

[Act 2000 No 104]



New South Wales

Rural Fires Amendment Bill 2000

Explanatory note

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

Overview of Bill

The objects of this Bill are to amend the *Rural Fires Act 1997* so as:

- (a) to provide for the employment of fire control officers, deputy fire control officers and certain other ancillary staff as staff of the NSW Rural Fire Service, and
 - (b) to provide for the Commissioner of the NSW Rural Fire Service to enter into service agreements with the local government councils responsible for rural fire districts in relation to the carrying out by the Commissioner of certain of their functions under the Act in respect of rural fire brigades and bush fire prevention and concurrent obligations of the councils, and
 - (c) to reduce, with effect from 1 July 2001, the annual contributions payable by the Treasurer to the New South Wales Rural Fire Fighting Fund from 14% to 13% of the amount required to be contributed to the Fund under Part 5 of the Act, and
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- (d) to increase, with effect from 1 July 2001, the annual contributions payable by local government councils to the New South Wales Rural Fire Fighting Fund from 12.3% to 13.3% of the amount required to be contributed to the Fund under Part 5 of the Act, and
- (e) to clarify the ambit of the powers that may be exercised by rural fire brigade officers for the purpose of controlling or suppressing a fire or protecting persons or property from an existing or imminent danger arising out of a fire, incident or other emergency, and
- (f) to make it explicit that a fire permit is not required to light a fire for the purpose of back burning and that no notice is required to be given before a fire is lit for that purpose, and
- (g) to make it clear that the NSW Rural Fire Service can provide advisory services in places outside New South Wales, and
- (h) to remove the requirement for local government councils to obtain the approval of the Minister before agreeing to combine or transfer responsibility for and in respect of their rural fire districts, and
- (i) to make other minor amendments and amendments by way of statute law revision.

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 *Rural Fires Act 1997* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to various laws set out in Schedule 2.

Schedule 1 Amendments

Transfer of fire control officers, deputy fire control officers and designated fire control officers

Schedule 1 [30] inserts a new Part 4 (clauses 14–19) into Schedule 3 to the Principal Act. The Part provides for the transfer of employment of fire control officers, deputy fire control officers and certain ancillary fire control officers (to be

designated by the Commissioner and the local authorities) from local authorities to the Department of Rural Fire Service of the Public Service by an order of the Governor published in the Gazette (clause 15). It preserves certain of the employment conditions and accrued leave and other entitlements of the transferred officers (clauses 16 and 17) and provides for the funding of their accrued entitlements by their former employers (clause 18).

The superannuation rights of the transferred officers will in general be covered by the *Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997* which provides for a degree of mobility to and from the local government superannuation scheme and the public sector superannuation schemes, as envisaged by section 128A of the *Superannuation Administration Act 1996*. **Schedule 2.3** contains an amendment to that Act to enable those officers not so covered to be given the option of remaining in the Local Government Superannuation Scheme.

Schedule 1 [4], [5], [7], [8], [13]–[20], [28] and [32] contain consequential amendments.

Service agreements

Schedule 1 [9] inserts proposed section 12A into the Principal Act. It provides for the entry into service agreements as described in paragraph (b) of the Overview of this Bill.

Contributions to New South Wales Rural Fire Fighting Fund

Schedule 1 [25] amends section 108 of the Principal Act as described in paragraph (c) of the Overview of this Bill.

Schedule 1 [26] amends section 109 of the Principal Act as described in paragraph (d) of the Overview of this Bill.

Schedule 1 [30] inserts a new clause 19 into Schedule 3 to the Principal Act so that the amendments to sections 108 and 109 will take effect from 1 July 2001.

Powers of rural fire brigade officers

Schedule 1 [10] and [11] amend section 22 of the Principal Act as described in paragraph (e) of the Overview of this Bill. Section 22 (1) is substituted to put it beyond doubt that an officer of a rural fire brigade or group of fire brigades can, for the purpose of controlling or suppressing a fire or protecting persons or property from an existing or imminent danger arising out of a fire, incident or emergency, not only exercise any function expressly conferred on the officer by or under the

Principal Act but may also take any other action that is reasonably necessary or incidental to the effective exercise of such a function. **Schedule 1 [12]** inserts a new section 22A (2A) into the Principal Act to make it clear that the Commissioner of the NSW Rural Fire Service may also exercise those powers and take such action.

Back burning

Schedule 1 [22]–[24] amend sections 86–88 of the Principal Act as described in paragraph (f) of the Overview of this Bill. The amendments make it clear that nothing in them requires authorised officers of fire fighting authorities to obtain fire permits before lighting fires for the purpose of back burning or to give any notice of the lighting of such fires. **Schedule 1 [31]** inserts a definition of “back burning” into the Dictionary to the Principal Act for the purposes of the amendments.

Advisory services

Schedule 1 [6] amends section 9 of the Principal Act as described in paragraph (g) of the Overview of this Bill.

Rural fire districts

Schedule 1 [2] amends section 7 of the Principal Act as described in paragraph (h) of the Overview of this Bill.

Schedule 1 [3] amends section 7 (2) of the Principal Act to enable local authorities that combine responsibility for their rural fire districts to either exercise joint responsibility for the districts or nominate one of them to be the responsible authority (at present, they must nominate one to be the responsible authority).

Schedule 1 [1] contains a consequential amendment.

Statute law revision

Schedule 1 [21] and **[27]** make amendments by way of statute law revision to update references.

Savings and transitional

Schedule 1 [29] enables the making of savings or transitional regulations.

Schedule 2 Consequential amendments of other laws

Schedule 2 makes consequential amendments to other laws.