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General

What is the Emergency Management Act 2005?

It is an Act of Parliament that provides for prompt and coordinated management of emergencies in Western Australia. It formalises WA's ability to mitigate or prevent, prepare for, respond to and recover from incidents of a large scale or catastrophic nature. The legislation requires the establishment of State emergency management policies and plans in relation to all hazards, including acts of terrorism.

When did it start?

The *Emergency Management Act 2005* was proclaimed on 23 December 2005 and came into effect on 24 December 2005.

Proclamation of the Act brought some aspects into operation immediately, but remaining provisions require the development of regulations and administrative arrangements that require extensive consultation with stakeholders and interested parties.

What aspects of the Act are operating now?

1. The existence of the State Emergency Coordinator, and the State Emergency Management Committee;
2. The functions of local governments, and the requirement to have local emergency management arrangements in place;
3. The empowerment to progressively initiate administrative actions;
4. The empowerment to progressively establish regulations to prescribe matters under the Act;
5. The Minister could declare a 'state of emergency', but as no HMAs have yet been prescribed there could be no hazard management officers or authorised officers, therefore no availability of powers;
6. Employment protection for volunteers; and
7. The amendment to the *Fire Brigades Act 1942*.

What aspects of the Act require an administrative action prior to coming into operation?

1. Delegation by the State Emergency Coordinator of any of his/her powers or duties;
2. Appointment of members to the SEMC;
3. Establishment of EM districts;
4. Appointment of District and Local Emergency Coordinator;
5. Establishment of District and Local Emergency Management Committees; and
6. The State Disaster Council would be established, once a 'state of emergency' had been declared.

What aspects of the Act require the drafting, development, approval and gazettal of regulations?

1. The designation of hazards, Hazard Management Agencies, Combat Agencies and Support Organisations. Until this happens, there is no HMA, so there can be no 'emergency situation' declaration, nor any exercise of powers under Part 6, nor any offences under Part 8 (as no HMAs have yet been prescribed there could be no 'hazard management officers' or 'authorised officers');
2. Appointment of members to the SEMC;
3. Exchange of information; and
4. Insurance for volunteers.

Why was the Act introduced?

Prior to the commencement of the Act, WA had no Emergency Management legislation, relying instead upon the 1985 Cabinet Minute which approved the basis of Policy Statement No. 7 'Western Australian Emergency Management Arrangements'.

In the absence of EM legislation the State and its agencies lacked appropriate legislative powers and protection to deal with large scale catastrophic events.

The Community Development and Justice Standing Committee's 2002 Report 'Emergency Services Legislation in Western Australia' reaffirmed the need for WA to formulate encompassing emergency management legislation. This Act encapsulates the key issues identified by the Standing Committee.

Where can I get a copy of the Act?

An electronic copy of the Act is available on www.slp.wa.gov.au which is the State Law Publisher's website.

When do the emergency powers under the Act apply?

The Emergency Powers apply when an 'emergency situation' (declared by the Hazard Management Agency) or a 'state of emergency' (declared by the Minister for Emergency Services) is declared.

Is there an Implementation Program?

To ensure a smooth transition to operations under the Act, FESA has been given the job of implementing the Act, through an Implementation Team.

The Implementation Team is working to ensure there is an organisational awareness, understanding and knowledge of the provisions of the Act and how these provisions apply to FESA. In addition, the Team is:

- developing and progressing the drafting of the Regulations to the Act;
- establishing the necessary administrative arrangements;
- requesting the relevant Hazard Management Agencies (HMAs) to review the State Emergency Management Plans; and
- coordinating a public education and awareness program.

What consultation has been done and will be done during the implementation of the Act?

The Implementation Team's Director has contacted over 280 hazard management agencies, combat agencies, support organisations, government departments and interested bodies to inform them of the passage of the Act and to consider what implications, if any, the new Act poses for their organisations. A contact officer from each of these has been appointed.

How is the Act being implemented?

Members of the Act's Implementation Team are currently working on a number of areas including policy, planning, drafting regulations, mitigation, funding, training, public education and indigenous programs and consulting with over 280 stakeholder organizations or agencies.

How will FESA assist other organisations with the implementation of the Act?

Emergency Management Services will liaise with the nominated contact officers of organisations that are impacted by the implementation of the Act. In consultation with the contact officers, specific training and awareness needs will be determined.

Training and awareness programs may be developed by agencies to deliver to their own officers. Emergency Management Services will offer appropriate advice in the development of these programs.

What can agencies do to help the process?

Agencies, and other emergency management organisations, would benefit by gaining an understanding of the *Emergency Management Act 2005*. They should also keep themselves familiar with the Regulations as they are developed. The nominated contact officers in the various emergency management organisations will be notified of developments.

State emergency management policies and plans are published on the FESA website (www.fesa.wa.gov.au) as they are developed or amended. Remaining familiar with these will assist emergency management organisations to perform their emergency management functions.

How much time do agencies have to comply with the Act?

Whilst provisions of the Act are effective immediately, many agencies cannot implement procedures to comply with the Act immediately. For example, local governments that did not have local emergency management arrangements prior to the implementation of the Act must be allowed reasonable time to develop them for their district.

Agencies need to be aware, though, that if they don't take reasonable steps in a reasonable time to comply with the provisions of the Act that relate to them, they may be liable to compensate anybody that suffers a loss as a result of their inaction and may not be covered by the protection provided by the Act.

What are the penalties for not complying with a legal direction given by an Authorised Officer (during a state of emergency) or a Hazard Management Officer (during an emergency situation)?

- a. If a person refuses to comply of their own accord, they are committing an offence under the Act and may be subject to a \$50,000 fine.
- b. If a person is instructed by their employer not to comply, then the employer may be subject to a \$500,000 fine and the person may be subject to a \$50,000 fine.
- c. It may be a defence for a person instructed by an employer not to comply if it alters the "state of mind" of that person.

Isn't it risky that the Act gives Hazard Management Officers the power to charge people who commit offences under the Act?

Consultation with stakeholders has resulted in Regulations being drafted that place the investigation, charging and prosecution of offences against the Act with the WA Police. This is seen as necessary as the WA Police have the skills, systems and capacity to investigate, charge and prosecute offences.

Who appoints Hazard Management Officers and Authorised Officers?

HMOs will be appointed by the HMA (probably the CEO or other authorised person). Authorised Officers will be appointed by the State Emergency Coordinator (the Commissioner of Police). This can be a general appointment for any emergency situation or for a specific emergency situation. Appointments must be in writing, but can be given orally followed as soon as is practicable by written authorisation.

What training responsibilities do Hazard Management Agencies have?

HMA's have a duty to provide proper training to all appropriate people with regards to the Emergency Powers under the Act.

When do the Emergency Powers under the Act apply?

The Emergency Powers apply when an 'emergency situation' (declared by a Hazard Management Agency) or a 'state of emergency' (declared by the Minister for Emergency Services) occur.

What training on the Emergency Powers under the Act is available?

All multi-agency emergency management training conducted by Emergency Management Services in Western Australia will incorporate the provisions of the *Emergency Management Act 2005*.

Further multi-agency emergency management training will be reviewed by Emergency Management Services and individual organisations' emergency management training will be reviewed and developed as provisions of the Act unfold.

Training provided in Western Australia includes one-day workshops:

- Introduction to Recovery Management, and
- Introduction to Emergency Risk Management.

Week long courses provided by Emergency Management Services and Emergency Management Australia during 2006 include:

- Exercise Management;
- Emergency Management for Local Government;
- Undertake Emergency Planning (EMA);
- Emergency Coordination Centre Management (EMA), and
- Context of Recovery Management (EMA).

All other emergency management training is available at the Emergency Management Australia Institute with WA nominations made through Training and Development in Emergency Management Services.

What programs are available for Emergency Management funding?

- WA's AWARE Program – 'All Western Australians Reducing Emergencies'
- EMA's 'Working together to manage emergencies' initiative – Local Grants Scheme and National Emergency Volunteer Support Fund.
- EMA Research and Innovation Program
- Natural Disaster Mitigation Program
- Regional Flood Mitigation Program
- Bushfire Mitigation Program

LOCAL GOVERNMENT INFORMATION

What are the specific Local Government responsibilities under the Act?

- The establishment of an active Local Emergency Management Committee which meets on a regular basis.
- The formulation and establishment of Local Community Emergency Management Arrangements and a Local Recovery Plan.
- Management of recovery activities within their local government district and the appointment of a Local Recovery Coordinator.

Can Emergency Services Levy (ESL) funds be used to cover costs incurred by local governments in applying the powers under Division 3 of the Act – Powers of local government during cyclones?

NO. Division 3 mirrors the powers of local government under the Local Government Act. ESL funding does not apply to any application of either Acts. While the Local Government Act provides that local government can recover costs, under the *Emergency Management Act 2005* costs are considered part of the operation's costs. Also, under the *Emergency Management Act 2005*, the owner of a property is entitled to seek compensation but would need to show that the action taken by the local government was not justified.

What will happen to a local government if it chooses not to comply with the provisions of the Act?

- The safety of the communities within their local government district may be at risk.
- All public authorities are required to comply with the provisions of the Act.
- The annual report of the State Emergency Management Committee is tabled before each House of Parliament and the content of this annual report will be open to public scrutiny. Non-compliance with the Act will be noted in this report.
- Individuals who suffer loss or damage as a result of the local government's inaction may hold the local government accountable and seek legal recourse.

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Where can I get more information?

Visit the FESA website at www.fesa.wa.gov.au and refer to the State Emergency Management menu.

Who is on the Implementation Team?

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Emergency Management Act 2005 Frequently Asked Questions

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