



THE *EMERGENCY MANAGEMENT ACT 2004* REVIEW: General Information Sheet

What is the Emergency Management Act?

The *Emergency Management Act 2004* (the EM Act) sets up a framework for managing hazards that have the potential to become an emergency situation. An emergency is any event that might cause death, injury, or damage to a person's health or to property. An emergency can also be a disruption to services like electricity.

Some types of emergencies (e.g., vehicle accidents or fires) happen daily. A document created under the EM Act, called the **State Emergency Management Plan**, sets out which emergency service or other agency are to take control of the emergency.

The EM Act also deals with more significant emergencies. The EM Act gives the power for these events to be known as declared emergencies. If an emergency situation becomes a declared emergency, then the EM Act allows certain people to have access to special powers that they do not ordinarily have in order to manage the declared emergency.

What is a declared emergency?

A declared emergency can be either:

- An **identified major incident** – lasts for up to 12 hours.
- A **major emergency** – lasts for up to 14 days but can be extended.
- A **disaster** – lasts for up to 30 days but can be extended.
- An **electricity supply** emergency - lasts for up to 14 days but can be extended.

What is the significance of a declared emergency?

If an emergency is declared, then the EM Act provides that certain powers can be used for the purposes of preparing for, responding to, or recovering from the emergency. This includes a wide range of things such as taking control of land, constructing barriers, or directing people to do things.

If an emergency is declared, then the EM Act also provides that someone is appointed to take charge of recovery operations. The EM Act also gives powers in relation to recovery, but these are more limited.

When is the Act used?

The State Emergency Management Plan made under the EM Act is relied upon often to help agencies manage emergencies.

The other specific powers in the Act are only used in very serious situations. There have been only nine events declared since the Act started in 2004, and most of these have been in relation to fires. However, the longest period that a declaration has been in place was for COVID-19.

Table 1: Summary of declared emergencies in South Australia under the EM Act

Duration	Type	Event	Extension/s
18 October 2022 - 19 February 2023 (118 days)	Major Emergency	River Murray High Flow – Flood	Extended three times, once for 14 days and twice after for 45-day periods. The final extension was revoked early.
28 January – 8 February 2022 (12 days)	Major Emergency	Extreme Weather – Ex Tropical Cyclone Tiffany	Revoked before 14-day maximum timeframe.
22 March 2020 – 24 May 2022 (793 days)	Major Emergency	COVID-19	Extended 25 times for 28-day periods. The final extension was revoked early.
24 January 2019 - 25 January 2019 (1 day)	Electricity Supply Emergency	Weather	Revoked before 14-day maximum timeframe
28 – 29 September 2016 (12 hours)	Identified Major Incident	Statewide System Blackout	
3 – 7 January 2015 (4 days)	Major Emergency	Sampson Flat Fires	Revoked before 14-day maximum timeframe.
7 – 8 November 2005 (12 hours)	Identified Major Incident	Virginia Floods	
12 – 14 January 2005 (48 hours)	Major Emergency	Wangarry Fires	Revoked before 14-day maximum timeframe.
11 – 12 January 2005 (12 hours)	Identified Major Incident	Mt Osmond Fires	
11 – 12 January 2005 (12 hours)	Identified Major Incident	Wangarry Fires	

Why is the EM Act being reviewed?

The South Australian Government is having the EM Act independently reviewed to ensure that it is still appropriate to manage emergencies now and into the future.

What is the review about?

The Review is focused on the framework of the EM Act. It is not a review of particular actions that have been taken under the EM Act, or of particular emergency situations. However, examining situations that have occurred is useful to understand what the EM Act needs to cover and how it can be improved. The Review also needs to consider future hazards that might be faced by South Australia and make sure that the EM Act is appropriate to deal with those situations.

There are many other laws that also cover different types of emergencies – for example public health and livestock laws. The Review is not about those laws, but how the Emergency Management Act works alongside of those laws is of interest. If there is a declared emergency, then action taken under the EM Act can override other laws.

There are Terms of Reference that set out the scope of the Review. These are available at:

www.dpc.sa.gov.au/responsibilities/security-emergency-and-recovery-management/emergency-management-act-review.

How can I be involved?

Anyone interested in the Review can access information about it at:

www.yoursay.sa.gov.au/emergency-management-act-review.

There is a detailed discussion paper about different parts of the Act available on the YourSay site as well as links to other relevant information.

Submissions are invited. There are questions in the discussion paper that you can answer in a submission via the online YourSay survey. You do not have to answer every question. Submissions will only be taken into account if they relate to the Terms of Reference.

If you would like a hard copy of the discussion paper, please email EmergencyManagementActReview@sa.gov.au or phone (08) 7133 7873.

Feedback can be provided via email to: EmergencyManagementActReview@sa.gov.au

Via YourSay: www.yoursay.sa.gov.au/emergency-management-act-review

Or by post to:

Emergency Management Act Review Secretariat
c/-Ellie Stenner
Department of the Premier and Cabinet
GPO Box 2343
Adelaide SA 5001

Submissions are due by **Tuesday, 30 January 2024**.

Your submission or its contents may be made publicly available. Submissions may be subject to Freedom of Information and other laws. If you would like your submission to remain confidential, please clearly state this in the submission and provide a reason.

Discussion Paper (selected questions)

Community submissions are welcomed on any aspect of the EM Act, or any or all aspects of the Discussion Paper, which contains 35 questions. Questions that may be of most interest to the community include:

1. Does the EM Act contain the right objects and guiding principles?

This question refers to [section 2](#) of the EM Act. Legislation often contains objects and guiding principles to ensure that decision-making undertaken in accordance with the Act is conducted in a manner that reflects the intentions of that Act. Persons exercising functions under the EM Act (such as the State Co-ordinator or an Authorised Officer) must have regard to the EM Act's objects and guiding principles when performing such functions.

Further discussion about this question can be found on pages 12-14 of the Discussion Paper.

2. Should there be greater reference to Local Government in the EM Act? If so, what form should this take?

Local Government is referenced in the EM Act in a general nature in the context of playing an enabling role in emergency management because of their strong relationship with local community networks and knowledge of locally available resources. Local Government responsibilities are more specifically dealt with through the State Emergency Management Plan, rather than the Act.

Further discussion about this question can be found on page 17-18 of the Discussion Paper.

3. Should there be any changes to the permitted duration of declarations, the extension arrangements or processes relating to this? Why or why not?

This question refers to Part 4 Division 3 of the EM Act. An [Identified Major Incident](#) can be declared for a maximum of 12 hours and cannot be extended. A [Major Emergency](#) declaration is for a maximum of 14 days and can be extended by the Governor for any length of time. A [Disaster](#) declaration is for a maximum of 30 days and can be extended for any length of time by resolution of both Houses of Parliament. An electricity supply emergency can be declared under Part 4 Division 6 for a maximum of 14 days and can be extended for no more than 14 days with the approval of the Governor.

Further discussion about this question can be found on pages 22-25 of the Discussion Paper.

4. Would it be desirable for there to be a new class of declaration that supports the scaling up and down of emergency messaging and powers? If so, should it be based on a State of Alert model, or another alternative?

A State of Alert declaration can use response powers to prepare and alert the community to a potential emergency. Such models are in place in Tasmania and ACT. In NZ there is a State of Transition phase to support a transition from response into the initial recovery phase which provides recovery powers to assist with recovery for a specific period of time e.g. 90 days with extensions possible.

Further discussion about this question can be found on pages 25-27 of the Discussion Paper.

5. Are recovery powers sufficient, and if not, what powers should be included, who should hold these powers and for what timeframe?

This question refers to [section 27](#). Compared to emergency response powers, recovery powers are more limited, especially once a declaration has ended. The State Co-Ordinator may direct specified recovery activities, but this has never occurred. Some jurisdictions have within their Act a dedicated Recovery role with greater specified powers to effect recovery operations, whether or not a declaration has occurred.

Further discussion about this question can be found on pages 33-35 of the Discussion Paper.

6. Do the employment protections for volunteers involved in responding to an emergency need to be strengthened? Should there be a remedy attached to these provisions?

This question refers to [section 33](#) of the EM Act. This simply provides that a person must not be dismissed or prejudiced in their regular employment as a result of any absence when undertaking official duties in connection with response or recovery operations under the EM Act. There is no apparent consequence for non-compliance. Other jurisdictions, such as Western Australia, have more explicit protections and penalties.

Further discussion about this question can be found on pages 42-43 of the Discussion Paper.

7. What future threats may not be able to be adequately managed by the EM Act and what changes would be needed to address this?

One of the guiding principles of the EM Act is that emergency management arrangements must be based on an “all hazards approach”. When the EM Act was originally drafted, not as much was known as it is now about emerging hazards such as certain climate events, cyber/artificial intelligence crises, or space junk. The Review is seeking to understand what would be required to future-proof the EM Act as best possible, to ensure that the state has the appropriate legislative mechanisms in place to respond to emergencies.

Further discussion about this question can be found on pages 43-44 of the Discussion Paper.

8. Please provide any other comments, evidence, or examples you may wish to share that are relevant to the EM Act.



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