



New South Wales

# State Emergency and Rescue Management Amendment Bill 2000

## 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* to revise the State emergency management and State rescue management provisions of that Act. In particular, the amendments clarify the provisions relating to the relevant operations controller for different emergencies.

## 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.

**Clause 3** is a formal provision giving effect to the amendments to the *State Emergency and Rescue Management Act 1989* set out in Schedule 1.

## **Schedule 1 Amendments**

### **Definition of “combat agency”—Schedule 1 [1] and [7]**

The definition of “combat agency” for the purposes of the Principal Act is amended to make it clear that it is the agency under the State Disaster Plan (Displan) primarily responsible for controlling the response to a particular emergency. The amendment includes in the definition the expression “control”, which is used in the Principal Act to denote the overall direction of the response stage of dealing with an emergency. A consequential amendment is made to section 12 (State Disaster Plan).

### **Definition of “emergency operations centre”—Schedule 1 [2]**

The definition of “emergency operations centre” for the purposes of the Principal Act is amended to make it clear that the requirement for the establishment of such a centre by State, district and local operations controllers extends to a centre for the co-ordination of operations and support as well as for communication during an emergency.

### **Definition of “functional area”—Schedule 1 [3]**

The definition of “functional area” for the purposes of the Principal Act is substituted so that the examples of the categories of services involved in the preparations for an emergency are in line with the areas provided under the State Disaster Plan.

### **Definition of “emergency”—Schedule 1 [4], [5], [19], [32] and [33]**

The definition of “emergency” for the purposes of the Principal Act is amended so that it extends to:

- (a) emergencies that endanger the safety or health of animals as well as people, and
- (b) emergencies that endanger the environment as well as property.

### **Membership of State Disasters Council—Schedule 1 [6]**

Section 11 of the Principal Act is amended to make the Chairperson of the State Emergency Management Committee an ex-officio member of the State Disasters Council.

### **Operation of State Disaster Plan—Schedule 1 [8]**

Section 13 of the Principal Act provides for the activation of Displan by the Minister (whether or not there is a state of emergency declared) and for its provisions to be put into effect on its activation. The section is substituted to clarify

the operation of Displan. The substituted section provides that the Plan has effect for the purposes of an emergency without the need for formal activation by the Minister in the case of each emergency. The section also provides that agencies are authorised to undertake their responsibilities and functions under Displan and that government agencies may be required to do so by the Minister.

In the case of a declared state of emergency, Division 4 of Part 2 of the Principal Act confers general powers of control and direction of organisations and persons to deal with the emergency.

**Responsibilities of State, District and Local Emergency Operations Controllers—Schedule 1 [9], [15] and [18]**

Sections 19, 25 and 31 of the Principal Act set out the responsibilities and functions of emergency operations controllers at the State, district and local levels respectively. The existing provisions provide for the relevant operations controller to have responsibility for allocating resources in response to an emergency. The sections are amended to make it clear that:

- (a) the responsibility of the relevant emergency operations controller relates to the control of the response to an emergency (and not merely the control over the allocation of resources for that purpose), and
- (b) the relevant emergency operations controller does not have responsibility for controlling the response to an emergency when the State Disaster Plan designates a single combat agency with primary responsibility for responding to the emergency unless the controller assumes that responsibility at the request or with the agreement of the combat agency or, in the case of any disagreement on the matter, at the direction of the Minister.

In addition, the amendments make it clear that the relevant emergency operations controller may assist the responsible combat agency at its request.

**Establishment of districts—Schedule 1 [10]**

Section 21 of the Principal Act is amended by way of statute law revision to remove outdated references to Police districts from the list of alternative methods of describing districts for the purposes of the Principal Act.

**Membership of District Emergency Management Committees—Schedule 1 [11], [12] and [13]**

Section 22 of the Principal Act is amended to ensure that the senior police officer who is to be the Chairperson of a District Emergency Management Committee is the same senior police officer appointed as the District Emergency Operations Controller, namely the relevant Region Commander. The section is also amended to make it clear that each organisation providing services in functional areas in the

relevant district is not entitled to a representative on the District Emergency Management Committee by providing instead for the appointment of a representative of the organisations providing services in each functional area.

**Membership of Local Emergency Management Committees—Schedule 1 [16]**

Section 28 of the Principal Act is amended to provide that the Local Emergency Operations Controller (being a local police officer appointed by the District Emergency Operations Controller) is to be a member of the relevant Local Emergency Management Committee.

**Principal function of State Rescue Board—Schedule 1 [21]**

Section 47 of the Principal Act is substituted to clarify that the principal function of the State Rescue Board is the maintenance of efficient and effective rescue services throughout the State and to remove any implication that the Board is to control the rescue services of the police, fire brigade, ambulance and other agencies. The substituted section also makes it clear that the principal function of the Board extends to the maintenance of those services throughout the whole State.

**Specific duties of State Rescue Board—Schedule 1 [22]–[28]**

Section 48 of the Principal Act is amended to revise the specific duties of the State Rescue Board to bring them into line with the functions currently exercised by the Board. In particular, the amendments make it clear that:

- (a) the Board makes policy recommendations to the Minister on rescue services but not other emergency services, and
- (b) the Board reviews but does not prepare and co-ordinate plans for single incident rescues within the State, and
- (c) the Board does not produce and disseminate standing orders and instructions and standing operating procedures for rescue operations, and
- (d) the Board does not arrange and provide training for rescue operations but only assists others to conduct such training.

**District and Local Rescue Sub-committees—Schedule 1 [14], [17], [29] and [30]**

At present the Principal Act provides (in the State emergency management provisions) for District and Local Emergency Management Committees to establish subcommittees (comprising senior representatives of emergency services organisations operating in the relevant district or local government area) to assist the State Rescue Board in the exercise of its functions. The sub-committees report in practice to that Board rather than the relevant Emergency Management Committee. Accordingly, the Bill transfers the provisions relating to their establishment to the provisions of the Principal Act relating to State rescue management and provides that the subcommittees (renamed as district or local

rescue committees) comprise senior representatives nominated by the relevant rescue organisations operating in the district or area and are subject to the control and direction of the State Rescue Board.

**Annual report of State Rescue Board—Schedule 1 [31]**

The Bill inserts a provision into the Principal Act (similar to that applying to the State Emergency Management Committee) to ensure that the State Rescue Board is required to prepare and submit a separate annual report to Parliament on its work and activities.

**Staff of State emergency management and rescue organisations—Schedule 1 [20] and [34]**

At present the Principal Act provides for the appointment of public service staff of the State Rescue Board and for the use of that staff to provide secretarial and other services to the State Disasters Council and State Emergency Management Committee and subcommittees. The Bill makes provision consistent with current arrangements for a single public service agency (at present, the Office of Emergency Services) to service all those State organisations.

**Savings and transitional provisions—Schedule 1 [35] and [36]**

The Bill also makes provision of a savings or transitional nature in connection with the amendments made to the Principal Act.



New South Wales

# State Emergency and Rescue Management Amendment Bill 2000

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of State Emergency and Rescue Management Act 1989 No 165	2
Schedule 1 Amendments	3



New South Wales

# State Emergency and Rescue Management Amendment Bill 2000

No. , 2000

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## 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.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>State Emergency and Rescue Management Amendment Act 2000</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of State Emergency and Rescue Management Act 1989 No 165</b>	8 9
The <i>State Emergency and Rescue Management Act 1989</i> is amended as set out in Schedule 1.	10 11



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## Schedule 1 Amendments

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(Section 3)

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### [1] Section 3 Definitions

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Omit “primarily responsible for responding to” from the definition of *combat agency* in section 3 (1).

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Insert instead “primarily responsible for controlling the response to”.

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### [2] Section 3 (1) Definition of “emergency operations centre”

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Insert “, and as a centre for the co-ordination of operations and support,” after “centre of communication”.

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### [3] Section 3 (1) Definition of “functional area”

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Omit the definition. Insert instead:

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*functional area* means a category of services involved in the preparations for an emergency, including the following:

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(a) agricultural and animal services,

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(b) communication services,

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(c) engineering services,

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(d) environmental services,

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(e) health services,

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(f) public information services,

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(g) transport services,

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(h) welfare services.

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### [4] Section 4 Definition of “emergency”

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Insert “or animals” after “the safety or health of persons”.

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<b>[5] Section 4 (2)</b>	1
Insert at the end of section 4:	2
(2) For the purposes of the definition of <i>emergency</i> , property in the State includes any part of the environment of the State. Accordingly, a reference in this Act to:	3 4 5
(a) threats or danger to property includes a reference to threats or danger to the environment, and	6 7
(b) the protection of property includes a reference to the protection of the environment.	8 9
<b>[6] Section 11 State Disasters Council</b>	10
Insert after section 11 (3) (b):	11
(b1) the Chairperson of the State Emergency Management Committee, and	12 13
<b>[7] Section 12 State Disaster Plan</b>	14
Omit “primarily responsible for responding to” from section 12 (3) (a). Insert instead “primarily responsible for controlling the response to”.	15 16
<b>[8] Section 13</b>	17
Omit the section. Insert instead:	18
<b>13 Operation of State Disaster Plan</b>	19
(1) The relevant provisions of Displan have effect in the event of an emergency.	20 21
(2) Displan has effect in the event of an emergency whether or not a state of emergency has been declared.	22 23
(3) Agencies are authorised to undertake their responsibilities and functions under Displan in the event of an emergency. Government agencies may be required to do so by the Minister.	24 25 26
(4) Any question concerning the application or operation of Displan may be referred to and determined by the Minister.	27 28
(5) This section does not authorise or require any act or omission that is inconsistent with this or any other Act.	29 30

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<b>[9] Section 19 Responsibility and functions of State Emergency Operations Controller</b>	1 2
Omit section 19 (1) and (2). Insert instead:	3
(1) The State Emergency Operations Controller is, subject to this section, responsible for controlling in accordance with this Act the response to an emergency:	4 5 6
(a) that affects more than one district, or	7
(b) for which the State Emergency Operations Controller assumes responsibility.	8 9
(1A) The State Emergency Operations Controller is not responsible for controlling the response to an emergency if there is a single combat agency primarily responsible under Displan for controlling the response to the emergency, unless the Controller assumes that responsibility in accordance with subsection (1B).	10 11 12 13 14
(1B) The State Emergency Operations Controller may assume responsibility for controlling the response to an emergency from the combat agency primarily so responsible under Displan if:	15 16 17 18
(a) the Controller is satisfied that it is necessary to do so in the particular circumstances of the case, and	19 20
(b) the combat agency has requested or agreed to the Controller assuming that responsibility or, in the case of any disagreement on the matter, the Minister has directed the Controller to do so.	21 22 23 24
(2) The State Emergency Operations Controller may, if responsible for controlling the response to an emergency:	25 26
(a) issue directions to agencies who have functions in connection with responses to the emergency, and	27 28
(b) appoint an officer of an agency to have overall control of particular activities in response to the emergency where a number of agencies are involved and those agencies do not agree on the matter.	29 30 31 32
(2A) The State Emergency Operations Controller may assist a combat agency that is primarily responsible for controlling the response to an emergency in carrying out that responsibility.	33 34 35

State Emergency and Rescue Management Amendment Bill 2000

Schedule 1 Amendments

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<b>[10] Section 21 Establishment of districts</b>	1
Omit “Police districts (as defined by section 6 of the <i>Justices Act 1902</i> ),” from section 21 (2).	2 3
<b>[11] Section 22 District Emergency Management Committees</b>	4
Omit section 22 (2) (a). Insert instead:	5
(a) the District Emergency Operations Controller for the relevant district, who is to be the Chairperson of the Committee, and	6 7 8
<b>[12] Section 22 (2) (d)</b>	9
Omit the paragraph. Insert instead:	10
(d) a representative of the organisations providing services in each functional area in the relevant district as may be determined by the Minister from time to time.	11 12 13
<b>[13] Section 22 (3)</b>	14
Insert at the end of the subsection “The representative of relevant organisations for a functional area under subsection (2) (d) is to be nominated in accordance with arrangements determined by the Minister.”.	15 16 17
<b>[14] Section 22 (4)</b>	18
Omit the subsection.	19
<b>[15] Section 25 Functions of District Emergency Operations Controller</b>	20
Omit section 25 (1) and (2). Insert instead:	21
(1) The District Emergency Operations Controller for a district is, subject to this section, responsible for controlling in accordance with this Act the response to an emergency:	22 23 24
(a) that affects more than one local government area in the district, or	25 26
(b) for which the District Emergency Operations Controller assumes responsibility.	27 28

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(1A)	The District Emergency Operations Controller is not responsible for controlling the response to an emergency if there is a single combat agency primarily responsible under Displan for controlling the response to the emergency, unless the Controller assumes that responsibility in accordance with subsection (1B).	1 2 3 4 5 6
(1B)	The District Emergency Operations Controller may assume responsibility for controlling the response to an emergency from the combat agency primarily so responsible under Displan if:	7 8 9 10
(a)	the State Emergency Operations Controller is satisfied that it is necessary to do so in the particular circumstances of the case, and	11 12 13
(b)	the combat agency has requested or agreed to the District Emergency Operations Controller assuming that responsibility or, in the case of any disagreement on the matter, the Minister has directed the District Emergency Operations Controller to do so.	14 15 16 17 18
(1C)	The District Emergency Operations Controller is not responsible for controlling the response to an emergency for which the State Emergency Operations Controller has assumed responsibility.	19 20 21 22
(2)	The District Emergency Operations Controller may, if responsible for controlling the response to an emergency, issue directions to agencies who have functions in connection with responses to the emergency.	23 24 25 26
(2A)	The District Emergency Operations Controller may assist a combat agency that is primarily responsible for controlling the response to an emergency in carrying out that responsibility.	27 28 29
<b>[16]</b>	<b>Section 28 Local Emergency Management Committees</b>	30
	Insert at the end of section 28 (2):	31
	, and	32
(d)	the Local Emergency Operations Controller for the relevant local government area.	33 34

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<b>[17] Section 28 (6)</b>	1
Omit the subsection.	2
<b>[18] Section 31 Functions of Local Emergency Operations Controller</b>	3
Omit section 31 (1) and (2). Insert instead:	4
(1) The Local Emergency Operations Controller for an area is, subject to this section, responsible for controlling in accordance with this Act the response to an emergency that affects only that area.	5 6 7 8
(1A) The Local Emergency Operations Controller is not responsible for controlling the response to an emergency if there is a single combat agency primarily responsible under Displan for controlling the response to the emergency, unless the Controller assumes that responsibility in accordance with subsection (1B).	9 10 11 12 13 14
(1B) The Local Emergency Operations Controller may assume responsibility for controlling the response to an emergency from the combat agency primarily so responsible under Displan if:	15 16 17 18
(a) the State Emergency Operations Controller is satisfied that it is necessary to do so in the particular circumstances of the case, and	19 20 21
(b) the combat agency has requested or agreed to the Local Emergency Operations Controller assuming that responsibility or, in the case of any disagreement on the matter, the Minister has directed the Local Emergency Operations Controller to do so.	22 23 24 25 26
(1C) The Local Emergency Operations Controller is not responsible for controlling the response to an emergency for which the State or District Emergency Operations Controller has assumed responsibility.	27 28 29 30
(2) The Local Emergency Operations Controller may, if responsible for controlling the response to an emergency, issue directions to agencies who have functions in connection with responses to the emergency.	31 32 33 34

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(2A)	The Local Emergency Operations Controller may assist a combat agency that is primarily responsible for controlling the response to an emergency in carrying out that responsibility.	1 2 3
<b>[19]</b>	<b>Section 37A Powers to take other safety measures</b>	4
	Insert “or animals” after “protecting persons” in section 37A (1).	5
<b>[20]</b>	<b>Section 46 Staff of Board</b>	6
	Omit the section.	7
<b>[21]</b>	<b>Section 47</b>	8
	Omit the section. Insert instead:	9
	<b>47 Principal function of Board</b>	10
	The principal function of the State Rescue Board is to ensure the maintenance of efficient and effective rescue services throughout the State.	11 12 13
<b>[22]</b>	<b>Section 48 Particular duties of Board</b>	14
	Omit section 48 (1) (a). Insert instead:	15
	(a) develop policies to promote the provision of comprehensive, balanced and co-ordinated rescue services throughout the State,	16 17 18
<b>[23]</b>	<b>Section 48 (1) (b)</b>	19
	Omit “the rescue and emergency services”.	20
	Insert instead “the provision of rescue services within the State”.	21
<b>[24]</b>	<b>Section 48 (1) (c)</b>	22
	Omit “prepare, co-ordinate and”.	23
<b>[25]</b>	<b>Section 48 (1) (d)</b>	24
	Omit the paragraph.	25

State Emergency and Rescue Management Amendment Bill 2000

Schedule 1 Amendments

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<b>[26] Section 48 (1) (e)</b>	1
Omit the paragraph. Insert instead:	2
(e) review and disseminate to relevant agencies technical information relating to rescue operations,	3 4
<b>[27] Section 48 (1) (g)</b>	5
Omit “purchase, allocation and”.	6
<b>[28] Section 48 (1) (j), (k)</b>	7
Omit the paragraphs. Insert instead:	8
(j) assist in the conduct of training exercises in rescue operations involving the various agencies concerned,	9 10
<b>[29] Section 48 (2)</b>	11
Omit the subsection.	12
<b>[30] Section 48A</b>	13
Insert after section 48:	14
<b>48A District and local rescue committees</b>	15
(1) Rescue committees are to be established for each district and for each local government area.	16 17
(2) The rescue committee for a district is to be chaired by the District Emergency Operations Controller for the district and is to comprise senior representatives of emergency services organisations operating in the district nominated by those organisations.	18 19 20 21 22
(3) The rescue committee for a local government area is to be chaired by the Local Emergency Operations Controller for the area and is to comprise senior representatives of emergency services organisations operating in the area nominated by those organisations.	23 24 25 26 27



(4)	Rescue committees are to assist the State Rescue Board in the exercise of its functions within the district or local government area concerned. In particular, a rescue committee is to assist the State Rescue Board in determining whether the accreditation of a rescue unit to operate in the district or area should be recommended to the Minister.	1 2 3 4 5 6
(5)	Rescue committees are subject to the control and direction of the State Rescue Board.	7 8
(6)	The State Rescue Board may approve of a single rescue committee for 2 or more local government areas. In that case, a reference in this section:	9 10 11
(a)	to a local government area is a reference to the combined local government areas concerned, and	12 13
(b)	to the Local Emergency Operations Controller for the area is a reference to the principal Controller designated in the approval.	14 15 16
<b>[31]</b>	<b>Section 49A</b>	17
	Insert after section 49:	18
	<b>49A Annual report by Board</b>	19
(1)	As soon as practicable after 30 June, but on or before 31 December, in each year, the State Rescue Board is to prepare and forward to the Minister a report on its work and activities for the 12 months ending on 30 June in that year.	20 21 22 23
(2)	The Minister is to lay any such report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.	24 25 26
<b>[32]</b>	<b>Section 61 Power of police to take other safety measures</b>	27
	Insert “or animals” after “protecting persons” in section 61 (1).	28
<b>[33]</b>	<b>Section 62A Certain damage to be covered by insurance</b>	29
	Insert “or animals” after “protect persons” in section 62A (2).	30

<b>[34] Section 63A</b>	1
Insert after section 63:	2
<b>63A Staff</b>	3
(1) Such staff as may be necessary to enable:	4
(a) a relevant emergency or rescue management organisation to exercise its functions, and	5
(b) the operation of the State emergency operations centre, is to be employed under Part 2 of the <i>Public Sector Management Act 1988</i> .	6
(2) In this section, <b><i>relevant emergency or rescue management organisation</i></b> means:	7
(a) the State Disasters Council, or	8
(b) the State Emergency Management Committee, or	9
(c) the State Rescue Board, or	10
(d) a subcommittee of any such organisation.	11
<b>[35] Schedule 4 Savings, transitional and other provisions</b>	12
Insert at the end of clause 1 (1) of Part 1:	13
<i>State Emergency and Rescue Management Amendment Act 2000</i>	14
<b>[36] Schedule 4</b>	15
Insert at the end of the Schedule:	16
<b>Part 5 Provisions consequent on State Emergency and Rescue Management Amendment Act 2000</b>	17
<b>8 Definition</b>	18
In this Part:	19
<b><i>amending Act</i></b> means the <i>State Emergency and Rescue Management Amendment Act 2000</i> .	20

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<b>9 Existing District and Local Rescue Sub-committees</b>	1
(1) District Rescue Sub-committees established under section 22 (4) are, on the repeal of section 22 (4) by the amending Act, taken to be district rescue committees established under section 48A.	2 3 4 5
(2) Local rescue sub-committees established under section 28 (6) are, on the repeal of section 28 (6) by the amending Act, taken to be local rescue committees established under section 48A.	6 7 8