

Passed by both Houses



New South Wales

# State Emergency Service Amendment Bill 2005

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2005*



New South Wales

## **State Emergency Service Amendment Bill 2005**

Act No , 2005

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An Act to amend the *State Emergency Service Act 1989* with respect to the organisation, functions and operation of the State Emergency Service; and for other purposes.

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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *State Emergency Service Amendment Act 2005*.

**2 Commencement**

This Act commences on the date of assent to this Act.

**3 Amendment of State Emergency Service Act 1989 No 164**

The *State Emergency Service Act 1989* is amended as set out in Schedule 1.

**4 Amendment of State Emergency and Rescue Management Act 1989 No 165**

The *State Emergency and Rescue Management Act 1989* is amended as set out in Schedule 2.

**5 Repeal**

The *State Emergency Service Regulation 2001* is repealed.

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## Schedule 1      Amendment of State Emergency Service Act 1989

(Section 3)

**[1] Section 3 Definitions**

Omit “*Public Sector Management Act 1988*” wherever occurring from the definitions of ***Deputy Director-General*** and ***Director-General*** in section 3 (1).

Insert instead “*Public Sector Employment and Management Act 2002*”.

**[2] Section 3 (1)**

Omit the definitions of ***division***, ***division controller*** and ***S.E.S. unit***.

Insert in alphabetical order:

***exercise*** a function includes perform a duty.

***function*** includes a power, authority or duty.

***region*** means a region established under section 14.

***region controller*** means the controller appointed under section 16 for SES units in a region.

***SES unit*** means an organisation registered as an SES unit under section 18.

***unit controller*** means the unit controller for an SES unit appointed under section 17A.

**[3] Sections 3 (1), definition of “local controller”, 8 (1) (e), 9 (2), 17 (3), 18 (2)–(5), 23, 25 (1) (a) and 29 (2) (b)**

Omit “S.E.S.” wherever occurring. Insert instead “SES”.

**[4] Section 3 (3)**

Omit the subsection.

**[5] Section 5 Operation of Act in relation to civil defence**

Omit the section.

**[6] Section 7 State Emergency Service**

Omit section 7 (2) (b). Insert instead:

- (b) the volunteer officers and volunteer members of all SES units.

**[7] Section 8 Functions of Service**

Insert before section 8 (1) (a):

- (aa) to protect persons from dangers to their safety and health, and to protect property from destruction or damage, arising from floods and storms,

**[8] Section 8 (1) (b)**

Omit “and tempests”.

**[9] Section 8 (1) (c)**

Omit the paragraph.

**[10] Section 8 (1) (g)**

Omit “the Police Force, Fire Brigades, Bush Fire Brigades or Ambulance Service”.

Insert instead “NSW Police, New South Wales Fire Brigades, the NSW Rural Fire Service or the Ambulance Service”.

**[11] Section 9 Director-General, Deputy Director-General and other staff**

Omit “Part 2 of the *Public Sector Management Act 1988*” from section 9 (1).

Insert instead “Chapter 2 of the *Public Sector Employment and Management Act 2002*”.

**[12] Section 11 Director-General responsible for administration of Service**

Insert at the end of the section:

- (2) The Director-General, in connection with the exercise of his or her functions under this Act, may use the title “State controller” and the Deputy Director-General may use the title “Deputy State controller”.

**[13] Section 12 Planning and preparation by Director-General**

Omit “, storms and tempests” from section 12 (3). Insert instead “and storms”.

**[14] Section 14**

Omit the section. Insert instead:

**14 Service regions**

The Director-General may divide the State into regions for the purposes of this Act.

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**[15] Part 4, heading**

Omit “S.E.S.”. Insert instead “SES”.

**[16] Section 16**

Omit the section. Insert instead:

**16 Region controllers**

- (1) The Director-General may appoint a member of staff of the State Emergency Service as the region controller for a region.
- (2) A region controller is, subject to any direction of the Director-General, responsible for the control and co-ordination of the activities of SES units in the relevant region.
- (3) The Director-General may appoint any person to act as a deputy to a region controller.
- (4) The functions of a region controller may be exercised by his or her deputy during any absence from duty of the region controller.

**[17] Section 17 Local controllers**

Omit “any person as the” from section 17 (1).

Insert instead “one or more persons as a”.

**[18] Section 17 (2)**

Insert “and for any reason” after “time”.

**[19] Section 17 (3)**

Omit “division”. Insert instead “region”.

**[20] Section 17 (4)**

Omit “the local controller”. Insert instead “a local controller”.

**[21] Sections 17A–17D**

Insert after section 17:

**17A Unit controllers**

- (1) The Director-General may appoint any person as the unit controller for an SES unit and may revoke the appointment at any time and for any reason.

- (2) A unit controller is, subject to any direction of the Director-General, the relevant region controller or the relevant local controller, responsible for the control and co-ordination of the activities of the unit.
- (3) In the case of a local government area for which there is only one SES unit, the unit controller for that unit is taken to be the local controller unless a local controller is appointed under section 17 (1).

**17B Terms of appointment for local and unit controllers**

- (1) A local controller or unit controller is to be appointed for such term (not exceeding 2 years) as is specified in his or her instrument of appointment, but is, at the end of that term, eligible for re-appointment.
- (2) Each local controller and unit controller is subject to an annual review and report to be carried out by the Director-General.

**17C Local and unit controller deputies**

- (1) A region controller may, in consultation with a local controller in the relevant region, appoint any person to act as a deputy to the local controller.
- (2) A region controller may, in consultation with a unit controller in the relevant region, appoint any person to act as a deputy to the unit controller.
- (3) An appointment made under subsection (1) or (2) may be revoked at any time and for any reason by the region controller who made the appointment.
- (4) The functions of a local controller or unit controller may be exercised by his or her deputy during any absence from duty of the local controller or unit controller.

**17D Region headquarters unit**

- (1) The State Emergency Service may make available such of its staff and facilities as the Director-General considers appropriate to establish a headquarters for a region.
- (2) A region controller, together with:
  - (a) the members of staff of the State Emergency Service attached to the headquarters for the region, and
  - (b) any volunteers assisting in the running of the headquarters, may be registered as an SES unit (as a *region headquarters unit*) under section 18.

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- (3) The function of a region headquarters unit is to assist the region controller in the exercise of his or her responsibilities.

**[22] Section 18 SES units**

Omit section 18 (1). Insert instead:

- (1) The Director-General may, by instrument in writing, register a group of persons as an SES unit and assign it a distinctive name.
- (1A) The Director-General may register a group of persons under subsection (1) on his or her own initiative or on the application of an association of persons formed for the purpose of dealing with emergencies to which this Act applies.
- (1B) On the registration of an SES unit under subsection (1A), the group of persons or the members of the association are members of the SES unit, subject to section 18AA.

**[23] Section 18AA**

Insert after section 18:

**18AA Granting, suspension and withdrawal of membership of SES units**

- (1) Membership of an SES unit may be granted, suspended or withdrawn by any of the following:
- (a) the Director-General,
- (b) a region controller, local controller or unit controller responsible for the SES unit.
- (2) Membership of an SES unit may be withdrawn at any time and for any reason.
- (3) Membership of an SES unit may be suspended at any time, but only for the purposes of conducting an investigation into:
- (a) the member's alleged offence against any law, or
- (b) the member's alleged contravention of, or failure to comply with, the procedures or instructions of the State Emergency Service.
- (4) A person whose membership of an SES unit is withdrawn may:
- (a) if the membership was withdrawn by the Director-General—apply to the Director-General to reconsider that action, or
- (b) if the membership was withdrawn by a region controller, local controller or unit controller—appeal to the Director-General against that action.



- (5) On an application or an appeal being made by a person under subsection (4), the Director-General may:
  - (a) reinstate the person's membership, or
  - (b) confirm the withdrawal of the person's membership.
- (6) The procedures for:
  - (a) suspending or withdrawing membership of an SES unit, and
  - (b) appealing against the withdrawal of membership of an SES unit,are to be as set out in the procedure manuals maintained by the State Emergency Service.
- (7) This section has effect despite any other law relating to membership of an association that is an SES unit.

**[24] Section 18A Definitions**

Omit “, or a divisional executive officer or the Director, Operations of that Service” from paragraph (c) of the definition of *senior emergency officer*.

**[25] Section 18A, definition of “senior emergency officer”**

Omit “bush fire brigade” from paragraph (d).

Insert instead “rural fire brigade”.

**[26] Section 19 Emergencies to which Part applies**

Omit “, storm or tempest” from section 19 (a). Insert instead “or storm”.

**[27] Section 19 (b)**

Omit “(c) or”.

**[28] Section 21 Duty to recognise authority of Director-General and emergency officers**

Omit “the Police Force” from section 21 (1). Insert instead “NSW Police”.

**[29] Section 21 (1)**

Omit “division”. Insert instead “region”.

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**[30] Section 23 Arrangements for inter-State co-operation in emergencies**

Insert after section 23 (2):

- (2A) The Director-General may make arrangements with an appropriate agency of a State or Territory that does not operate or manage an inter-State SES unit for SES units under this Act to carry out operations in that State or Territory in response to emergencies to which this Part applies.

**[31] Section 23 (3)**

Omit “*S.E.S.*”. Insert instead “*SES*”.

**[32] Section 25A Certain damage to be covered by insurance**

Omit “, tempest” from section 25A (1) (b).

**[33] Section 28A**

Insert after section 28:

**28A Donations of financial or material support**

- (1) The unit controller of an SES unit must keep written records of any donations of financial or material support provided to the unit.
- (2) A copy of those records is to be furnished to the Director-General immediately on request by the Director-General.

**[34] Schedule 1 Savings, transitional and other provisions**

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
- this Act
- State Emergency Service Amendment Act 2005*

**[35] Schedule 1, clause 1 (2)**

Omit “this Act”. Insert instead “the Act concerned”.

**[36] Schedule 1, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of  
State Emergency Service Amendment  
Act 2005**

**6 Definition**

In this Part:

*amending Act* means the *State Emergency Service Amendment Act 2005*.

**7 Construction of references to S.E.S. units**

A reference in any other Act, or in any instrument, to an S.E.S. unit is taken to be a reference to an SES unit.

**8 Continuation of regions and office of region controllers**

- (1) A division established under this Act (as in force immediately before the commencement of the amending Act) is taken to be a region established under section 14.
- (2) A reference in any other Act, or in any instrument, to a division (within the meaning of this Act as in force immediately before the commencement of the amending Act) is taken to be a reference to a region.
- (3) A reference in any other Act, or in any instrument, to a division controller (within the meaning of this Act as in force immediately before the commencement of the amending Act) is taken to be a reference to a region controller.
- (4) A person holding office as a division controller under this Act (as in force immediately before the commencement of the amending Act):
  - (a) is taken to be a region controller appointed under section 16, as substituted by the amending Act, and
  - (b) continues to hold office as a region controller.
- (5) It does not matter that a person referred to in subclause (4) is not a member of staff of the State Emergency Service.

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**9 Continuation of office of unit controllers**

A person holding office as a unit controller immediately before the repeal of the *State Emergency Service Regulation 2001* continues to hold office as a unit controller for the balance of his or her term of office or until the person's appointment is revoked in accordance with this Act, whichever occurs first.

**10 Continuation of office of deputy controllers**

A person holding office as a deputy to a division controller, local controller or unit controller immediately before the repeal of the *State Emergency Service Regulation 2001* continues to hold that office for the balance of his or her term of office or until the person's appointment is revoked in accordance with this Act, whichever occurs first.

**Schedule 2 Amendment of State Emergency and  
Rescue Management Act 1989**

(Section 4)

**Section 32A Definitions**

Omit “, or a divisional executive officer or the Director, Operations of that Service” from paragraph (c) of the definition of *emergency services officer*.