



New South Wales

State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010

Explanatory note

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

Overview of Bill

The object of this Bill is to establish the SES Volunteer Joint Consultative Council (*the Consultative Council*). The Consultative Council will advise and report to the Commissioner of the State Emergency Service (*the Commissioner*) on matters relevant to volunteer members of SES units. The Bill also makes provision in relation to the membership and procedure of the Consultative Council.

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 State Emergency Service Act 1989 No 164**

Schedule 1 [3] inserts Part 5B (proposed sections 24Z–24ZC) into the *State Emergency Service Act 1989* (the *principal Act*). Proposed section 24Z provides for

the establishment of the Consultative Council. Proposed section 24ZA provides for the Consultative Council to consist of 7 members, being the Commissioner, 3 staff members of the State Emergency Service appointed on the recommendation of the Commissioner, the President of the New South Wales State Emergency Service Volunteers Association Incorporated and 2 persons appointed on the recommendation of that Association (with one of those persons being a volunteer officer who is a deputy to a region controller or is a local controller or unit controller). Proposed section 24ZB provides that the Consultative Council has the function of advising and reporting to the Commissioner on any matter relevant to volunteer members of SES units. Proposed section 24ZC requires certain membership information to be included in the annual report of the State Emergency Service.

Schedule 1 [7] inserts Schedule 3 into the principal Act. Schedule 3 makes provision in relation to the terms of office of the members of the Consultative Council appointed by the Minister, remuneration of members, the appointment of deputies of members, vacancies in office, the Chair of the Consultative Council and other matters relating to the constitution of the Consultative Council. Schedule 3 also makes provision in relation to the procedure of the Consultative Council including matters such as requirements for a quorum, voting, subcommittees and the minutes of meetings.

Schedule 1 [1] inserts a definition of *Consultative Council* into the principal Act.

Schedule 1 [2] provides that *SES expenditure* includes recurrent expenditure incurred during the year in respect of the administrative costs of the Consultative Council. Part 5A of the principal Act requires the Minister to prepare an estimate of SES expenditure for each financial year, provides for the payment of SES contributions to meet SES expenditure and allows for payments to be made in respect of SES expenditure.

Schedule 1 [4] and [5] provide for protection from personal liability for members of the Consultative Council in relation to the exercise of the functions of the Consultative Council (provided that the matter or thing in question was done in good faith).

Schedule 1 [6] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 2 Amendment of Freedom of Information Regulation 2005

Schedule 2 makes an amendment to ensure that the Consultative Council is taken to be included in the State Emergency Service (rather than being treated as a separate entity) for the purposes of complying with the requirements contained in the *Freedom of Information Act 1989*.

First print



New South Wales

State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of State Emergency Service Act 1989 No 164	3
Schedule 2 Amendment of Freedom of Information Regulation 2005	12



New South Wales

State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010

No. , 2010

A Bill for

An Act to amend the *State Emergency Service Act 1989* to establish the SES Volunteer Joint Consultative Council and make provision for its functions, membership and procedure.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>State Emergency Service Amendment (Volunteer Consultative Council) Act 2010</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of State Emergency Service Act 1989 No 164	1
		2
[1] Section 3 Definitions		3
	Insert in alphabetical order in section 3 (1):	4
	<i>Consultative Council</i> means the SES Volunteer Joint Consultative Council.	5
		6
[2] Section 24A Definitions		7
	Insert “, the Consultative Council” after “State Emergency Service” in paragraph (c) of the definition of <i>SES expenditure</i> .	8
		9
[3] Part 5B		10
	Insert after section 24Y:	11
	Part 5B SES Volunteer Joint Consultative Council	12
	24Z Establishment of SES Volunteer Joint Consultative Council	13
	There is established by this Act an SES Volunteer Joint Consultative Council.	14
		15
	24ZA Membership and procedure of Consultative Council	16
	(1) The Consultative Council is to consist of 7 members as follows:	17
	(a) the Commissioner, who is to be the Chair of the Council,	18
	(b) 3 persons, who are to be members of staff of the State Emergency Service, appointed by the Minister on the recommendation of the Commissioner,	19
		20
		21
	(c) the President of the New South Wales State Emergency Service Volunteers Association Incorporated,	22
		23
	(d) 2 persons appointed by the Minister on the recommendation of the New South Wales State Emergency Service Volunteers Association Incorporated, one of whom is to be a volunteer officer who is a deputy to a region controller or is a local controller or unit controller.	24
		25
		26
		27
		28
	(2) Schedule 3 contains provisions relating to members and procedure of the Consultative Council.	29
		30

24ZB	Functions of the Consultative Council	1
(1)	The Consultative Council has the following functions:	2
(a)	to advise and report to the Commissioner on any matter relevant to volunteer members of SES units,	3
(b)	such other functions as may be conferred or imposed on it by or under this or any other Act.	4
(2)	The Consultative Council may give advice and make reports whether or not the advice or reports were requested.	5
		6
		7
		8
24ZC	Reporting requirement	9
	The following are to be included in the annual report of the State Emergency Service under the <i>Annual Reports (Departments) Act 1985</i> for each financial year:	10
		11
		12
(a)	the names of each member of the Consultative Council holding office during the financial year,	13
(b)	the period of the year during which the member held office,	14
(c)	a record of the attendance of those members at any meeting of the Consultative Council held during the financial year.	15
		16
		17
		18
[4]	Section 25 Personal liability of members of Service and Consultative Council and volunteers	19
	Insert at the end of section 25 (1) (c):	20
	or	21
	(d) a member of the Consultative Council,	22
		23
[5]	Section 25 (1)	24
	Insert “or the Consultative Council” after “assisting the State Emergency Service”.	25
		26
[6]	Schedule 1 Savings, transitional and other provisions	27
	Insert at the end of clause 1 (1):	28
	<i>State Emergency Service Amendment (Volunteer Consultative Council) Act 2010</i>	29
		30

[7] Schedule 3	1
Insert after Schedule 2:	2
Schedule 3	3
Constitution and procedure of Consultative Council	4
	(Section 24ZA) 5
Part 1	General 6
1	Definitions 7
In this Schedule:	8
<i>appointed member</i> means a member of the Consultative Council who is appointed by the Minister.	9 10
<i>Chair</i> means the Chair of the Consultative Council.	11
<i>member</i> means any member of the Consultative Council.	12
<i>staff member</i> means a member of the Consultative Council appointed under section 24ZA (1) (b).	13 14
<i>volunteer member</i> means a member of the Consultative Council specified in section 24ZA (1) (c) or (d).	15 16
Part 2	Constitution 17
2	Terms of office of appointed members 18
Subject to this Schedule, an appointed member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	19 20 21 22
3	Remuneration 23
(1)	The Chair is not entitled to be paid remuneration in respect of the duties he or she performs as Chair. 24 25
(2)	A staff member is not entitled to be paid remuneration in respect of the duties he or she performs as a member. 26 27
(3)	A volunteer member is only entitled to be paid such travelling and subsistence allowances as the Commissioner may from time to time determine in respect of the member. 28 29 30

4	Deputies	1
(1)	The Chair may, from time to time, appoint a person to be the Chair's deputy, and may revoke any such appointment.	2 3
(2)	The Chair may, from time to time, approve of a person to be the deputy of a member (on the recommendation of that member) and may appoint the approved person to be the deputy of the member, and may revoke any such appointment.	4 5 6 7
(3)	In the absence of the Chair, the Deputy Chair may, if available, act in the place of the Chair.	8 9
(4)	In the absence of a member, the member's deputy may, if available, act in the place of the member.	10 11
(5)	While acting in the place of the Chair, the Deputy Chair has all the functions of the Chair and is taken to be the Chair.	12 13
(6)	While acting in the place of a member, a person has all the functions of the member and is taken to be a member.	14 15
(7)	For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.	16 17
5	Vacancy in office of member	18
(1)	The office of a member becomes vacant if the member:	19
(a)	dies, or	20
(b)	completes a term of office and is not re-appointed, or	21
(c)	resigns the office by instrument in writing addressed to the Minister, or	22 23
(d)	is removed from office by the Minister under this clause or by the Governor under Chapter 5 of the <i>Public Sector Employment and Management Act 2002</i> , or	24 25 26
(e)	is absent from 3 consecutive meetings of the Consultative Council of which reasonable notice has been given to the member personally or by post, except on leave granted by the Chair or unless the member is excused by the Chair for having been absent from those meetings, or	27 28 29 30 31
(f)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	32 33 34 35
(g)	becomes a mentally incapacitated person, or	36
(h)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is	37 38

convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	1 2 3
(2) The Chair vacates office as Chair if he or she:	4
(a) is removed from office by the Minister under this clause, or	5 6
(b) ceases to be a member.	7
(3) The President of the New South Wales State Emergency Service Volunteers Association Incorporated vacates office as a member if he or she:	8 9 10
(a) is removed from office by the Minister under this clause, or	11 12
(b) ceases to be a member.	13
(4) The Minister may at any time remove the Chair or any other member from office.	14 15
6 Filling of vacancy in office of appointed member	16
If the office of any appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	17 18
7 Disclosure of pecuniary interests	19
(1) If:	20
(a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Consultative Council, and	21 22 23
(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	24 25 26
the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Consultative Council.	27 28 29
(2) A disclosure by a member at a meeting of the Consultative Council that the member:	30 31
(a) is a member, or is in the employment, of a specified company or other body, or	32 33
(b) is a partner, or is in the employment, of a specified person, or	34 35
(c) has some other specified interest relating to a specified company or other body or to a specified person,	36 37

- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1). 1
2
3
4
- (3) Particulars of any disclosure made under this clause must be recorded by the Consultative Council in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any person on payment of the fee determined by the Consultative Council. 5
6
7
8
9
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Consultative Council otherwise determines: 10
11
12
- (a) be present during any deliberation of the Consultative Council with respect to the matter, or 13
14
- (b) take part in any decision of the Consultative Council with respect to the matter. 15
16
- (5) For the purposes of the making of a determination by the Consultative Council under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not: 17
18
19
20
- (a) be present during any deliberation of the Consultative Council for the purpose of making the determination, or 21
22
- (b) take part in the making by the Consultative Council of the determination. 23
24
- (6) A contravention of this clause does not invalidate any decision of the Consultative Council. 25
26
- 8 Effect of certain other Acts** 27
- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a member. 28
29
30
- (2) If by or under any Act provision is made: 31
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or 32
33
34
- (b) prohibiting the person from engaging in employment outside the duties of that office, 35
36
- the provision does not operate to disqualify the person from holding that office and also the office of a member or from 37
38

accepting and retaining any remuneration payable to the person under this Act as a member.	1 2
(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.	3 4
Part 3 Procedure	5
9 General procedure	6
The procedure for the calling of meetings of the Consultative Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Chair.	7 8 9 10
10 Validity of certain acts or proceedings	11
Any act or proceeding of the Consultative Council is, even though at the time when the act or proceeding was done, taken or commenced there was:	12 13 14
(a) a vacancy in the office of a member of the Consultative Council, or	15 16
(b) any defect in the appointment, or any disqualification of a member of the Consultative Council,	17 18
as valid as if the vacancy, defect or disqualification did not exist and the Consultative Council was fully and properly constituted.	19 20
11 Quorum	21
The quorum for a meeting of the Consultative Council is 2 staff members, 2 volunteer members and the Chair.	22 23
12 Chair to be presiding member	24
(1) The Chair is to preside at a meeting of the Consultative Council.	25
(2) The Chair has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	26 27
13 Voting	28
A decision supported by a majority of the votes cast at a meeting of the Consultative Council at which a quorum is present is the decision of the Consultative Council.	29 30 31

14	Subcommittees	1
(1)	The Consultative Council may, with the approval of the Chair, establish subcommittees to assist the Consultative Council in the exercise of its functions.	2 3 4
(2)	The members of a subcommittee are to be appointed by the Consultative Council and may consist of any of the following:	5 6
(a)	staff of the State Emergency Service,	7
(b)	volunteer officers and volunteer members of SES units.	8
(3)	The procedures for calling meetings of a subcommittee and for the conduct of those meetings are to be determined by the Consultative Council or (subject to any determination by the Consultative Council) by the subcommittee.	9 10 11 12
(4)	The Consultative Council may delegate to a subcommittee any of the functions of the Consultative Council, other than this power of delegation.	13 14 15
15	Transaction of business outside meetings or by telephone	16
(1)	The Consultative Council may, if the Chair and the President of the New South Wales State Emergency Service Volunteers Association Incorporated both think fit, transact any of its business by the circulation of papers among all the members of the Council for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Consultative Council.	17 18 19 20 21 22 23
(2)	The Consultative Council may, if the Chair and the President of the New South Wales State Emergency Service Volunteers Association Incorporated both think fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	24 25 26 27 28 29 30
(3)	For the purposes of:	31
(a)	the approval of a resolution under subclause (1), or	32
(b)	a meeting held in accordance with subclause (2),	33
	the Chair and each member have the same voting rights as they have at an ordinary meeting of the Consultative Council.	34 35
(4)	A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Consultative Council.	36 37 38

(5)	Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.	1 2 3
16	Minutes	4
(1)	The Consultative Council is to keep full and accurate minutes of its proceedings at meetings.	5 6
(2)	The Consultative Council is to submit a copy of the minutes of a meeting of the Council to the Minister within 14 days after the date on which the meeting is held.	7 8 9
17	First meeting	10
	The Minister may call the first meeting of the Consultative Council in such manner as the Minister thinks fit.	11 12

**Schedule 2 Amendment of Freedom of Information
Regulation 2005**

1
2
3
4
5
6

Schedule 3 Public authorities

Insert in appropriate order in the Columns headed “**Body**” and “**Agency**”,
respectively, in Part 3:

SES Volunteer Joint Consultative Council State Emergency Service