

Act 1993 No. 98

## BUSH FIRES (AMENDMENT) BILL 1993

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Fire Brigades (Amendment) Bill 1993 is cognate with this Bill.

The object of this Bill is to amend the Bush Fires Act 1949:

- (a) to change the proportion of contributions made by the Treasurer, local government councils and insurance companies towards the yearly estimate of expenditure from the New South Wales Bush Fire Fighting Fund; and
- (b) to reconstitute the Bush Fire Council, to clarify its role as an advisory body and to reduce its membership from 27 to 16 members; and
- (c) as a consequence of the changes affecting the Bush Fire Council, to reconstitute the Bush Fire Finance Committee and the Co-ordinating Committee; and
- (d) to make minor amendments relating to returns by insurance companies; and
- (e) to make other minor consequential amendments (including an amendment to the Public Sector Management Act 1988 to change the title of the position of Director-General of the Department of Bush Fire Services to the Commissioner of Bush Fire Services).

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the proposed Act to commence on assent, except those amendments relating to administration matters (such as reconstituting the Bush Fire Council) which will commence on a day to be proclaimed.

**Clause 3** gives effect to the amendments to the Bush Fires Act 1949 set out in Schedule 1.

**Clause 4** amends the Public Sector Management Act 1988 to change the title of the position of Director-General of the Department of Bush Fire Services to commissioner of Bush Fire Services.

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**Schedule 1** contains the following amendments to the Bush Fires Act 1949:

**Contributions towards estimate of expenditure from the Fund**

Each year under the Bush Fires Act 1949, the Minister prepares and adopts an estimate of the probable expenditure from the New South Wales Bush Fire Fighting Fund (“the Fund”). The contributions required to be made towards that estimate are presently determined under section 32 of the Act as follows:

- the Treasurer contributes one-quarter
- local government councils contribute one-quarter
- insurance companies contribute one-half.

**Schedule 1 (5) (a)–(c)** amends section 32 of the Act to change the proportion of contributions towards the estimate of expenditure from the Fund determined each financial year. As a result of these amendments, the apportionment of contributions will be as follows:

- the Treasurer will contribute 14%
- local government councils will contribute 12.3%
- companies will contribute 73.7%.

The new funding ratios are consistent with those used to determine the contributions under the Fire Brigades Act 1989 to fund fire brigade expenditure under that Act.

**Returns by insurance companies**

Under section 34 of the Act, insurance companies must (in September of each financial year) send a return to the Minister in the approved form showing the total amount of certain premiums received or due for the previous financial year. The returns are used to apportion an insurance company’s contribution towards the estimated expenditure from the Fund by reference to premium income. Schedule 1 (6) (a) provides that the return is to be sent to the Commissioner of Bush Fire Services instead of to the Minister.

**Schedule 1 (3) (b)** substitutes the definition of “policy of insurance” in section 6 to exclude policies of reinsurance. This will mean that re-insurers will only be required to send insurance returns (but not reinsurance returns) to the Commissioner. Schedule 1 (6) (b) will ensure that an insurance company will not be able to deduct bonuses or return premiums paid by way of reinsurance from the “total amount of premiums” that it is required to show to the Commissioner in its return.

**Reconstitution of Bush Fire Council, Finance Committee and Co-ordinating Committee**

**Schedule 1 (7)** substitutes the provisions of the Act relating to the constitution and functions of the Bush Fire Council, the Finance Committee and the Co-ordinating Committee.

Proposed section 39 provides that the new Bush Fire Council is to have 16 members (instead of 27), 4 of whom are ex-officio members (including the Commissioner who will be the Chairperson) and 12 of whom are appointed by the Minister on the recommendation of various bodies or persons. Proposed section 39A provides that the Council is to have an advisory and educative role.

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Proposed sections 39B and 40 reconstitute the Finance Committee and the Co-ordinating Committee along similar lines to how they are presently constituted. However, these bodies will be separate from the Bush Fire Council and their membership will not be determined by the membership of the Council.

**Schedule 1 (3) (a)** replaces existing definitions and inserts new definitions as a consequence of the amendments made by Schedule 1 (7).

**Schedule 1 (12)** inserts a new Schedule containing standard provisions relating to the membership and procedure of the 3 reconstituted bodies. These provisions are similar to the existing provisions under the Act.

**Miscellaneous amendments**

**Schedule 1 (1)** omits an obsolete arrangement provision (section 2).

**Schedule 1 (4)** provides that, as a consequence of the Bush Fire Council having an advisory role, certain functions relating to proclaiming bush fire districts and exempting councils from making contributions to the Fund will be exercised by the Minister instead of the Council.

**Schedule 1 (8) and (9)** provide that the Commissioner will have certain functions relating to requesting information from councils and receiving reports from inspectors instead of the Minister and the Bush Fire Council.

**Schedule 1 (10)** extends section 48 (which protects certain persons acting in the execution of, or exercising functions under, the Act from being sued) to apply to the Commissioner and the staff of the Department of Bush Fire Services.

**Transitional provisions**

**Schedule 1 (11)** inserts a new Schedule containing savings and transitional provisions consequent on the enactment of the proposed Act. In particular, proposed clause 3 of the new Schedule provides for the adjustment of contributions for the financial year ending 30 June 1994 as a result of the changes to the funding ratios effected by Schedule 1 (5) (a)–(c). Proposed clause 4 provides that the members of the existing Bush Fire Council, Finance Committee and Co-ordinating Committee cease to hold office on the commencement of the amendments which reconstitute those bodies.

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