is the responsible entity?**

- (1) For the purposes of this Part, *responsible entity* means the person designated by the Governor in Council by Order as the responsible entity in respect of vital critical infrastructure specified in the Order.
- (2) A responsible entity may apply to the relevant Minister to have the designation revoked on the grounds specified in the application.
- (3) After considering an application under subsection (2), the relevant Minister may recommend to the Governor in Council that the Order designating the responsible entity be revoked or amended.

S. 74I  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74I Nomination of Industry Accountable Officer**

- (1) A responsible entity must provide to the relevant Minister the nomination of a natural person as the Industry Accountable Officer in respect of vital critical infrastructure of the responsible entity.
- (2) A natural person nominated under subsection (1) must be—
  - (a) an officer within the meaning of section 9 of the Corporations Act; or
  - (b) any other employee of the responsible entity approved by the relevant Minister.
- (3) The relevant Minister must notify the Minister as to the nomination of an Industry Accountable Officer under subsection (1).

## **Division 4—Victorian Critical Infrastructure Register**

### **74J Victorian Critical Infrastructure Register**

- (1) Emergency Management Victoria must establish and maintain a register called the Victorian Critical Infrastructure Register.
- (2) The Victorian Critical Infrastructure Register must contain—
  - (a) all infrastructure—
    - (i) assessed to be major critical infrastructure;
    - (ii) assessed to be significant critical infrastructure;
    - (iii) designated to be vital critical infrastructure;
  - (b) in respect of each critical infrastructure—
    - (i) the name and location;
    - (ii) the relevant Department;
    - (iii) the relevant Minister;
  - (c) in respect of each vital critical infrastructure—
    - (i) the date of the declaration as vital critical infrastructure;
    - (ii) the relevant responsible entity;
    - (iii) the relevant Industry Accountable Officer.
- (3) The relevant Minister must provide the information required to be contained in the Victorian Critical Infrastructure Register under subsection (2) to the Minister.

S. 74J  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).



- (4) Emergency Management Victoria must remove an entry on the Victorian Critical Infrastructure Register relating to—
- (a) major critical infrastructure or significant critical infrastructure, if the relevant Minister advises the Minister that the relevant Minister considers that the infrastructure is no longer major critical infrastructure or significant critical infrastructure;
  - (b) vital critical infrastructure, if the relevant Minister provides the Minister with a copy of the Order revoking the designation of the infrastructure as vital critical infrastructure.

S. 74K  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

**74K Access to the Victorian Critical Infrastructure Register**

- (1) Emergency Management Victoria must ensure that information on the Victorian Critical Infrastructure Register is only accessed by—
- (a) a person specified in subsection (2); or
  - (b) any other person that Emergency Management Victoria considers requires access in the performance of their functions or exercise of their powers in respect of critical infrastructure, counterterrorism or emergency management.
- (2) If subsection (3) applies, the following may access the Victorian Critical Infrastructure Register after requesting Emergency Management Victoria for access—
- (a) the Minister;
  - (b) a relevant Minister;
  - (c) the Inspector-General for Emergency Management;

- (d) any person who is a delegate of the relevant Minister under section 74G;
  - (e) Victoria Police.
- (3) A person or body referred to in subsection (2) can only make a request under subsection (2) if access is required in the performance of their functions or exercise of their powers in respect of critical infrastructure, counterterrorism or emergency management.

**74L Review of Victorian Critical Infrastructure Register**

- (1) Emergency Management Victoria must conduct a review of the accuracy and currency of the Victorian Critical Infrastructure Register—
  - (a) at least once every 3 years; and
  - (b) on the request of the Minister.
- (2) Emergency Management Victoria must report to the Minister after conducting a review.
- (3) The Minister may after considering a report under subsection (2) make a request to a relevant Minister under section 74D(2).

S. 74L  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

**Division 5—Resilience improvement cycle**

**74M Resilience improvement cycle**

A responsible entity must before the end of each resilience improvement cycle complete the following in respect of each relevant vital critical infrastructure—

- (a) a statement of assurance;
- (b) emergency risk management planning and documentation;
- (c) unless otherwise agreed by the relevant Minister, an exercise;
- (d) an audit.

S. 74M  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

S. 74N  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74N Statement of assurance**

- (1) A responsible entity must submit a statement of assurance to the relevant Minister—
  - (a) within the period of 6 months after receiving a copy of an Order under section 74E; and
  - (b) at the end of each subsequent period of 12 months.
- (2) A statement of assurance must—
  - (a) be prepared in accordance with the regulations and the guidelines; and
  - (b) in accordance with the regulations and the guidelines, identify the emergency risks to relevant vital critical infrastructure; and
  - (c) in accordance with the regulations and the guidelines, specify the emergency risk management actions or activities that the responsible entity proposes to take to address the identified emergency risks; and
  - (d) contain an attestation signed by the Industry Accountable Officer in accordance with subsection (3).
- (3) An attestation must state—
  - (a) that the responsible entity has complied with this Part; and
  - (b) that the responsible entity will undertake the emergency risk management actions and activities proposed in the statement of assurance in the next resilience improvement cycle; and
  - (c) any other requirement contained in the regulations or guidelines.

- (4) A statement of assurance required under subsection (1)(b) must also state in the attestation—
- (a) whether or not the emergency risk management actions and activities proposed in the previous statement of assurance have been undertaken; and
  - (b) if any of the emergency risk management actions and activities proposed in the previous statement of assurance have not been undertaken, the reason why each of the emergency risk management actions and activities proposed in the previous statement of assurance have not been undertaken; and
  - (c) how any findings under section 74T will be dealt with.

#### **74O Powers of relevant Minister**

- (1) A relevant Minister may request a responsible entity to revise a statement of assurance submitted to the relevant Minister by the responsible entity if the relevant Minister is of the opinion that the statement of assurance is not adequate having regard to the requirements under section 74N.
- (2) If a revised statement of assurance submitted to the relevant Minister by the responsible entity is in the opinion of the relevant Minister not adequate having regard to the requirements under section 74N, the relevant Minister may direct the responsible entity to submit a further statement of assurance amended in accordance with the direction of the relevant Minister within a time as specified by the relevant Minister.

**S. 74O**  
inserted by  
**No. 76/2014**  
s. 3 (as  
amended by  
**No. 20/2015**  
s. 12).

- (3) The relevant Minister may request a responsible entity to provide to the relevant Minister any information specified by the Minister in the request which the relevant Minister considers is necessary to establish the accuracy of the statements made in the statement of assurance.
- (4) A responsible entity must comply with a request under subsection (3) within the time specified by the relevant Minister in the request.

S. 74P  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

**74P Emergency risk management plan and documentation**

- (1) A responsible entity must prepare an emergency risk management plan for vital critical infrastructure to prepare for an emergency.
- (2) An emergency risk management plan must be prepared in accordance with the regulations and the guidelines.
- (3) An emergency risk management plan prepared by the responsible entity for vital critical infrastructure may, with the agreement of the relevant Minister, form part of any other risk management plan or activity for the vital critical infrastructure undertaken to comply with requirements imposed under any other Act or regulations.
- (4) The relevant Minister may request a responsible entity to provide to the relevant Minister—
  - (a) a copy of an emergency risk management plan or any other documents relating to emergency risk management as specified in the request; or
  - (b) any details relating to an emergency risk management plan or any other documents relating to emergency risk management as specified in the request.

- (5) A responsible entity must comply with a request under subsection (4) within the time specified by the relevant Minister in the request.

**74Q Exercise by responsible entity**

- (1) A responsible entity must develop, conduct and evaluate an exercise to test their planning, preparedness, prevention, response or recovery capability in respect of an emergency.
- (2) An exercise must be developed in consultation with—
- (a) the relevant Minister; or
  - (b) all the relevant Ministers, in the case of an exercise which is a joint exercise.
- (3) Without limiting the generality of subsection (2), consultation must include the details of the proposed exercise including the nature of the simulated emergency event and its timing and location.
- (4) An exercise must be developed, conducted and evaluated in accordance with the regulations and the guidelines.
- (5) An exercise must be conducted under the observation of the relevant Minister or relevant Ministers.
- (6) Unless subsection (7) applies, an exercise must be conducted and evaluated in each resilience improvement cycle.
- (7) The relevant Minister may agree in writing with the responsible entity that an exercise is to be conducted at a frequency other than in each resilience improvement cycle.

S. 74Q  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

- (8) The relevant Minister may agree in writing with the responsible entity that the responsible entity is not required to complete an exercise in the current resilience improvement cycle, if the relevant Minister is satisfied that—
- (a) the occurrence of an event, including an exercise in compliance with any other requirement, tested the responsible entity's planning, preparedness, prevention, response or recovery capability in respect of an emergency; and
  - (b) the occurrence of the event demonstrated substantial compliance with the requirements under this Part.

S. 74R  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74R Relevant Minister to review exercise**

The relevant Minister or relevant Ministers who observed an exercise—

- (a) must review the conduct of the exercise in accordance with the regulations and guidelines; and
- (b) must provide comments in writing to the responsible entity on the outcomes of the exercise; and
- (c) may, if the relevant Minister considers, or the relevant Ministers consider, that there are significant issues with the exercise conduct or outcome, request in writing either or both of the following—
  - (i) that specified improvement actions be completed by the responsible entity within the time specified in the request;
  - (ii) that a second exercise be conducted, including in the request the nature of the exercise and any specific capability to be tested.

**74S Responsible entity to conduct audit**

- (1) A responsible entity must conduct an audit of their emergency risk management processes after the completion of the exercise in accordance with any requirements prescribed by the regulations or the guidelines.
- (2) The purpose of the audit is to evaluate the efficiency, effectiveness and appropriateness of the management by the responsible entity of risks to its capability in relation to planning, preparedness, prevention, response and recovery.
- (3) An audit must be undertaken by—
  - (a) unless paragraph (b) applies, a person who was not involved in the emergency risk management planning process or the development and conduct of the exercise; or
  - (b) if the relevant Minister requires that the audit be undertaken by an independent auditor, an independent auditor.

S. 74S  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

**74T Audit certificate and findings**

After a responsible entity completes an audit, the relevant Industry Accountable Officer on behalf of the responsible entity must submit to the relevant Minister—

- (a) an audit certificate confirming that the audit has been completed; and
- (b) the audit findings, including the following—
  - (i) the outcome of the audit;
  - (ii) whether any required actions have been identified.

S. 74T  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).



S. 74U  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74U Relevant Minister may request second audit**

- (1) If the relevant Minister is not satisfied as to the conduct of an audit, the relevant Minister may request that a responsible entity conduct a second audit in accordance with the request within the time specified in the request.
- (2) The relevant Minister may specify in the request that the second audit be conducted by an independent auditor.

### **Division 6—General**

S. 74V  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74V Offences**

A responsible entity must not—

- (a) fail, without reasonable excuse, to provide a statement of assurance to the relevant Minister in accordance with section 74N; or
- (b) provide a false or misleading statement of assurance to the relevant Minister in accordance with section 74N; or
- (c) fail, without reasonable excuse, to revise a statement of assurance when requested to do so by the relevant Minister in accordance with section 74O(1); or
- (d) fail, without reasonable excuse, to submit a further statement of assurance within the specified time when directed to do so by the relevant Minister in accordance with section 74O(2); or
- (e) fail, without reasonable excuse, to provide further information within the specified time when requested to do so by the relevant Minister in accordance with section 74O(3);  
or

- (f) fail, without reasonable excuse, to provide details of an emergency risk management plan within the specified time when requested to do so by the relevant Minister in accordance with section 74P; or
- (g) fail, without reasonable excuse, to conduct an exercise in accordance with section 74Q; or
- (h) fail, without reasonable excuse, to undertake specified improvement actions within the specified time when required to do so by the relevant Minister in accordance with section 74R; or
- (i) fail, without reasonable excuse, to conduct an audit with an independent auditor when requested to do so by the relevant Minister in accordance with section 74S(3); or
- (j) fail, without reasonable excuse, to submit an audit certificate to the relevant Minister in accordance with section 74T; or
- (k) submit a false or misleading audit certificate to the relevant Minister in accordance with section 74T.

Penalty: In the case of a natural person, 600 penalty units;

In the case of a body corporate, 3000 penalty units.

#### **74W Guidelines**

- (1) The Minister may issue guidelines for the purposes of this Part.

**S. 74W**  
inserted by  
**No. 76/2014**  
s. 3 (as  
amended by  
**No. 20/2015**  
s. 12).

- (2) Without limiting the generality of subsection (1), guidelines may be made for or with respect to the following—
  - (a) criticality assessment methodology;
  - (b) emergency risk management planning processes;
  - (c) the conduct of exercises;
  - (d) audit processes.
- (3) Guidelines issued under this section must not be inconsistent with any regulations made under this Act.

S. 74X  
inserted by  
No. 76/2014  
s. 3 (as  
amended by  
No. 20/2015  
s. 12).

#### **74X Savings and transitional**

Despite the repeal of Part 6 of the **Terrorism (Community Protection) Act 2003**, a risk management plan prepared by a declared essential service under that Act continues in force until the declared essential service is designated to be a responsible entity under this Part and the relevant Industry Accountable Officer has attested the first statement of assurance.

## Part 8—General

### 75 Immunity

- (1) The Emergency Management Commissioner, a State Response Controller or a controller appointed or deployed under section 37 is not personally liable for any thing done or omitted to be done in good faith—
  - (a) in the exercise of a power or the discharge of a duty under this Act or the regulations or any other Act or regulations made under that Act; or
  - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act or the regulations or any other Act or regulations made under that Act.
- (2) Any liability resulting from an act or omission that would but for subsection (1) attach to the Emergency Management Commissioner, a State Response Controller or a controller appointed or deployed under section 37 attaches to the Crown.

S. 75(1)  
amended by  
No. 43/2015  
s. 25.

S. 75(2)  
amended by  
No. 43/2015  
s. 25.

### 76 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Without limiting the generality of subsection (1), for the purposes of Part 7A, regulations may make provision for or with respect to the following—
  - (a) criticality assessment methodology;
  - (b) the contents of a statement of assurance;
  - (c) requirements and standards for the conduct and evaluation of exercises;

S. 76  
amended by  
No. 76/2014  
s. 5 (ILA  
s. 39B(1)).

S 76(2)  
inserted by  
No. 76/2014  
s. 5.

- (d) standards to be met in emergency risk management planning, exercises and audits.

S. 76A  
inserted by  
No. 20/2015  
s. 11.

**76A Additional regulation making powers**

- (1) Regulations made under section 76 may apply, adopt or incorporate by reference any document formulated or published by a person or body, whether—
- (a) without modification or as modified by the regulations; or
  - (b) as formulated or published on or before the date when the regulations are made; or
  - (c) as formulated or published from time to time.
- (2) Regulations made under section 76 may be made—
- (a) so as to apply—
    - (i) at all times or at a specified time; or
    - (ii) throughout the whole of the State or in a specified part of the State;
  - (b) so as to require a matter affected by the regulations to be—
    - (i) in accordance with a specified standard or a specified requirement; or
    - (ii) approved by or to the satisfaction of a specified person;
  - (c) so as to confer a discretionary authority on a specified person;
  - (d) so as to provide, in a specified case or class of case, for the exemption of persons or things or a class of persons or a class of things from any of the provisions of the regulations—

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- (i) whether unconditionally or on specified conditions; and
- (ii) either wholly or to the extent specified in the regulations.

\* \* \* \* \*

**Pt 9 (ss 77–105)  
amended by  
No. 41/2014  
s. 14,  
repealed by  
No. 73/2013  
s. 105.**

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Assembly: 16 October 2013*

*Legislative Council: 31 October 2013*

The long title for the Bill for this Act was "A Bill for an Act to establish new governance arrangements for emergency management in Victoria, to repeal the **Fire Services Commissioner Act 2010**, to consequentially amend emergency management legislation and certain other Acts and for other purposes."

The **Emergency Management Act 2013** was assented to on 3 December 2013 and came into operation on 1 July 2014: Special Gazette (No. 148) 13 May 2014 page 1.

### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

#### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

#### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

#### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).



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## 2 Table of Amendments

This publication incorporates amendments made to the **Emergency Management Act 2013** by Acts and subordinate instruments.

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### **Emergency Management Act 2013, No. 73/2013**

*Assent Date:* 3.12.13  
*Commencement Date:* S. 105 on 1.7.14: SG (No. 148) 13.5.14 p. 1  
*Note:* S. 105 repealed Pt 9 (ss 77–105) on 1.9.15  
*Current State:* This information relates only to the provision/s amending the **Emergency Management Act 2013**

### **Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014**

*Assent Date:* 3.6.14  
*Commencement Date:* S. 10(Sch. item 53) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2  
*Current State:* This information relates only to the provision/s amending the **Emergency Management Act 2013**

### **Justice Legislation Amendment Act 2014, No. 41/2014**

*Assent Date:* 17.6.14  
*Commencement Date:* Ss 13, 14 on 3.12.13: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Emergency Management Act 2013**

### **Emergency Management Amendment (Critical Infrastructure Resilience) Act 2014, No. 76/2014** (as amended by No. 20/2015)

*Assent Date:* 21.10.14  
*Commencement Date:* Ss 3–5 on 1.7.15: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Emergency Management Act 2013**

### **Justice Legislation Amendment Act 2015, No. 20/2015**

*Assent Date:* 16.6.15  
*Commencement Date:* S. 11 on 16.6.15: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Emergency Management Act 2013**

### **Statute Law Revision Act 2015, No. 21/2015**

*Assent Date:* 16.6.15  
*Commencement Date:* S. 3(Sch. 1 item 17) on 1.8.15: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Emergency Management Act 2013**

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**Emergency Management (Control of Response Activities and Other Matters)  
Act 2015, No. 43/2015**

<i>Assent Date:</i>	22.9.15
<i>Commencement Date:</i>	Ss 4, 5, 7–9, 12–14, 16–25 on 23.9.15: s. 2(1); ss 6, 10, 11, 15 on 1.8.16: Special Gazette (No. 233) 26.7.16 p. 1
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Emergency Management Act 2013</b>

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### **3 Amendments Not in Operation**

There are no amendments which were Not in Operation at the date of publication.

**4 Explanatory details**

No entries at date of publication.