



## NSW Legislative Council Hansard (Proof)

### State Emergency and Rescue Management Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 18 October 2005 (Proof).

#### Second Reading

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [8.00 p.m.]: I move:

That this bill be now read a second time.

Ever since September 11 and the atrocities that followed in Bali, Jakarta, Madrid and most recently London and again in Bali, it has been clear that authorities across the world must remain vigilant in the fight against terrorism. The repeated attacks on the London transport system again highlighted the need to constantly review and update our own plans and powers, and to explore every means of keeping our community safe. Over the past four years the New South Wales Government has acted swiftly and responsibly to review and improve the State's counter-terrorism arrangements and resources. In the budget handed down by the former Treasurer, more than \$187 million was allocated to counter terrorism. This is \$40 million more than in 2004-05, and reflects the Government's commitment to protecting the community and the State's critical infrastructure. We have also moved to ensure that NSW Police and other agencies have the powers they need to prevent, detect and respond to terrorist strikes.

I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

#### Leave granted.

This process has been assisted through the establishment of the Counter Terrorism Laws Task Force to review existing legislation and recommend new or amended powers and offences.

We cannot afford to be complacent in the fight against global terror.

Potential loopholes—no matter how small—that could be exploited by those with evil intent need to be closed. Seemingly innocuous incidents must be looked at through the new prism of counter terrorism.

As one example: official uniforms and insignia of NSW Ambulance officers were last year offered for sale on the internet site, eBay.

Concerns were raised that access to such items—whether through eBay or other means—could enable terrorists to easily impersonate a range of emergency services personnel, which could assist them to plan or carry out their evil work.

In response to this legitimate concern, I am today introducing the State Emergency and Rescue Management Amendment Bill 2005 (NSW).

As outlined in Section 63B, the Bill creates two new offences relating to the:

- Unauthorised manufacture, sale or hire of the insignia or uniform of an emergency services organisation; and
- The use or display of an emergency services uniform or insignia with the intention to deceive—that is, to impersonate an officer of an emergency service organisation.

Each of these offences will attract a penalty of 50 penalty units—that is, a \$5500 fine.

The new offences created in this Bill will apply to those emergency services covered by the State Emergency and Rescue Management Act 1989, namely:

- NSW Ambulance
- NSW Fire Brigades
- NSW Rural Fire Service
- State Emergency Service, and
- Any other agency that manages or controls an accredited rescue unit, such as the Volunteer Rescue Association, Royal Volunteer Coastal Patrol and Australian Volunteer Coast Guard.

However, the new offences will not apply to the NSW Police Service, which already has strong protection. The offences of wearing or possessing a police uniform or insignia or impersonating a police officer are outlined in s203 and s204 of the Police Act 1990.

Clause 40 of the Rural Fires Regulations, which already creates an offence in relation to the unauthorised sale of the official uniform and insignia of the NSW Rural Fire Service or the impersonation of its members, will be repealed to avoid duplication with this Bill.

Due to their legislative powers and position of trust within the community, members of the emergency services—whether paid officers or volunteers—have access to many of the kinds of sites that could potentially be targeted in a terrorist attack.

Their distinctive uniforms and official insignia are in the public mind the sign of their trustworthiness and thus the key to this access.

For instance, it is unlikely that an individual in an official Ambulance or Fire Brigades uniform would be challenged to provide evidence they are responding to an emergency call.

Removing the "unofficial market" in the insignia and uniforms of these organisations will help minimise the opportunity for them to be used by those with the wrong intent.

In themselves, the penalties outlined in this bill are unlikely to be a deterrent from taking part in a terrorist act—the high penalties attached to the Commonwealth's terrorism offences are more likely to achieve that end. However, terrorism can be unwittingly aided by the innocent who do not see the end goal of a seemingly benign incident or chain of events.

Thus, it is the case that the prospect of a \$5500 fine could be a powerful deterrent to individuals who are not involved in terrorism from unknowingly facilitating the preparation and planning of terrorist acts.

As outlined in Section 63 B (3), specific exemptions from the offences will apply where the person's conduct is authorised or if the person can establish the conduct is for public entertainment or that he or she has a reasonable excuse.

This will obviously protect, for instance, members of the community who may be staging fund raising events to assist our volunteer emergency services, such as the Rural Fire Service or State Emergency Service.

It also offers protection to genuine collectors or those with a showcase of emergency services insignia who have no intention to deceive through their display.

This Bill also makes additional amendments to improve the flexibility of the State Emergency Rescue and Management Act.

The Bill answers proposals put forward by the State Emergency Management Committee and NSW Police to improve emergency management arrangements by:

- Amending Section 24 of the Act to provide for the appointment of Deputy District Emergency Operations Controllers; and
- Amending Section 30 of the Act to introduce more flexible arrangements for the appointment of Local Emergency Operations Controllers.

Under the Act, emergency operations controllers are appointed at State, District and Local levels. There are 18 emergency management districts across the State.

District Controllers—who are Police Region Commanders—are responsible for controlling the response to an emergency that affects more than one local government area within their emergency management district.

Each District Controller may be responsible for up to five emergency management districts. This responsibility includes chairing each district's Emergency Management Committee, which has the task of preparing the district's emergency management plans.

The amendments to Section 24 will allow for District Controllers to appoint a deputy to assist them with these operational and planning responsibilities. This is a sensible and practical approach, particularly for those whose emergency districts cover an area stretching some distance from their Region Command headquarters.

The Deputy would be a Police Local Area Commander of Superintendent rank with relevant emergency management experience.

A Local Emergency Operations Controller is likewise responsible for controlling the response to an emergency that affects a specific local government area.

Under Section 30 of the Act, the Local Controller must be a police officer experienced in emergency management and stationed within the relevant emergency management district.

However, there are times when it may be more appropriate to appoint an officer with relevant training and experience from outside the district.

This may particularly be the case where a more experienced officer who is stationed nearby but not within the relevant area could replace a Local Controller on leave.

Accordingly, the Bill amends Section 30 to allow a Local Controller to be appointed from a nearby emergency management district when it is not reasonably practicable to appoint them from within the district.

Again, this is a sensible and practical approach, while ensuring the local community continues to receive the highest standard of emergency management.

The Government remains vigilant and committed to ensuring our State's police and other agencies have the powers and resources they need to respond to emergencies and, increasingly, in the war against terror.

This Bill is another step in the process of ensuring our legal framework is solid and not open to exploitation.

I commend the Bill to the House.