



Cocos (Keeling) Islands Emergency Management Amendment Ordinance 2017

Ordinance No. 3, 2017

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance.

Dated 14 December 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Darren Chester
Minister for Infrastructure and Transport

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1 Name

This Ordinance is the *Cocos (Keeling) Islands Emergency Management Amendment Ordinance 2017*.

2 Commencement

- (1) Each provision of this Ordinance specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Ordinance	The day after this Ordinance is registered.	22 December 2017

Note: This table relates only to the provisions of this Ordinance as originally made. It will not be amended to deal with any later amendments of this Ordinance.

- (2) Any information in column 3 of the table is not part of this Ordinance. Information may be inserted in this column, or information in it may be edited, in any published version of this Ordinance.

3 Authority

This Ordinance is made under the *Cocos (Keeling) Islands Act 1955*.

4 Schedules

Each instrument that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Ordinance has effect according to its terms.

Schedule 1—Amendments

Emergency Management Ordinance 2012

1 Section 1

After “This Ordinance is the”, insert “*Cocos (Keeling) Islands*”.

2 Section 4 (definition of *emergency area*)

After “to which”, insert “an emergency situation declaration or”.

3 Section 4

Insert:

emergency situation means any period during which an emergency situation declaration is in force.

emergency situation declaration means a declaration made by the Territory Controller under section 16A.

4 Section 4 (definition of *hazard*)

Repeal the definition, substitute:

hazard means a cyclone, earthquake, flood, storm, tsunami, swell, fire, plague, epidemic or vehicle, vessel or aircraft accident or incident or other event, situation or condition that is capable of causing or resulting in:

- (a) loss of life; or
- (b) prejudice to the safety, or harm to the health of persons or animals; or
- (c) destruction of, or damage to, property or any part of the environment.

5 Section 13 (heading)

Repeal the heading, substitute:

13 Powers of Territory Controller during emergencies

6 Section 13

After “During”, insert “an emergency situation or”.

7 Paragraph 13(a)

Omit “mentioned in”, substitute “in accordance with”.

8 Subsection 15(3)

After “independently of”, insert “an emergency situation declaration or”.

9 Part 3 (heading)

Repeal the heading, substitute:

Part 3—Emergency situations and states of emergency

10 Before Division 1 of Part 3

Insert:

Division 1A—Emergency situation declaration

16A Territory Controller may make emergency situation declaration

- (1) The Territory Controller may declare that an emergency situation exists in the Territory or part of the Territory if he or she is satisfied that:
 - (a) an emergency has occurred, is occurring or is imminent; and
 - (b) extraordinary measures are required to prevent or minimise any of the following:
 - (i) loss of life of humans or animals;
 - (ii) illness of, or injury to, humans or animals;
 - (iii) property loss or damage;
 - (iv) damage to the environment.
- (2) Before making a declaration, the Territory Controller must take reasonable steps to consult the Committee.
- (3) However, a failure to consult the Committee does not affect the validity of a declaration.
- (4) A declaration may be given orally or in writing, and must state:
 - (a) the time and date the declaration commences; and
 - (b) the period for which the declaration has effect, being a period of not more than 3 days, commencing on the date the declaration commences.
- (5) An oral declaration must be recorded in writing, and signed by the Territory Controller, as soon as practicable after it commences.

16B Extension of emergency situation declaration

- (1) The Territory Controller may extend the duration of an emergency situation declaration.
- (2) An extension of an emergency situation declaration may be given orally or in writing, and must state:
 - (a) the time and date the extension commences; and
 - (b) the period for which the extension has effect, being a period of not more than 3 days, commencing on the date the extension commences.
- (3) The combined period of a declaration and any extensions must not be more than 7 days, unless Ministerial approval is given for further extensions beyond this period.
- (4) An oral extension must be recorded in writing, and signed by the Territory Controller, as soon as practicable after it commences.
- (5) The Territory Controller must give written reasons for the extension to the Committee.

16C Revocation of emergency situation declaration or extension

- (1) The Territory Controller may revoke an emergency situation declaration or extension to an emergency situation declaration.
- (2) A revocation of a declaration or extension may be given orally or in writing and must state the time and date the revocation commences.
- (3) An oral revocation must be recorded in writing, and signed by the Territory Controller, as soon as practicable after it commences.
- (4) Despite any other written law, a revocation does not affect:
 - (a) any penalty or punishment incurred, imposed or liable to be incurred or imposed, before the revocation; or
 - (b) any investigation or legal proceedings in respect of a penalty or punishment.

16D Publication of emergency situation declaration, extension and revocation

- (1) An emergency situation declaration, an extension of an emergency situation declaration or a revocation of a declaration or extension must, as soon as possible after it commences, be:
 - (a) published in a community bulletin, and distributed in accordance with the bulletin distribution list by email and hard copy; and
 - (b) broadcast over community radio; and
 - (c) published on the community blackboard; and
 - (d) published on a website administered by the Department; and
 - (e) broadcast via SMS to the Committee, if SMS is available.
- (2) However, a failure to comply with subsection (1) does not affect the validity of a declaration, extension or revocation.

11 Subsection 17(6)

Repeal the subsection.

12 Subsection 18(5)

Repeal the subsection, substitute:

- (5) The Territory Controller must give written reasons for the extension to the Committee.

13 Subsection 19(5)

Repeal the subsection.

14 Paragraph 20(1)(d)

Omit “the Administrator’s website”, substitute “a website administered by the Department”.

15 Subsection 21(1)

After “during”, insert “an emergency situation or”.

16 Subsection 22(1)

After “management during”, insert “an emergency situation or”.

17 Subsection 22(1)

After “during the”, insert “emergency situation or”.

18 Paragraph 22(1)(e)

Omit “thing;”, substitute “thing.”.

19 Paragraphs 22(1)(f) to (n)

Repeal the paragraphs.

20 Subsection 22(2)

Repeal the subsection, substitute:

- (2) If reasonably required for the purposes of emergency management during a state of emergency, an authorised officer may exercise any of the following powers during the state of emergency:
- (a) enter or, if necessary, break into and enter, a place or vehicle in an emergency area without a warrant or the consent of the occupier of the place or the owner of the vehicle;
 - (b) remove or destroy an animal, vegetation or substance in an emergency area;
 - (c) remove, dismantle, demolish or destroy a vehicle, or any premises, in an emergency area;
 - (d) disconnect or shut off any electricity, gas, water or fuel supply, or any drainage facility, or any other service, in an emergency area;
 - (e) take and use electricity, gas, water or fuel, or use any other service, in an emergency area;
 - (f) excavate land or form tunnels in an emergency area;
 - (g) build earthworks or temporary structures, or erect barriers, in an emergency area;
 - (h) turn off, disconnect or shut down any motor or equipment in an emergency area;
 - (i) remove to any place that the authorised officer thinks proper any person who obstructs or threatens to obstruct emergency management activities.