



New South Wales

Emergency Services Legislation Amendment Bill 2023

Explanatory note

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

Overview of Bill

The object of this Bill is to make miscellaneous amendments to emergency services legislation.

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 and Rescue NSW Act 1989 No 192

Schedule 1 provides that the Commissioner of Fire and Rescue NSW, in exercising the Commissioner's functions, is subject to the control and direction of the Minister for Emergency Services.

Schedule 2 Amendment of NSW Reconstruction Authority Act 2022 No 80

Schedule 2 clarifies that a direction given to a relevant entity, as defined in the *NSW Reconstruction Authority Act 2022*, Schedule 4, to take certain action in the exercise of the entity's functions as prescribed by the regulations may also be given to a local council and other planning authorities.

Schedule 3 Amendment of NSW Reconstruction Authority Regulation 2023

Schedule 3 makes changes consequent on the amendment to the NSW Reconstruction Authority Act 2022 in Schedule 2.

Schedule 4 Amendment of Rural Fires Act 1997 No 65

Schedule 4[1] provides that, where a person has not been appointed by the Minister for Emergency Services, the Commissioner of the NSW Rural Fire Service is the local authority for the *Rural Fires Act 1997* for land within the Western Division that is not within a local government area. **Schedule 4[2] and [3]** make consequential amendments. **Schedule 4[4]** permits the Commissioner of the NSW Rural Fire Service to delegate certain functions of being the local authority to a member of the NSW Rural Fire Service when acting as the local authority under section 7A, as amended.

Schedule 4[5] provides that the NSW Rural Fire Service only requires permission from Transport for NSW to close roads or public spaces in relation to land or property if rail services would be affected. Proposed section 27(3) requires a member of the NSW Rural Fire Service to advise Transport for NSW about a closure under section 24 in relation to land or property vested in, or under the control of, Transport for NSW effected without the permission of Transport for NSW as soon as practicable after the closure.

Schedule 4[6] requires bush fire management plans or draft bush fire management plans to be published on the NSW Rural Fire Service website or another NSW Government website decided by the Commissioner of the NSW Rural Fire Service to facilitate public inspection.

Schedule 4[7] specifies that applicants for fire permits are responsible for confirming that all necessary environmental approvals have been obtained before an appropriate authority may issue a fire permit.

Schedule 5 Amendment of State Emergency and Rescue Management Act 1989 No 165

Schedule 5[1] and [2] expand the definition of *functional area* to include another category of services described as a functional area in the State Emergency Management Plan.

Schedule 5[3] allows the Minister for Emergency Services to appoint a representative of each organisation that the Minister determines should be represented on a Local Emergency Management Committee.

Schedule 5[5]–[9] ensure the Act does not include language that limits the establishment, operation and accreditation of multi-agency rescue units. **Schedule 5[4]** makes minor style changes.

Schedule 5[10] repeals a redundant provision relating to the provision of financial assistance to volunteer rescue agencies.

Schedule 5[12] allows the Minister for Emergency Services to issue a volunteer employment protection order. **Schedule 5[13]** provides for the period an order remains in force and for the revocation of an order made by the Minister. **Schedule 5[11]** makes a consequential amendment.



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Emergency Services Legislation Amendment Bill 2023

No. , 2023

A Bill for

An Act to amend the *Fire and Rescue NSW Act 1989*, *NSW Reconstruction Authority Act 2022*, *NSW Reconstruction Authority Regulation 2023*, *Rural Fires Act 1997* and *State Emergency and Rescue Management Act 1989* to make miscellaneous amendments.

The Legislature of New South Wales enacts—

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1 Name of Act

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This Act is the *Emergency Services Legislation Amendment Act 2023*.

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2 Commencement

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

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**Schedule 1 Amendment of Fire and Rescue NSW Act 1989 No
192**

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Section 5B

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Insert after section 5A—

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5B Commissioner subject to control and direction of Minister

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The Commissioner is, in exercising the Commissioner's functions, subject to
the control and direction of the Minister.

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Schedule 2	Amendment of NSW Reconstruction Authority Act 2022 No 80	1
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Section 13 Authority may direct relevant entities		3
Omit section 13(1)(b). Insert instead—		4
(b) for a local council—to take certain action in the exercise of—		5
(i) the council’s functions under the <i>Environmental Planning and Assessment Act 1979</i> , or		6
(ii) other functions of the council as prescribed by the regulations,		7
		8

Schedule 3	Amendment of NSW Reconstruction Authority Regulation 2023	1
		2
[1]	Section 5, heading	3
	Insert “ local councils and ” after “ direct ”.	4
[2]	Section 5	5
	Omit “section 13(1)(d)”. Insert instead “section 13(1)(b)(ii) and (d)”.	6
[3]	Section 5	7
	Omit “the relevant entity”. Insert instead “a local council or other relevant entity”.	8

Schedule 4	Amendment of Rural Fires Act 1997 No 65	1
[1] Section 7A Local authority for Western Division		2
Omit section 7A(1). Insert instead—		3
(1) The following person is the local authority for this Act for land within the Western Division that is not within a local government area—		4
(a) a person appointed by the Minister, or		5
(b) if a person is not appointed by the Minister—the Commissioner.		6
[2] Section 7A(2) and (3)		8
Omit “this section” wherever occurring. Insert instead “subsection (1)(a)”.		9
[3] Section 7A(3)		10
Insert “the Commissioner or” after “except”.		11
[4] Section 14 Delegation by Commissioner		12
Insert after section 14(1)—		13
(1A) Without limiting subsection (1), if the Commissioner is the local authority under section 7A, the Commissioner may delegate to a member of the Service—		14
(a) the function of being the local authority, or		15
(b) the exercise of a function of the Commissioner as the local authority.		16
[5] Section 27		19
Omit the section. Insert instead—		20
27 Permission needed from transport authorities for exercise of certain functions		21
(1) Subject to subsection (2), the functions conferred by this Division may not be exercised in relation to land or property vested in, or under the control of, a transport authority without the permission of—		22
(a) the transport authority, or		23
(b) a person authorised by the transport authority.		24
(2) The functions conferred by section 24 may be exercised in relation to land or property vested in, or under the control of, Transport for NSW without the permission of Transport for NSW, unless—		25
(a) the land or property is land or property on which rail services are provided, or		26
(b) rail services would be affected by the exercise of the functions in relation to the land or property.		27
(3) If a function conferred by section 24 is exercised in relation to land or property vested in, or under the control of, Transport for NSW without the permission of Transport for NSW that results in a street being closed to traffic, a member of the Service must, as soon practicable after the closure, advise Transport for NSW about the closure.		28
(4) In this section—		29
transport authority means the following—		30
(a) NSW Trains,		31
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(b)	Rail Corporation New South Wales,	1
(c)	Rail Infrastructure Corporation,	2
(d)	Residual Transport Corporation of New South Wales,	3
(e)	Sydney Metro,	4
(f)	Sydney Trains,	5
(g)	Transport for NSW,	6
(h)	Transport Infrastructure Development Corporation.	7
[6]	Section 62	8
	Omit the section. Insert instead—	9
	62 Bush fire management plans and draft bush fire management plans to be published on website	10 11
	A bush fire management plan or draft bush fire management plan must be published on—	12 13
	(a) the NSW Rural Fire Service website, or	14
	(b) another NSW Government website decided by the Commissioner.	15
[7]	Section 89 Issue of permits	16
	Omit section 89(2)(b). Insert instead—	17
	(b) the person confirms the person has obtained all approvals, consents or other authorities required under the <i>Environmental Planning and Assessment Act 1979</i> or another law, or	18 19 20

Schedule 5	Amendment of State Emergency and Rescue Management Act 1989 No 165	1
		2
[1] Section 3 Definitions		3
	Omit “a category of services involved in the prevention of, preparation for, responses to or recovery from an emergency, including the following” from section 3(1), definition of <i>functional area</i> .	4 5 6
	Insert instead “the following categories of services involved in the prevention of, preparation for, responses to or recovery from an emergency”.	7 8
[2] Section 3(1), definition of “functional area”		9
	Insert after paragraph (h)—	10
	(i) another category of services described as a functional area in the State Emergency Management Plan.	11 12
[3] Section 28 Local Emergency Management Committees		13
	Insert at the end of section 28(2)(d)—	14
	, and	15
	(e) a representative of each organisation that the Minister determines, from time to time, is to be represented on the Committee.	16 17
[4] Section 48 Particular duties of Board		18
	Insert “and” at the end of section 48(1)(a)–(g), (i), (j) and (l).	19
[5] Section 48(1)(h)		20
	Omit the paragraph. Insert instead—	21
	(h) make recommendations to the Minister about the accreditation of rescue units for participation in rescue operations, regardless of whether the rescue units are permanent, volunteer or a combination of permanent and volunteer, and	22 23 24 25
[6] Section 49 Board’s decisions to be implemented by rescue agencies		26
	Insert after section 49(1)—	27
	(1A) For subsection (1), if the accredited rescue unit is comprised of persons from one or more emergency services organisations or other agencies, each of the agencies is required to implement, in accordance with law, the decisions of the State Rescue Board under this Part in connection with rescue operations carried out by the rescue unit.	28 29 30 31 32
[7] Section 53 Offence to operate rescue unit or rescue vehicle without accreditation		33
	Insert after section 53(2)(b)—	34
	(b1) it is a unit comprised of persons from one or more emergency services organisations or other agencies, or	35 36
[8] Section 57 Register of personnel of rescue units		37
	Insert after section 57(2)—	38
	(3) To avoid doubt, if the accredited rescue unit is comprised of persons from one or more emergency services organisations or other agencies, the agency that	39 40

manages or controls the unit must include the personnel from other agencies in the register under subsection (1).	1 2
[9] Section 59 Liability for actions of members of rescue units and volunteers	3
Insert “, whether on its own or jointly with another organisation or agency” after “unit” in section 59(3), definition of <i>accredited rescue unit</i> , paragraph (b).	4 5
[10] Section 60 Financial assistance to volunteer rescue agencies	6
Omit the section.	7
[11] Section 60D, heading	8
Insert “, Minister ” after “ Premier ”.	9
[12] Section 60D(1) and (2)	10
Insert “, Minister” after “Premier” wherever occurring.	11
[13] Section 60D(4AA) and (4AB)	12
Insert after section 60D(4)—	13
(4AA) An order made by the Minister remains in force for the period, not more than 14 days, specified in the order unless revoked earlier.	14 15
(4AB) Revocation of an order made by the Minister is by either of the following published in the Gazette or on the NSW legislation website—	16 17
(a) a further order of the Minister under this section,	18
(b) an order of the Premier under this section.	19