



New South Wales

State Emergency Service Amendment Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *State Emergency Service Act 1989* (the *principal Act*):

- (a) to change the title of the head of the State Emergency Service (the *SES*) from Director-General of the State Emergency Service to the Commissioner of the State Emergency Service and to change the title of the Deputy Director-General to Deputy Commissioner, and
- (b) to provide that the SES is to act as the combat agency in respect of tsunamis and is to co-ordinate the evacuation and welfare of affected communities, and
- (c) to preclude councillors (within the meaning of the *Local Government Act 1993*) from being appointed as the controller of an SES unit or as the controller of all SES units in a local government area.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act (except for Schedule 1 [11]) on the date of assent to the proposed Act. Schedule 1 [11] commences on the later of the date of assent to the proposed Act or 1 July 2009 (the date of the commencement of Schedule 6.3 [1] to the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008* that inserts the provisions being amended).

Schedule 1 Amendment of State Emergency Service Act 1989 No 164

Schedule 1 [1], [3], [5] and [11] give effect to the object set out in paragraph (a) of the Overview.

Schedule 1 [4] gives effect to the object set out in paragraph (b) of the Overview.

Schedule 1 [2] provides that notes in the principal Act do not form part of that Act.

Schedule 1 [10] provides that the emergency powers that the SES has in relation to floods, storms and emergencies which the State Emergency Operations Controller directs the SES to deal with also apply in relation to tsunamis.

Schedule 1 [6]–[9] give effect to the object set out in paragraph (c) of the Overview.

Schedule 1 [12] enables savings and transitional regulations to be made consequent on the enactment of the proposed Act.

Schedule 1 [13] inserts specific savings and transitional provisions consequent on the enactment of the proposed Act. Among other things, the provisions make it clear that the amendments precluding councillors from being appointed as unit controllers or local controllers do not affect the appointment of councillors who are also unit controllers or local controllers on the commencement of the proposed amendments.

Schedule 2 Amendment of other Acts

Schedule 2.1 amends the *Public Finance and Audit Act 1983* as a consequence of the change of title of the head of the State Emergency Service.

Schedule 2.2 amends the *Public Sector Employment and Management Act 2002* as a consequence of the change of title of the head of the State Emergency Service.

Schedule 2.3 amends the *State Emergency and Rescue Management Act 1989* as a consequence of the change of title of the head of the State Emergency Service.

First print



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New South Wales

State Emergency Service Amendment Bill 2009

No. , 2009

A Bill for

An Act to amend the *State Emergency Service Act 1989* to change the title of the head of the State Emergency Service, to make provision for the handling of tsunamis and to make further provision in relation to the appointment of local and unit controllers; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>State Emergency Service Amendment Act 2009</i> .	3
2 Commencement	4
(1) Except as provided by subsection (2), this Act commences on the date of assent to this Act.	5 6
(2) Schedule 1 [11] commences on the later of:	7
(a) the date of assent to this Act, or	8
(b) 1 July 2009.	9

Schedule 1 Amendment of State Emergency Service Act 1989 No 164

[1] Section 3 Definitions

Omit the definitions of *Deputy Director-General* and *Director-General* from section 3 (1):

Insert instead:

Commissioner means the Commissioner of the State Emergency Service holding office as such under the *Public Sector Employment and Management Act 2002*.

Deputy Commissioner means the Deputy Commissioner of the State Emergency Service holding office as such under the *Public Sector Employment and Management Act 2002*.

[2] Section 3 (3)

Insert after section 3 (2):

(3) Notes included in this Act do not form part of this Act.

[3] The whole Act (except Schedule 1 and except where otherwise amended by this Schedule)

Omit “Director-General” wherever occurring. Insert instead “Commissioner”.

[4] Section 8 Functions of Service

Insert after section 8 (1) (b):

(c) to act as the combat agency for dealing with tsunamis and to co-ordinate the evacuation and welfare of affected communities,

[5] Sections 12 (1), 13 and 21 (1)

Omit “Director-General’s”, wherever occurring.

Insert instead “Commissioner’s”.

[6] Section 17 Local controllers

Insert at the end of section 17 (1):

Note. Section 17CA provides that a councillor must not be appointed as a local controller.

[7] Section 17A Unit controllers

Insert at the end of section 17A (1):

Note. Section 17CA provides that a councillor must not be appointed as a unit controller.

State Emergency Service Amendment Bill 2009

Schedule 1 Amendment of State Emergency Service Act 1989 No 164

[8] Section 17C Local and unit controller deputies	1
Insert at the end of section 17C:	2
Note. Section 17CA provides that a councillor must not be appointed as a deputy to a local controller or unit controller.	3 4
[9] Section 17CA	5
Insert after section 17C:	6
17CA Councillors not to be appointed as local controllers, unit controllers or as local or unit controller deputies	7 8
(1) A councillor within the meaning of the <i>Local Government Act 1993</i> is not eligible to be appointed as a local controller, unit controller, deputy to a local controller or deputy to a unit controller.	9 10 11 12
(2) Any local controller, unit controller, deputy to a local controller or deputy to a unit controller who becomes a councillor ceases to be such a controller, or deputy to a controller, on a date that is 3 months after the date on which his or her election as a councillor takes effect unless the officer otherwise ceases to hold office before that date.	13 14 15 16 17 18
[10] Section 19 Emergencies to which Part applies	19
Omit section 19 (a). Insert instead:	20
(a) an emergency referred to in section 8 (1) (a), (b) or (c) relating to a flood, storm or tsunami, or	21 22
[11] Part 5A State Emergency Service Fund	23
Omit “Director-General” wherever occurring. Insert instead “Commissioner”.	24
[12] Schedule 1 Savings, transitional and other provisions	25
Insert at the end of clause 1 (1):	26
<i>State Emergency Service Amendment Act 2009</i>	27

[13] Schedule 1	1
Insert at the end of the Schedule with appropriate Part and clause numbering:	2
Part Provisions consequent on enactment of State Emergency Service Amendment Act 2009	3 4 5
Definition	6
In this Part:	7
<i>amending Act</i> means the <i>State Emergency Service Amendment Act 2009</i> .	8 9
Local and unit controllers	10
(1) An amendment made by the amending Act that prevents a person from being eligible for an office does not apply to an appointment to such an office made before the commencement of the amendment.	11 12 13 14
(2) An amendment made by the amending Act that provides for a person to cease to hold an office does not apply to an office that a person holds before the commencement of the amendment. However, the amendment does apply on and from any re-appointment of the person to the office after the commencement of the amendment.	15 16 17 18 19 20
References to Director-General and Deputy Director-General	21
(1) On and from the commencement of Schedule 1 [1] to the amending Act, a reference in any other Act, or in any instrument made under any Act, or in any other document of any kind, to the Director-General of the State Emergency Service is to be read as a reference to the Commissioner of the State Emergency Service.	22 23 24 25 26
(2) On and from the commencement of Schedule 1 [1] to the amending Act, a reference in any other Act, or in any instrument made under any Act, or in any other document of any kind, to the Deputy Director-General of the State Emergency Service is to be read as a reference to the Deputy Commissioner of the State Emergency Service.	27 28 29 30 31 32
(3) This clause is subject to the regulations.	33

Schedule 2	Amendment of other Acts	1
2.1	Public Finance and Audit Act 1983 No 152	2
	Schedule 3 Departments	3
	Omit “Director-General” from Column 2 of the matter relating to the State Emergency Service.	4 5
	Insert instead “Commissioner”.	6
2.2	Public Sector Employment and Management Act 2002 No 43	7
	Schedule 1 Divisions of the Government Service	8
	Omit “Director-General” from Column 2 of the matter relating to the State Emergency Service in Part 1 of the Schedule.	9 10
	Insert instead “Commissioner”.	11
2.3	State Emergency and Rescue Management Act 1989 No 165	12
	Section 43 Composition of Board	13
	Omit “Director-General” from section 43 (1) (b).	14
	Insert instead “Commissioner”.	15