



New South Wales

Emergency Legislation Amendment Bill 2012

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Fire Brigades Act 1989* to make provision (in line with similar powers under the *Rural Fires Act 1997*) for the Commissioner of Fire and Rescue NSW to enter and inspect land to investigate the cause or origin of a fire for the purpose of assisting in the prevention of fires,
- (b) to amend the *Rural Fires Act 1997* as follows:
 - (i) to enable police officers to enter and inspect land for the purposes of determining whether the cause or origin of a fire should be the subject of a criminal investigation,
 - (ii) to enable an authorised officer to require any person to whom the officer intends to issue a penalty notice under that Act to state the person's full name and residential address,
- (c) to amend the *State Emergency and Rescue Management Act 1989* (the ***SERM Act***) as follows:
 - (i) to clarify that sub-committees of the State Emergency Management Committee whose role is to co-ordinate the provision of support in

various functional areas, such as health, telecommunications and transport services, may carry out that role in order to prevent, prepare for, respond to or recover from an emergency (that is, before or after, as well as during, an emergency),

- (ii) to ensure that the examples, in the definition of *functional area*, of the categories of services involved in emergency operations are in line with the areas provided for in the State Disaster Plan (proposed to be renamed as the State Emergency Management Plan, as noted in paragraph (viii)),
- (iii) to modify and clarify arrangements relating to the membership of emergency management committees,
- (iv) to further specify functions of emergency management committees below State level that those committees are currently carrying out,
- (v) to ensure that emergency operations controllers below State level cannot be directed by the Minister for Police and Emergency Services to assume a combat agency's responsibility for controlling the response to an emergency, and that they can assume that responsibility only with the agreement of the combat agency and if the State Emergency Operations Controller is satisfied that it is necessary to do so,
- (vi) to ensure that the employment protection provisions of Part 3A of the SERM Act apply in respect of employers and employees, within the ordinary meaning of those terms in employment law,
- (vii) to ensure that the employment protection provisions of the SERM Act extend to a volunteer member of an emergency services organisation who carries out regular paid work under a contract for services (rather than as an employee) if the value of that work represents a substantial proportion of the regular paid work that the volunteer member carries out,
- (viii) to rename the State Disaster Plan (*Displan*) as the State Emergency Management Plan,
- (ix) to rename districts for the purposes of the SERM Act as regions,
- (x) to remove the requirements for principal executive officers involved in providing support facilities for emergency management committees, and emergency management operations controllers, operating below State level to be known as Emergency Management Officers,
- (xi) to make provision for matters of a savings or transitional nature.

The Bill also makes a number of miscellaneous consequential and statute law revision amendments to the *Rural Fires Act 1997*, the SERM Act and the *State Emergency Service Act 1989*. These include amendments consequential on the renaming of Displan as the State Emergency Management Plan and of districts as regions under the SERM Act, and amendments to update the names of various bodies.

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 on the date of assent to the proposed Act.

Schedule 1 Amendment of Fire Brigades Act 1989 No 192

Schedule 1 [2] makes the amendment referred to in paragraph (a) of the Overview.
Schedule 1 [1] makes a consequential amendment.

Schedule 1 [3] enables the Governor to make savings and transitional regulations that are consequential on the enactment of Schedule 1 to the proposed Act or any other Act that amends the *Fire Brigades Act 1989*.

Schedule 2 Amendment of Rural Fires Act 1997 No 65

Schedule 2 [4] makes the amendment referred to in paragraph (b) (i) of the Overview.

Schedule 2 [6] makes the amendment referred to in paragraph (b) (ii) of the Overview. **Schedule 2 [7] and [8]** make consequential amendments.

Schedule 2 [2] and [10] make amendments that are consequential on the renaming of Displan as the State Emergency Management Plan by **Schedule 3 [10]** and proposed clause 17 of Schedule 4 to the SERM Act (as inserted by **Schedule 3 [41]**).

Schedule 2 [1] updates the note to section 4 of the *Rural Fires Act 1997*, including as a consequence of those amendments.

Schedule 2 [3] and [5] update references to the body now called Fire and Rescue NSW.

Schedule 2 [9] enables the Governor to make savings and transitional regulations that are consequential on the enactment of Schedule 2 to the proposed Act or any other Act that amends the *Rural Fires Act 1997*.

Schedule 3 Amendment of State Emergency and Rescue Management Act 1989 No 165

Sub-committees of the State Emergency Management Committee providing functional area support

Schedule 3 [15] makes the amendment referred to in paragraph (c) (i) of the Overview. **Schedule 3 [6]** makes a consequential amendment.

Update of definition of “functional area”

Schedule 3 [7] makes the amendment referred to in paragraph (c) (ii) of the Overview.

Membership of emergency management committees

Schedule 3 [14] substitutes section 14 (3) of the SERM Act to provide that the Minister for Police and Emergency Services (*the Minister*), rather than the State Disasters Council, is to nominate representatives from non-government agencies who are to serve on the State Emergency Management Committee. It also re-enacts the current requirement for any representative of a government agency to be nominated by the Minister responsible for that agency.

Section 22 (2) of the SERM Act provides that each District Emergency Management Committee (to be renamed as a Regional Emergency Management Committee by the proposed Act) is to include a representative of the organisations providing services in each functional area in the relevant district. **Schedule 3 [18]** amends section 22 (2) to clarify that the Minister is to determine the particular organisations to be represented on the Committee.

Schedule 3 [19] makes an amendment to section 22 of the SERM Act by way of statute law revision.

Schedule 3 [26] makes a similar amendment in relation to Local Emergency Management Committees as the amendment made to section 22 (2) of the SERM Act by **Schedule 3 [18]**.

Schedule 3 [25] makes an amendment to section 28 of the SERM Act to require the Chairperson of a Local Emergency Management Committee to be the General Manager of the council of the local government area in respect of which the Committee is constituted, rather than a senior representative of the council who is nominated by that council (as at present). **Schedule 3 [27]** makes a consequential amendment.

Functions of Regional and Local Emergency Management Committees

Schedule 3 [20], [21], [28] and [29] make the amendments referred to in paragraph (c) (iv) of the Overview.

Assumption of functions of combat agency by Regional and Local Emergency Operations Controllers

Schedule 3 [22] and [30] make the amendments referred to in paragraph (c) (v) of the Overview.

Employment protection for volunteer members of emergency services organisations

Schedule 3 [37] makes the amendment referred to in paragraph (c) (vi) of the Overview. **Schedule 3 [36] and [38]** make consequential amendments.

Schedule 3 [39] makes the amendment referred to in paragraph (c) (vii) of the Overview.

Renaming of Displan as the State Emergency Management Plan

Schedule 3 [10] and proposed clause 17 of Schedule 4 to the SERM Act (inserted by **Schedule 3 [41]**) make the amendments referred to in paragraph (c) (viii) of the Overview. **Schedule 3 [2], [3], [8], [9] and [11]** make consequential amendments.

Renaming of districts as regions

Schedule 3 [17] and proposed clause 18 of Schedule 4 to the SERM Act (inserted by **Schedule 3 [39]**) make the amendments referred to in paragraph (c) (ix) of the Overview. **Schedule 3 [3], [4], [8], [11], [12], [16], [17] and [23]** make consequential amendments.

Title of principal executive officer for emergency management committees and emergency operations controllers

Schedule 3 [24] and [31] make the amendments referred to in paragraph (c) (x) of the Overview.

Updating of names and titles

Schedule 3 [5] and [32]–[35] update references to the names of various bodies, including Fire and Rescue NSW and the Ambulance Service of NSW.

Schedule 3 [1] and [13] update references to the person who currently holds office as the Chief Executive of the Ministry for Police and Emergency Services.

Savings and transitional provisions

Schedule 3 [40] enables the Governor to make savings and transitional regulations that are consequential on the enactment of the proposed Act or any other Act that amends the *State Emergency and Rescue Management Act 1989*.

Schedule 3 [41] makes amendments of a savings or transitional nature consequent on the enactment of Schedule 3 to the proposed Act.

**Schedule 4 Amendment of State Emergency Service
Act 1989 No 164**

Schedule 4 [1] and [3] update references to the bodies now called Fire and Rescue NSW and the Ambulance Service of NSW.

Schedule 4 [2] makes an amendment that is consequential on the renaming of Displan as the State Emergency Management Plan by **Schedule 3 [10]** and proposed clause 17 of Schedule 4 to the SERM Act (as inserted by **Schedule 3 [41]**).

Schedule 4 [4] makes an amendment that is consequential on the renaming of districts under the SERM Act as regions by **Schedule 3 [17]** and proposed clause 18 of Schedule 4 to the SERM Act (as inserted by **Schedule 3 [41]**).