



New South Wales

Rural Fires Amendment Bill 2013

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 *Rural Fires Act 1997* to make further provision for bush fire hazard reduction,
- (b) to make other miscellaneous amendments to the *Rural Fires Act 1997* and the *Rural Fires Regulation 2013*,
- (c) to amend the *National Parks and Wildlife Act 1974* to provide immunity from committing certain offences under that Act in the course of carrying out bush fire hazard reduction work,
- (d) to amend the *State Emergency and Rescue Management Act 1989* to create an aggravated offence relating to impersonating an emergency services organisation officer.

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 Rural Fires Act 1997 No 65

Schedule 1 [1] inserts a new object into the *Rural Fires Act 1997*, namely, to provide for the protection of infrastructure and environmental, economic, cultural, agricultural and community assets from damage arising from fires. **Schedule 1 [2]** is a consequential amendment.

Schedule 1 [3] expands the functions of the NSW Rural Fire Service to include the protection of infrastructure and environmental, economic, cultural, agricultural and community assets from destruction or damage arising from fires in rural fire districts. **Schedule 1 [4]** is a consequential amendment.

Schedule 1 [5] expands the things a rural fire brigade officer may do if a person or property is, or is likely to be, endangered by a fire or other emergency to include shoring up buildings or structures and destroying, pulling down, shoring up or removing parts of buildings or structures on any land.

Schedule 1 [6] provides that the cost incurred by a rural fire brigade in destroying, pulling down, shoring up or removing any buildings or structures or parts of buildings or structures in order to make premises safe is to be borne by the owner of the building or structure and paid to the Commissioner of the NSW Rural Fire Service (the *Commissioner*). However, the Commissioner has a discretion to waive part or the whole of the payment of these costs.

Schedule 1 [7] enables the Commissioner to take and use, free of charge, water from a water source on any land (by arrangement with the owner, occupier or person having control or management of that land) for the purpose of training or demonstration by a rural fire brigade.

Schedule 1 [8] clarifies that a person who obstructs or hinders, or incites or encourages any person to obstruct or hinder, a volunteer rural fire fighter acting under the direction of the Commissioner, a fire control officer or an officer of a rural fire brigade or group of rural fire brigades commits an offence.

Schedule 1 [9] updates references to the membership of the Bush Fire Co-ordinating Committee.

Schedule 1 [10] enables the Commissioner to direct a Bush Fire Management Committee to amend a draft bush fire risk management plan prepared and submitted by it.

Schedule 1 [11] provides that a hazard management officer is not required to issue a bush fire hazard reduction certificate in respect of bush fire hazard reduction work required by a notice issued under section 66 (2) if the work is otherwise authorised, or not required to be authorised, to be carried out.

Schedule 1 [12] provides that a bush fire hazard reduction notice is not required in the case of the establishment or maintenance of a fire trail or bush fire hazard reduction work carried out by the Commissioner when the identity and location of the owner or occupier of land cannot be ascertained.

Schedule 1 [13] provides that the Commissioner can carry out bush fire hazard reduction work on land if the Commissioner cannot ascertain the identity and location of the owner or occupier of that land after reasonable inquiry conducted over a period of not less than 7 days. **Schedule 1 [14]** is a consequential amendment.

Schedule 1 [15] provides that a public authority must report to the Commissioner on bush fire hazard reduction carried out in the preceding financial year on any land it manages within 1 month after the end of the financial year (rather than within 3 months as is the present case).

Schedule 1 [16] provides that, in addition to an annual report, a public authority must submit a monthly report on bush fire hazard reduction activities carried out in the preceding month on any land it manages and, if any activities planned for that month were not carried out, the reasons for that omission. **Schedule 1 [17] and [18]** are consequential amendments.

Schedule 1 [20] inserts an offence of discarding a lighted tobacco product or match or any incandescent material on land, which is currently an offence under clause 28 (2) of the *Rural Fires Regulation 2013*. The proposed amendment provides for a higher penalty when the offence is committed during a total fire ban in the relevant part of the State. **Schedule 1 [19]** is a consequential amendment.

Schedule 1 [21] provides that where bush fire hazard reduction work is to be carried out on several parcels of adjoining land, a single bush fire hazard reduction certificate may be issued by the relevant issuing or certifying authorities. **Schedule 1 [22]** is a consequential amendment.

Schedule 1 [23] allows a bush fire hazard reduction certificate that applies only to carrying out bush fire hazard reduction work of a kind that is carried out regularly and has a low impact on the environment and biodiversity to operate for 3 years.

Schedule 1 [24] updates references to agencies and other bodies with whom the Commissioner must consult and whose recommendations, if any, the Commissioner must take into account in preparing a draft bush fire environmental assessment code.

Schedule 1 [25] clarifies that proceedings for offences under section 100 (1) of the Act (setting fires without lawful authority or allowing fire to escape) are indictable offences.

Schedule 1 [26] amends the definition of *bush fire hazard reduction work* to include the establishment or maintenance of fire trails. **Schedule 1 [27]** is a consequential amendment.

Schedule 1 [28] inserts a definition of *volunteer rural fire fighters* into the Dictionary.

Schedule 2 Amendment of other legislation

Schedule 2.1 [1] and [2] exempt anything done in the course of carrying out bush fire hazard reduction work to which section 100C (4) of the *Rural Fires Act 1997* applies (namely, work carried out without certain approval, consent or authorisation but in accordance with a bush fire risk management plan and bush fire code) from the offences of harming or picking threatened species, endangered populations or endangered ecological communities and damaging the habitat of threatened species, endangered populations or endangered ecological communities, respectively.

Schedule 2.2 removes the offence of leaving or depositing a lighted tobacco product, match or any incandescent material on land or certain structures from clause 28 (2) of the *Rural Fires Regulation 2013*. That offence is now in proposed section 99A of the Act (see Schedule 1 [20]).

Schedule 2.3 inserts aggravated offences relating to impersonating an emergency services organisation officer.