

BUSH FIRES (AMENDMENT) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

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

- (a) to ensure that the immunity from legal proceedings a bush fire brigade has when fighting a bush fire extends to it when it is engaged in fire prevention activities such as the burning of fire breaks; and
- (b) to confer on a bush fire brigade statutory authority to engage voluntarily in certain community activities; and
- (c) to clarify the powers of fire control officers employed by councils; and
- (d) to expand the functions of the Co-ordinating Committee established under the Principal Act; and
- (e) to enable a bush fire brigade to assist in fighting a fire on land adjoining its territory even though another authority has the responsibility; and
- (f) to increase monetary penalties for offences; and
- (g) to require donations to be excluded from the minimum contribution to be made by a council to the Bush Fire Fighting Fund; and
- (h) to make other amendments of a minor, consequential or ancillary nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 gives effect to the Schedules of amendments.

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**SCHEDULE 1 - AMENDMENTS RELATING TO FIRE
FIGHTING AND FIRE PREVENTION**

Schedule 1 (1) inserts new definitions in the Principal Act.

Schedule 1 (2) enables council officers to enter land to assess whether the council should require reduction of fire hazards on the land.

Schedule 1 (3) makes consequential amendments including the repeal of section 22 (3A) - (3D). To prevent a suggested interpretation resulting from their present context, the effect of those subsections has been transferred as proposed section 22A.

Schedule 1 (4) inserts proposed sections 22A and 22B into the Principal Act.

Proposed section 22A relates to the power of a bush fire brigade to enter land and reduce fire hazards by establishing fire breaks and burning inflammable material on the land. The proposed powers cannot be exercised without the permission of the person or body occupying or controlling the land but this does not affect other powers of compulsory entry after notice that are conferred by the Principal Act.

Proposed section 22B gives statutory recognition to voluntary activities, undertaken by bush fire brigades in conjunction with other bodies.

Schedule 1 (5) removes the present exclusion of certain land from proclaimed bush fire districts. The excluded land is that affected by the Fire Brigades Act 1909, the Forestry Act 1916 and the National Parks and Wildlife Act 1974 together with land vested in, or controlled by, the State Rail Authority. The effect of the present exclusion is, however, continued by the amendment proposed to be made by Schedule 1 (6).

Schedule 1 (6) excludes certain land from the land in a proclaimed bush fire district in order to preclude a fire control officer from exercising functions on the excluded land.

Schedule 1 (7) authorises expenditure from the Bush Fire Fighting Fund to enable a council or a public authority to perform its duty to reduce fire hazards on its land.

Schedule 1 (8) would enable the Co-ordinating Committee to set up District Fire Committees to prepare plans for the reduction of fire hazards, and the co-operative fighting of bush fires, in places where certain other authorities have fire-fighting functions.

Schedule 1 (9) would enable the Co-ordinating Committee to require a council to exercise its powers to serve a notice requiring reduction of fire hazards on private land.

Schedule 1 (10) amends section 411 of the Principal Act which at present prevents the Co-ordinating Committee from exercising its functions outside the areas of certain councils. The proposed amendment removes the restriction in so far as it relates to the reduction of fire hazards and co-operative action between different fire-fighting authorities.

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Schedule 1 (11) makes a consequential amendment.

Schedule 1 (12) amends section 51 of the Principal Act which at present enables an authority such as the Forestry Commission or the National Parks and Wildlife Service to fight a bush fire within 8 kilometres of its land. The proposed amendment would confer reciprocal rights on a bush fire brigade enabling it to fight a bush fire on the land of such an authority within the prescribed distance from the territory of the brigade.

Schedule 1 (13) makes it clear that a council or public authority is liable to pay the costs of performing its duty to take all practicable steps to prevent fires on its land but it may accept financial assistance to discharge the liability.

SCHEDULE 2 - AMENDMENTS RELATING TO PENALTIES

The proposed amendments would increase the monetary penalties imposed for offences under the Act, the amounts having remained unchanged for at least 10 years.

SCHEDULE 3 - OTHER AMENDMENTS

Schedule 3 (1) and (2) effect statute law revision.

Schedule 3 (3) simplifies the offence of setting fire to the land or property of another.

Schedule 3 (4) effects statute law revision.

Schedule 3 (5) requires a council to exclude from the minimum amount payable by it to the Bush Fire Fighting Fund any donations made for the purposes of the Principal Act.

Schedule 3 (6), (7) and (8) effect statute law revision.

Schedule 3 (9) simplifies the provisions relating to the appointment of fire patrol officers and enables the appointment of an honorary fire patrol officer to be revoked.

Schedule 3 (10) effects statute law revision.

Schedule 3 (11) enables a notice or direction to be given under the Principal Act by posting it to a post office box.

Schedule 3 (12) enables regulations to be made in relation to the constitution, rules and functions of District Fire Committees.
