



New South Wales

State Emergency and Rescue Management Amendment Bill 2010

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 and Rescue Management Act 1989* (the **Principal Act**) as follows:

- (a) to modify the membership of the State Emergency Management Committee and to amend its functions,
- (b) to clarify the ex officio nature of the positions of the State Emergency Operations Controller and the State Emergency Recovery Controller and the respective Deputy Controller positions,
- (c) to modify emergency management arrangements and the manner in which certain emergency management functions are exercised,
- (d) to enable police officers to be aided or accompanied by assistants when taking safety measures in danger areas affected by an emergency,
- (e) to make a number of miscellaneous amendments of a minor, administrative or consequential nature.

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of State Emergency and Rescue Management Act 1989 No 165

Amendments relating to State emergency management and administration

Schedule 1 [4] and [5] provide that the person holding office as Chairperson of the State Emergency Management Committee (established under section 14 of the Principal Act) will no longer be an ex officio member of the State Disasters Council (established under section 11 of the Principal Act) but instead may be appointed as such a member by the Minister.

Schedule 1 [7] enables the Minister to nominate other persons as members of the State Emergency Management Committee in addition to the various ex officio members and agency representatives who currently comprise the Committee.

Schedule 1 [8] provides that any member of the Committee may be appointed by the Minister as Chairperson of the Committee.

Schedule 1 [9] streamlines the functions of the State Emergency Management Committee so as to provide a more strategic policy focus. As a consequence of the Committee's revised functions (which include reviewing the State Disaster Plan, or *Displan*, and recommending alterations to Displan), **Schedule 1 [3] and [6]** modify the Minister's role in relation to Displan.

Schedule 1 [10] requires the Chief Executive, Emergency Management NSW to provide the annual report of the State Emergency Management Committee, as approved by the Committee, to the Minister instead of the Committee providing the report to the Minister.

Schedule 1 [11] makes it clear that the positions of the State Emergency Operations Controller and Deputy Controller are ex officio positions that are held by the holders of certain positions in the NSW Police Force (including persons acting in those Police Force positions). **Schedule 1 [13]** makes a similar amendment in relation to the positions of the State Emergency Recovery Controller (which is held by the Chief Executive, Emergency Management NSW) and Deputy Controller (which is held by a person holding a senior position in the Government Service). **Schedule 1 [2]** is a consequential amendment and **Schedule 1 [27]** removes redundant provisions relating to the Controllers and Deputy Controllers.

Schedule 1 [12], [15] and [16] provide that the Emergency Operations Controller at the State level or at a district or local level will, instead of providing assistance to the combat agency that is responsible for controlling the response to an emergency, be authorised to carry out functions specified by the combat agency concerned.

Schedule 1 [14] ensures that the local government representative on each District Emergency Management Committee is the Chairperson of the respective Local Emergency Management Committee.

Schedule 1 [17] provides that emergency services officers, who have certain functions under the Principal Act during a state of emergency, will include members of the Ambulance Service of NSW of or above the rank of station officer.

Miscellaneous amendments

Schedule 1 [1], [18] and [24] are statute law revision amendments that update or remove references to repealed legislation.

Schedule 1 [19] provides that any agency which manages or controls an accredited rescue unit must notify the police immediately after becoming aware of an incident involving the rescue of a person. At present, only the agencies that manage or control Fire Brigades or Ambulance Service accredited rescue units are required to notify the police of rescue incidents.

Schedule 1 [20] provides that the danger area in which police officers may exercise certain functions in relation to an emergency is the area specified by a senior police officer as the area affected by the emergency. **Schedule 1 [21]** is a consequential amendment.

Schedule 1 [22] provides that a police officer may exercise functions relating to the taking of safety measures in a danger area (for example, shutting off power supply) with the assistance of such persons as the police officer considers necessary.

Schedule 1 [23] makes it clear that staff may be employed under the *Public Sector Employment and Management Act 2002* to enable the State Emergency Recovery Controller to exercise his or her functions.

Schedule 1 [25] makes it clear that the public sector staff who are employed to enable the various emergency and rescue management organisations set up under the Principal Act to exercise their respective functions may also be employed to provide executive and operational support facilities for those organisations.

Schedule 1 [26] provides for the tabling of certain annual reports under the Principal Act when Parliament is not sitting.

Schedule 1 [28] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act.

Schedule 1 [29] preserves the appointment of the existing Chairperson of the State Emergency Management Committee.

First print



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New South Wales

State Emergency and Rescue Management Amendment Bill 2010

No. , 2010

A Bill for

An Act to amend the *State Emergency and Rescue Management Act 1989* to make further provision with respect to the management of State emergencies and rescues; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>State Emergency and Rescue Management Amendment Act 2010</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of State Emergency and Rescue Management Act 1989 No 165	1
		2
[1] Section 3 Definitions		3
	Omit paragraph (a) of the definition of <i>government agency</i> in section 3 (1).	4
	Insert instead:	5
	(a) a Department within the meaning of the <i>Public Sector Employment and Management Act 2002</i> ,	6
		7
[2] Section 3 (1), definitions of “State Emergency Operations Controller” and “State Emergency Recovery Controller”		8
	Omit the definitions. Insert instead in alphabetical order:	9
	<i>State Emergency Operations Controller</i> —see section 18.	10
	<i>State Emergency Recovery Controller</i> —see section 20A.	11
		12
[3] Section 10 Minister		13
	Omit section 10 (1) (c). Insert instead:	14
	(c) approving Displan or any alterations to Displan.	15
[4] Section 11 State Disasters Council		16
	Omit section 11 (3) (b1).	17
[5] Section 11 (4A)		18
	Insert after section 11 (4):	19
	(4A) The Minister may, but is not required to, appoint the person holding office as the Chairperson of the State Emergency Management Committee as a member of the State Disasters Council.	20
		21
		22
		23
[6] Section 12 State Disaster Plan		24
	Omit section 12 (4). Insert instead:	25
	(4) As soon as practicable after the Minister approves Displan or any alterations to Displan, the Chief Executive, Emergency Management NSW must:	26
		27
		28
	(a) publish (in such manner as the Chief Executive determines) a copy of Displan or the alterations to Displan, and	29
		30
		31
	(b) forward a copy of Displan or the alterations to Displan to each agency to which Displan relates.	32
		33

[7] Section 14 State Emergency Management Committee	1
Insert at the end of section 14 (2) (b):	2
, and	3
(c) such other persons as may be nominated by the Minister from time to time.	4 5
[8] Section 14 (2A)	6
Omit the subsection. Insert instead:	7
(2A) One of the members of the Committee is to be appointed by the Minister as the Chairperson of the Committee.	8 9
[9] Section 15	10
Omit the section. Insert instead:	11
15 Functions of State Emergency Management Committee	12
The State Emergency Management Committee has the following functions:	13 14
(a) to review, monitor and advise the Minister on the adequacy of the provisions of this Act relating to emergency management,	15 16 17
(b) to provide strategic policy advice to the Minister in relation to emergency management,	18 19
(c) to review, monitor and develop emergency management policy and practice at a State level and to disseminate information in relation to any such policy and practice,	20 21 22
(d) to review Displan and to recommend alterations to it,	23
(e) to endorse any subplans or supporting plans established under Displan,	24 25
(f) to facilitate strategic State level emergency management capability through inter-agency co-ordination, co-operation and information sharing arrangements,	26 27 28
(g) such other functions as are conferred or imposed on the Committee by or under this Act or as are related to this Act and assigned to the Committee from time to time by the Minister.	29 30 31 32
[10] Section 17 Annual report of State Emergency Management Committee	33
Omit section 17 (1). Insert instead:	34
(1) As soon as practicable after 30 June, but on or before 31 December in each year, the Chief Executive, Emergency	35 36

Management NSW is to provide the Minister with a report approved by the State Emergency Management Committee on the work and activities of the Committee for the 12 months ending on 30 June in that year.	1 2 3 4
[11] Section 18	5
Omit the section. Insert instead:	6
18 State Emergency Operations Controller and Deputy	7
(1) There is to be a State Emergency Operations Controller and a Deputy State Emergency Operations Controller.	8 9
(2) The office of the State Emergency Operations Controller is to be held by:	10 11
(a) the Commissioner of Police, or	12
(b) if the Governor, on the recommendation of the Minister, designates a position in the NSW Police Force Senior Executive Service as the position of State Emergency Operations Controller—the person for the time being holding or acting in that position.	13 14 15 16 17
(3) The office of the Deputy State Emergency Operations Controller is to be held by the person for the time being holding or acting in a position in the NSW Police Force Senior Executive Service that is designated by the Governor, on the recommendation of the Minister, as the position of Deputy State Emergency Operations Controller.	18 19 20 21 22 23
(4) The Minister is to consult with the Minister for Police before making a recommendation under subsection (2) or (3).	24 25
(5) During the absence or a vacancy in the office of the State Emergency Operations Controller, the Deputy State Emergency Operations Controller has all the functions of the State Emergency Operations Controller.	26 27 28 29
[12] Section 19 Responsibility and functions of State Emergency Operations Controller	30 31
Omit section 19 (2A). Insert instead:	32
(2A) The State Emergency Operations Controller may, at the request of the combat agency that is primarily responsible for controlling the response to an emergency, carry out such functions as may be specified by the agency for the purposes of controlling the response to the emergency.	33 34 35 36 37

[13] Section 20A	1
Omit the section. Insert instead:	2
20A State Emergency Recovery Controller and Deputy	3
(1) There is to be a State Emergency Recovery Controller and a Deputy State Emergency Recovery Controller.	4 5
(2) The office of the State Emergency Recovery Controller is to be held by the person for the time being holding or acting in the position of the Chief Executive, Emergency Management NSW.	6 7 8
(3) The office of the Deputy State Emergency Recovery Controller is to be held by the person for the time being holding or acting in a senior position in the Government Service that is designated by the Minister as the Deputy State Emergency Recovery Controller.	9 10 11 12 13
(4) During the absence or a vacancy in the office of the State Emergency Recovery Controller, the Deputy State Emergency Recovery Controller has all of the functions of the State Emergency Recovery Controller.	14 15 16 17
(5) A <i>senior position</i> in the Government Service is:	18
(a) a position of senior executive officer (within the meaning of the <i>Public Sector Employment and Management Act 2002</i>), or	19 20 21
(b) a position in the Public Service for which the rate of salary or wages payable to the person exceeds the maximum rate payable for Grade 12, Administrative and Clerical Division, of the Public Service.	22 23 24 25
[14] Section 22 District Emergency Management Committees	26
Omit section 22 (2) (b). Insert instead:	27
(b) the Chairperson of the Local Emergency Management Committee for each local government area within the relevant district, and	28 29 30
[15] Section 25 Functions of District Emergency Operations Controller	31
Omit section 25 (2A). Insert instead:	32
(2A) The District Emergency Operations Controller may, at the request of the combat agency that is primarily responsible for controlling the response to an emergency, carry out such functions as may be specified by the agency for the purposes of controlling the response to the emergency.	33 34 35 36 37

[16] Section 31 Functions of Local Emergency Operations Controller	1
Omit section 31 (2A). Insert instead:	2
(2A) The Local Emergency Operations Controller may, at the request of the combat agency that is primarily responsible for controlling the response to an emergency, carry out such functions as may be specified by the agency for the purposes of controlling the response to the emergency.	3 4 5 6 7
[17] Section 32A Definitions	8
Insert after paragraph (e) of the definition of <i>emergency services officer</i> :	9
(f) a member of the Ambulance Service of NSW of or above the rank of station officer.	10 11
[18] Section 50 Police at scene to co-ordinate etc rescue operation	12
Omit “the <i>Fire Brigades Act 1909</i> , the <i>Ambulance Services Act 1990</i> or” from section 50 (4).	13 14
[19] Section 51	15
Omit the section. Insert instead:	16
51 Notification of rescue incidents to police	17
(1) The agency that manages or controls an accredited rescue unit must, immediately after the agency becomes aware of an incident which requires or is likely to require the rescue of any person, notify a member of the NSW Police Force of all relevant information concerning the incident.	18 19 20 21 22
(2) The agency that manages or controls an accredited rescue unit is not required to notify a member of the NSW Police Force of any such incident if it is aware that the incident has already been notified to a member of the NSW Police Force.	23 24 25 26
[20] Section 60KA Definitions	27
Omit the definition of <i>danger area</i> . Insert instead:	28
<i>danger area</i> means the area specified by a senior police officer as the area affected by an emergency.	29 30
[21] Section 61 Power of police to take other safety measures	31
Omit “a danger area” wherever occurring in section 61 (1).	32
Insert instead “the danger area”.	33

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Schedule 1 Amendment of State Emergency and Rescue Management Act 1989 No
165

[22] Section 61AA	1
Insert after section 61A:	2
61AA Use of assistants	3
A police officer exercising a function under section 61 may do so with the aid of, and be accompanied by, such assistants as the police officer considers necessary.	4 5 6
[23] Section 63A Staff	7
Insert at the end of section 63A (1) (b):	8
and	9
(c) the State Emergency Recovery Controller to exercise his or her functions,	10 11
[24] Section 63A (1)	12
Omit “Part 2 of the <i>Public Sector Management Act 1988</i> ”.	13
Insert instead “Chapter 1A of the <i>Public Sector Employment and Management Act 2002</i> ”.	14 15
[25] Section 63A (1A)	16
Insert after section 63A (1):	17
(1A) Without limiting subsection (1), staff may be employed under that subsection to provide executive support facilities (including operational support) for a relevant emergency or rescue management organisation.	18 19 20 21
[26] Section 64A	22
Insert after section 64:	23
64A Procedure for tabling annual reports when Parliament not sitting	24
(1) This section applies to a report under section 17 or 49A that the Minister is required to lay before both Houses of Parliament.	25 26
(2) If a House of Parliament is not sitting when the Minister seeks to cause a copy of the report to be tabled before it, the Minister is to cause a copy of the report to be presented to the Clerk of that House of Parliament.	27 28 29 30
(3) A copy of the report presented to the Clerk of a House of Parliament under this section:	31 32
(a) is, on presentation and for all purposes, taken to have been laid before the House, and	33 34

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Amendment of State Emergency and Rescue Management Act 1989 No 165 Schedule 1

(b)	may be printed by authority of the Clerk of the House, and	1
(c)	if so printed, is taken to be a document published by or under the authority of the House, and	2 3
(d)	is to be recorded:	4
(i)	in the case of the Legislative Council—in the Minutes of Proceedings of the Legislative Council, and	5 6 7
(ii)	in the case of the Legislative Assembly—in the Votes and Proceedings of the Legislative Assembly, on the first sitting day of the House after receipt of the copy of the report by the Clerk.	8 9 10 11
[27]	Schedule 1 Provisions relating to Controllers	12
	Omit the Schedule.	13
[28]	Schedule 4 Savings, transitional and other provisions	14
	Insert at the end of clause 1 (1):	15
	<i>State Emergency and Rescue Management Amendment Act 2010</i>	16

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Schedule 1 Amendment of State Emergency and Rescue Management Act 1989 No
165

[29] Schedule 4, Part 8	1
Insert after Part 7:	2
Part 8 Provisions consequent on State Emergency and Rescue Management Amendment Act 2010	3 4 5
15 Existing Chairperson of State Emergency Management Committee	6
The person holding office as Chairperson of the State Emergency Management Committee immediately before the substitution of section 14 (2A) by the <i>State Emergency and Rescue Management Amendment Act 2010</i> continues to hold office as Chairperson of the Committee until such time as an appointment is made by the Minister under section 14 (2A) as so substituted.	7 8 9 10 11 12