



New South Wales

State Emergency and Rescue Management Amendment Bill 2005

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* (the **Principal Act**):

- (a) to provide for the appointment of deputies to District Emergency Operations Controllers, and
- (b) to enable a police officer to be appointed as a Local Emergency Operations Controller if the officer is stationed in a district nearby to the district in which the local government area, for which the Controller is appointed, is located, and
- (c) to create an offence of manufacturing or selling the insignia (including uniforms) of an emergency services organisation (other than NSW Police), and
- (d) to create an offence of using or displaying the insignia of an emergency services organisation (other than NSW Police) with the intention to deceive, and

- (e) to create an offence of impersonating an officer of an emergency services organisation (other than NSW Police) with the intention to deceive, and
- (f) to make consequential amendments.

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.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 omits a redundant provision from the *Rural Fires Regulation 2002* as a consequence of the amendments in Schedule 1.

Schedule 1 **Amendment of State Emergency and Rescue Management Act 1989**

Schedule 1 [1], [2], [4] and [6]–[8] amend the Principal Act to update references to NSW Police.

Schedule 1 [3] amends section 24 of the Principal Act to allow a District Emergency Operations Controller to appoint a person to be his or her deputy to act during the absence, or vacancy in the office, of the District Emergency Operations Controller.

Schedule 1 [5] amends section 30 of the Principal Act (which currently provides that a person appointed as a Local Emergency Operations Controller must be a police officer stationed within the district in which the local government area for which the Controller is appointed is located) to allow for the appointment of an officer stationed in a nearby district.

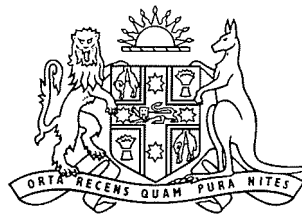
Schedule 1 [9] inserts proposed section 63B into the Principal Act which creates new offences.

Firstly, the proposed section makes it an offence (maximum penalty: \$5,500) for a person to manufacture or sell the insignia (which includes a uniform) of an emergency services organisation (other than NSW Police).

Secondly, the proposed section makes it an offence (maximum penalty: \$5,500) for a person to use or display the insignia of an emergency services organisation (other than NSW Police), or to impersonate an emergency services organisation officer, with the intention to deceive.

A person is not guilty of an offence under the proposed section if the person's conduct is authorised, if the person establishes that the conduct is for a public entertainment or if the person establishes that the person has a reasonable excuse.

First print



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State Emergency and Rescue Management Amendment Bill 2005

No. , 2005

A Bill for

An Act to amend the *State Emergency and Rescue Management Act 1989* with respect to impersonation and other offences relating to emergency services organisations and the appointment of District and Local Emergency Operations Controllers; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>State Emergency and Rescue Management Amendment Act 2005</i> .	3 4
2 Commencement	5
This Act commences on the date of assent.	6
3 Amendment of State Emergency and Rescue Management Act 1989 No 165	7 8
The <i>State Emergency and Rescue Management Act 1989</i> is amended as set out in Schedule 1.	9 10
4 Amendment of Rural Fires Regulation 2002	11
The <i>Rural Fires Regulation 2002</i> is amended by omitting clause 40.	12

Schedule 1 **Amendment of State Emergency and Rescue Management Act 1989**

	(Section 3)	1 2 3
[1] Section 3 Definitions		4
Omit “the Police Service” wherever occurring from the definitions of <i>emergency services organisation</i> and <i>government agency</i> in section 3 (1).		5 6
Insert instead “NSW Police”.		7
[2] Section 18 State Emergency Operations Controller		8
Omit “the Police Service” wherever occurring from section 18 (1B).		9
Insert instead “NSW Police”.		10
[3] Section 24 District Emergency Operations Controller		11
Insert at the end of the section:		12
(2) A District Emergency Operations Controller may appoint as his or her deputy a person who is:		13 14
(a) a police officer of or above the rank of Superintendent, and		15
(b) in the opinion of the District Emergency Operations Controller, experienced in emergency management.		16 17
(3) During the absence, or a vacancy in the office, of a District Emergency Operations Controller, the District Emergency Operations Controller’s deputy has all the functions of the District Emergency Operations Controller under this Act.		18 19 20 21
[4] Section 26 NSW Police to provide executive support for District Emergency Management Committee and Operations Controller		22 23
Omit “The Police Service” from section 26 (1).		24
Insert instead “NSW Police”.		25
[5] Section 30 Local Emergency Operations Controller		26
Omit section 30 (2) and (3). Insert instead:		27
(2) The person appointed:		28
(a) must be a police officer stationed within the district (established under section 21) in which the local government area is located, or, if that is not reasonably practicable, within a district that is, in the opinion of the District Emergency Operations Controller, nearby, and		29 30 31 32 33

	(b) must be a person who, in the opinion of the District Emergency Operations Controller, has experience in emergency management.	1 2 3
[6]	Section 43 Composition of Board	4
	Omit “the Police Service” from section 43 (1) (c).	5
	Insert instead “NSW Police”.	6
[7]	Section 51 Notification of rescue incidents to police	7
	Omit “the Police Force” wherever occurring from section 51 (2) and (3).	8
	Insert instead “NSW Police”.	9
[8]	Section 53 Offence to operate rescue unit or rescue vehicle without accreditation	10 11
	Omit “the Police Service” from section 53 (2) (a).	12
	Insert instead “NSW Police”.	13
[9]	Section 63B	14
	Insert after section 63A:	15
63B	Offences relating to emergency services organisations	16
	(1) A person who manufactures or sells emergency services organisation insignia is guilty of an offence. Maximum penalty: 50 penalty units.	17 18 19
	(2) A person who:	20
	(a) uses or displays emergency services organisation insignia, or	21 22
	(b) impersonates an emergency services organisation officer, with the intention to deceive is guilty of an offence. Maximum penalty: 50 penalty units.	23 24 25
	(3) A person is not guilty of an offence under this section if:	26
	(a) the person’s conduct is authorised by the relevant emergency services organisation, or	27 28
	(b) the person establishes that the conduct is for the purposes of a public entertainment, or	29 30
	(c) the person establishes that the person has a reasonable excuse.	31 32

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- (4) In this section: 1
- emergency services organisation insignia*** means: 2
- (a) any items (being uniforms, insignia, emblems, logos, 3
devices, accoutrements and other things) that are generally 4
recognised as pertaining to an emergency services 5
organisation (other than NSW Police) or as being used by 6
an emergency services organisation officer, or 7
- (b) any parts of any such items, or 8
- (c) any reasonable imitation of any such items or parts, or 9
- (d) any thing or class of thing prescribed by the regulations as 10
being within this definition (whether or not it may already 11
be within this definition), 12
- but does not include any thing or class of thing prescribed by the 13
regulations as being outside this definition. 14
- emergency services organisation officer*** includes an employee, 15
member, volunteer or any other person who exercises functions 16
on behalf of an emergency services organisation (other than 17
NSW Police). 18
- sell*** means sell, exchange or let on hire, and includes: 19
- (a) offer, expose, possess, send, forward or deliver for sale, 20
exchange or hire, or 21
- (b) cause, suffer or allow any of the above. 22