

CIVIL DEFENCE (EMERGENCY POWERS).

4° GEO. VI., No. XXVI.

No. 26 of 1940.

AN ACT to make provision for the taking of precautions for the protection of Persons and Property in this State from injury or damage in the event of hostile attack, and generally to make provision with respect to Civil Defence and the security and protection of the People of this State during the present state of War.

[Assented to 2nd December, 1940.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

cf. Vic. 3, Geo. VI., 1939, No. 4645, s. 1; Qld. 3, Geo. VI., No. 35 of 1939, s. 1; Tas. 3 & 4, Geo. VI., No. 59 of 1939, s. 1.

Interpretation.

1. This Act may be cited as the *Civil Defence (Emergency Powers) Act, 1940*.

2. In this Act, unless the context otherwise requires—
“Council” means the Civil Defence Council established by the Governor under the authority of this Act.

“Department” means a department of the Government of the State.

“Local authority” means a municipal council or a road board.

“Minister” means the Minister of the Crown for the time being and from time to time charged with the administration of this Act.

“Present state of war” means the war with Germany and with Italy in which His Majesty is at the date of the commencement of this Act engaged and with any allies of Germany and Italy in that war.

3. (1) The Governor may establish a council, to be known as the Civil Defence Council, for the purposes of this Act.

Civil Defence Council.
cf. Vic. 3,
Geo. VI.,
1939, No.
4645, s. 4;
Tas. 3 & 4,
Geo. VI., No.
59 of 1939,
s. 4.

(2) The Council shall consist of persons appointed by the Governor, upon the recommendation of the Minister, and shall hold office during the pleasure of the Governor.

(3) The number of members of the Council shall be unlimited and may be increased or reduced, as the Governor may think fit:

Provided that the Council shall consist of at least five members, and at least one member shall be representative of local authorities in the State.

(4) Three members of the Council shall constitute a quorum thereof.

(5) The Governor shall, on the recommendation of the Minister, appoint one of the members of the Council to be the chairman thereof, and the member so appointed shall hold that office during the pleasure of the Governor.

4. The powers, functions, and duties of the Council shall be—

Powers and duties of Council.

(a) to formulate plans and measures for the protection and safety of the civil population of this State during the present state of war;

cf. Vic. 3,
Geo. VI.,
1939, No.
4645, s. 4;
Tas. 3 & 4,
Geo. VI., No.
59 of 1939,
s. 5.

(b) to make such inquiries and investigations and to collect such information as the Council thinks necessary to enable it to advise the Government of this State and any department, local authority, public body, corporation, or person in respect of matters relating to the protection and safety of the civil population and to advise accordingly;

(c) to take such measures and precautions, and make such arrangements with departments, local authorities, public bodies, corpora-

tions, and persons as are necessary or desirable to carry out and give effect to the provisions of this Act, in so far as they relate to the protection of persons and property from injury or damage in the event of hostile attack and generally to make provision for civil defence during the present state of war; and

- (d) to exercise such other powers and to perform such other duties as are conferred or imposed upon the Council by the regulations made by the Governor under this Act.

Allowances and expenses of Council.

5. The payment of allowances and expenses to the members of the Council in respect of their services as such members shall be such as may, in the discretion of the Governor, be fixed or prescribed by regulations, but no such payment shall be made to any member of the Council except on the recommendation of the Minister and with the approval of the Treasurer of the State.

Meetings and conduct of business of the Council.

6. Subject to the regulations, the Council may by resolution make rules in relation to the time and place of its meetings and to the conduct of the business at meetings of the Council.

Governor may make regulations.

cf. Vic. 3, Geo. VI., 1939, No. 4645, ss. 3, 4, 5; Qld. 3, Geo. VI., No. 35 of 1939, s. 10; Tas. 3 & 4, Geo. VI., No. 59 of 1939, s. 6.

7. (1) The Governor may make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act, and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency, and without limiting the generality of this section, the Governor may make regulations for or in respect of all the following matters, namely:—

- (i) the transaction of business and the conduct of its business by the Council;
- (ii) the powers and functions to be exercised by, and the duties to be performed by the Council in addition to those expressly conferred or imposed upon the Council by section four of this Act;

- (iii) the allowances and expenses (if any) to be payable to members of the Council in respect of their services as such members;
- (iv) securing public safety and order;
- (v) securing and regulating the supply and distribution of food, water, fuel, light, heat, power, and other necessities;
- (vi) maintaining, controlling, and regulating the means of transit, transport, navigation, locomotion, and other services;
- (vii) any purposes necessary or conducive to public safety or order or the life or health of the community;
- (viii) the precautions to be taken, and the persons by whom such precautions shall be taken for the protection of persons and property from injury or damage in the event of hostile attack;
- (ix) the provision to be made for the treatment of casualties occurring from hostile attack, including the acquisition of land and the erection of air raid shelters and other buildings and the acquisition of medical stores and equipment;
- (x) the requisitioning of premises and vehicles and of any goods, articles, or things for civil defence purposes;
- (xi) the obtaining of information with respect to supplies of any goods, articles, or things and providing that any officer or person to whom such information has been disclosed shall not divulge the same, except as provided by the regulations;
- (xii) the appointment of air raid wardens and other officers and persons required in connection with civil defence and the security and protection of persons and property, and the authorities, bodies, or persons by whom such appointments may be made;
- (xiii) prescribing the powers, functions, and duties of such air raid wardens, and other officers and persons aforesaid, and either generally or in respect of particular localities or places;

- (xiv) the duties, responsibilities, obligations, and liabilities of members of the public during the period of an air raid or other hostile attack, and either generally or in respect of particular localities and places, or, with respect to particular members of the public, or any class of members of the public (including members or classes of members of the public owning, occupying, or in charge or control or apparently in charge or control of any land, building, premises, or place);
- (xv) prescribing the authority responsible for giving all such warnings or signals as may be prescribed in relation to air raids or other hostile attacks, and either generally or for or in respect of particular localities or places, and regulating the giving of prescribed warnings or signals by any such authority;
- (xvi) the enrolment of volunteers to render any services in connection with any matters provided for in this Act or the regulations;
- (xvii) the training of air wardens and other officers and persons and volunteers appointed or enrolled;
- (xviii) the evacuation of persons from areas threatened with air raids and other hostile attacks, including inquiries, mobilisation, transport to selected areas, rationing, requisitioning of transport and accommodation, billeting and other matters incidental thereto;
- (xix) the evacuation of livestock;
- (xx) power to erect shelters and other buildings and to require local authorities, public bodies, corporations and persons, which or who have the necessary finances available or obtainable to erect shelters and other buildings for use by the public or for private use, as the case may be, in the event of air raids and other hostile attacks;
- (xxi) power to acquire, hold, and dispose of sand bags and other materials necessary for the protection of persons and property from the effects of bombs and other missiles;

- (xxii) power to display on any building or place any air raid precautions posters, placards, or notices;
- (xxiii) the prohibition of the use by unauthorised persons of air raid precaution names, badges, titles, literature, signs, placards, posters, notices, or other matter;
- (xxiv) the control and regulation of traffic on streets and roads, and the closure of streets and roads and all other action necessary for rescue, repair, and decontamination work or operations;
- (xxv) the demolition of damaged and dangerous structures;
- (xxvi) the compensation to be paid in the event of personal injury (including death) to air raid wardens and other officers and persons appointed or acting under the authority of this Act or the regulations, when engaged in civil defence activities (as defined by the regulations) and providing that, where any injury to which the regulations apply is sustained by any person, no compensation or damages shall be payable in respect thereof, whether under any Act or at common law, by the employer of the injured person; and
- (xxvii) any other matters in relation to which the Governor on the advice of the Council may deem it necessary or expedient to make regulations for the more efficient administration of this Act or for more effectually carrying out the objects and purposes of this Act.

(2) Any regulations made under this Act—

- (a) may be made so as to apply to or have operation throughout the whole or any part of the State;
- (b) may, subject to this Act, be made so as to operate for any period or periods or for any time or times or for any occasion or occasions specified therein;
- (c) may be of general operation or of specially limited operation, according to time, place, conditions, or restrictions; and

Application
and operation
of regula-
tions.

(d) subject to the Interpretation Act, 1918, shall have effect notwithstanding anything inconsistent therewith, contained in any enactment other than this Act.

Arrange-
ments with
Common-
wealth.
Vic. 3, Geo.
VI., 1939, No.
4645, s. 3
(2); Tas. 3 &
4, Geo. VI.,
No. 59 of
1939, s. 7.

8. (1) The Governor may enter into arrangements with the Governor General of the Commonwealth providing for any matter necessary or convenient for the purpose of carrying out or giving effect to any Commonwealth Act relating to defence or national security or any order or regulations made thereunder.

(2) Regulations may be made under this Act for or with respect to the carrying into effect of any powers or duties conferred on or delegated to the Government of the State by the Government of the Commonwealth or for giving effect to any arrangement made under this section, or for taking measures complementary to, or necessary to implement, measures taken by the Commonwealth in relation to national security.

Powers and
duties may be
conferred and
imposed by
regulations.
cf. Vic. 3,
Geo. VI.,
1939, No.
4645, s. 3
(3).

9. The Governor, by any regulations made under this Act, may confer such powers and impose such duties as the Governor thinks proper, for the purpose of carrying such regulations into effect, upon any Minister of the Crown, the Council, any department, local authority, public statutory corporation, public body, air raid wardens, and other officers and persons.

Powers of
local authori-
ties with
respect to
civil defence.
cf. Vic. 3,
Geo. VI.,
1939, No.
4645, s. 3
(4); Tas. 3
& 4, Geo. VI.,
No. 59 of
1939, s. 8.

10. (1) Every local authority shall, subject to the regulations, be deemed to have power to make provision for the taking of precautions for the protection of persons and property within its district against injury or damage in the event of air raids or other hostile attack, and for civil defence during the present state of war, and any measures or things which any local authority may take or do under the authority of this section or which it may be required to take or do as a statutory duty under the provisions of this Act, or under the regulations made under this Act, shall be deemed to be a "work or undertaking" within the meaning of its local government Act, and the provisions of its local government Act shall apply thereto accordingly.

(2) The costs, charges, and expenses incurred by a local authority in exercising any of the powers or performing any of the duties conferred or imposed upon

it by this Act or the regulations may be borne by and paid out of the funds and revenues of the local authority, and, in so far as such funds and revenues are and will be insufficient for the purpose of discharging such costs, charges, and expenses the local authority may, in accordance with its borrowing powers under its local government Act, but subject as hereinafter provided, borrow moneys for the purpose of discharging such costs, charges, and expenses or any portion thereof:

Provided that, when a local authority proposes to borrow any money for the purpose of discharging any of the costs, charges, and expenses aforesaid, and the Minister is satisfied, and so certifies by writing under his hand that the need for borrowing moneys by the local authority is urgent, the local authority may proceed forthwith to borrow moneys for the purpose aforesaid without publishing any notice of its intention or proposal so to do, and without giving or affording to any persons an opportunity to call for a referendum on the question, whether or not the local authority shall be permitted to borrow moneys as proposed or intended, notwithstanding any provisions to the contrary contained in the local government Act of such local authority:

Provided further, nevertheless, that no local authority shall propose or be required under the provisions of this section to borrow money (without complying with the provisions of the local government Act of such local authority) in excess of forty per centum of the maximum amount which at the time such local authority is authorised to borrow under such local government Act.

11. (1) Where by any regulation made under this Act a duty or obligation to do any act, matter, or thing is imposed upon any local authority, public body, corporation, or person and such local authority, public body, corporation, or person refuses or neglects properly to perform or carry out such duty or obligation, the Minister may serve notice in writing under his hand upon such local authority, public body, corporation, or person requiring it within a time specified in the notice to perform or carry out the act, matter, or thing which by the regulation it or he is required to perform or carry out.

Provision in case of default by local authority, etc.

(2) On default of due compliance with the requisition of any notice given under subsection (1) of this section, the Minister may take such measures and employ such servants or other agents as may be necessary to perform and carry out the act, matter, or thing specified in the notice, and any expense incurred by the Minister in relation thereto shall be a debt owing to the Minister by the local authority, public body, corporation, or person aforesaid and as such shall be recoverable by the Minister in any court of competent jurisdiction:

Provided that such court shall not give judgment for the Minister in excess of the amount which in the opinion of the court was sufficient to carry out in a reasonably efficient manner such duty or obligation.

Offences and penalties.
cf. Vic. 3,
Geo. VI.,
1939, No.
4645, s. 7;
Tas. 3 & 4,
Geo. VI., No.
59 of 1939,
s. 6.

12. (1) Every person who contravenes or fails to comply with any provision of any regulation made under this Act shall be guilty of an offence against this Act.

Penalty: Five hundred pounds or imprisonment for twelve months.

(2) Every person who commits or is alleged to have committed an offence against this Act may be arrested either with or without warrant and be taken before the justices.

(3) Every person who aids, abets, incites, counsels, or procures or is in any way directly or indirectly knowingly concerned in the commission of any offence against this Act shall be deemed to have committed that offence and shall be punishable accordingly.

(4) Every corporation shall be liable for any offence against this Act as if such corporation were a private person, and shall be subject to the same penalties as if it were a private person, and if any chairman, member of the governing body, director, manager, secretary, or officer of such corporation knowingly authorises or permits the commission of any such offence, he shall be deemed to have committed such offence and shall be punishable accordingly.

(5) All prosecutions for offences against this Act shall be instituted, heard, and determined, and all penalties for such offences shall be recoverable summarily under and in accordance with the provisions of the Justices Act, 1902-1936.

13. No action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against His Majesty or any Minister of the Crown, or the Council or any local authority, body, corporation, air raid warden, officer, or person acting in good faith in the execution of this Act, or of any regulation made under this Act for or in respect of any damage, loss, or injury sustained or alleged to have been sustained by reason of the passing or operation of this Act, or of anything done or purporting to be done thereunder, save only in respect of reasonable compensation for any property used or taken by or on behalf of His Majesty in pursuance of any powers conferred by or under this Act.

No remedy against Crown, etc., except compensation for property used or taken.
cf. Vic. 3, Geo. VI., 1939, No. 4645, s. 8; Tas. 3 & 4, Geo. VI., No. 59 of 1939, s. 11.

14. All powers conferred by or under this Act shall be in aid of and in addition to and not in derogation from any other powers exercisable apart from this Act.

Saving of other powers.
cf. Vic. 3, Geo. VI., 1939, No. 4645, s. 9; Tas. 3 & 4, Geo. VI., No. 59 of 1939, s. 9.

15. The costs and expenses of the administration of this Act, and any expenses incurred by or on behalf of His Majesty in the doing or carrying out of any act, matter, or thing for effectuating the objects and purposes of this Act, shall be paid out of moneys to be appropriated by the Parliament to such purposes.

Appropriation.

16. This Act shall, unless sooner repealed, continue in operation during the continuance of the present state of war and for a period of six months thereafter and no longer.

Duration of Act.