

# Emergency Services Legislation Amendment (Finance) Act 2009 No 84

[2009-84]



New South Wales

## Status Information

### Currency of version

Repealed version for 19 November 2009 to 19 November 2009 (accessed 4 July 2024 at 2:17)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 20.11.2009.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Emergency Services Legislation Amendment (Finance) Act 2009 No 84



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# Emergency Services Legislation Amendment (Finance) Act 2009 No 84



New South Wales

An Act to amend certain Acts in relation to the schemes for funding the New South Wales Fire Brigades, the New South Wales Rural Fire Service and the State Emergency Service.

## 1 Name of Act

This Act is the *Emergency Services Legislation Amendment (Finance) Act 2009*.

## 2 Commencement

This Act commences on the date of assent to this Act.

## Schedule 1 Amendment of Acts

### 1.1 Fire Brigades Act 1989 No 192

#### [1] Part 5

Omit the Part. Insert instead:

### **Part 5 Contribution to fire brigades costs**

#### **Division 1 Preliminary**

##### **44 Definitions**

In this Part:

**assessment notice** means:

- (a) an assessment notice given to a local council under section 54, or
- (b) an assessment notice given to an insurance company under section 60.

**capital account** means the capital account established under section 64A (2) (b).

**contributors**—see section 48.

**estimated expenditure**—see section 45.

**financial year** means the period of 12 months starting on 1 July in a year.

**fire brigade contribution** means an amount payable under this Part for a financial year by a contributor.

**fire brigade contribution instalments**—see section 49.

**fire brigades expenditure**, in relation to a financial year, means the total of:

- (a) recurrent expenditure incurred for fire brigades during the year, and
- (b) capital expenditure incurred for fire brigades during the year, and
- (c) recurrent expenditure incurred during the year in respect of the administrative costs of the Department or the Minister under the authority of this Act.

**Fund** means the New South Wales Fire Brigades Fund established under section 64A (1).

**insurance company** means a person, partnership, association or underwriter that:

- (a) issues or undertakes liability under policies of insurance against loss of or damage to property situated in the State, or
- (b) receives premiums in respect of policies of insurance against loss of or damage to property situated in the State on behalf of or for transmission to a person, partnership, association or underwriter outside the State.

**recurrent expenditure account** means the recurrent expenditure account established under section 64A (2) (a).

**relevant insurance** means insurance against loss or damage to property in the State under the classes of policies specified in Schedule 1.

## **Division 2 Estimates of fire brigades expenditure**

### **45 Minister to prepare estimate of fire brigades expenditure**

- (1) Before or as soon as practicable after the end of a financial year, the Minister must:
  - (a) prepare and, subject to the Treasurer's agreement, adopt an estimate of the fire brigades expenditure (the **estimated expenditure**) for the next financial year, and
  - (b) prepare and adopt an estimate of the amount of estimated expenditure applicable to each fire district for the next financial year.

- (2) In determining the amount of estimated expenditure applicable to each fire district, the Minister may apportion the total estimated capital expenditure between fire districts in the way the Minister thinks fit.
- (3) To assist the Minister in preparing and adopting the estimated expenditure for a financial year, the Commissioner must prepare and give to the Minister a written report and recommendations about fire brigades expenditure for the year and the estimated expenditure for each fire district.
- (4) The Minister must consider the Commissioner's report and recommendations in preparing the estimates.

#### **46 Adjustment of estimates of recurrent expenditure**

- (1) The estimate of recurrent expenditure included in the estimated expenditure for a financial year is to be adjusted as necessary, whether by reducing or increasing the estimate, by the total of:
  - (a) the part of the surplus or deficit in the Department's recurrent expenditure account at the end of any previous financial year, as decided by the Minister, and
  - (b) the amounts it is estimated will be paid to the Department for the financial year (other than from fire brigade contributions), as decided by the Minister.
- (2) Without limiting subsection (1), the Minister may, with the Treasurer's agreement, decide that adjustments are not to be made to the estimated expenditure for a financial year in respect of:
  - (a) certain money paid into the recurrent expenditure account, or
  - (b) certain amounts it is estimated will be paid to the Department for the financial year.

### **Division 3 Imposition of fire brigade contributions**

#### **47 Imposition of fire brigade contributions to be paid**

- (1) Fire brigade contributions for each financial year are payable to the Commissioner.
- (2) The total amount of fire brigade contributions to be paid for a financial year is the amount of the estimated expenditure for the financial year, adjusted as necessary under section 46.

#### **48 Who is liable to pay fire brigade contributions**

- (1) The following persons (**contributors**) are liable to pay fire brigade

contributions:

(a) the Treasurer,

(b) local councils whose local government areas are wholly or partly within a fire district,

(c) insurance companies.

(2) The total amount of fire brigade contributions to be paid for a financial year is to be paid in the following proportions by contributors:

(a) the Treasurer, 14.6%,

(b) local councils, 11.7%,

(c) insurance companies, 73.7%.

#### **49 When fire brigade contributions are to be paid**

(1) The fire brigade contribution payable by a contributor for a financial year must be paid in 4 instalments (each of which is a ***fire brigade contribution instalment***).

(2) A contributor must, in accordance with an instalment notice given to the contributor by the Commissioner, pay a fire brigade contribution instalment on or before each of the following days in a financial year:

(a) 1 July,

(b) 1 October,

(c) 1 January,

(d) 1 April.

(3) If a local council or an insurance company fails to pay a fire brigade contribution instalment within 30 days of it being payable, the council or insurance company is guilty of an offence.

Maximum penalty: 50 penalty units.

#### **50 Unpaid fire brigade contributions a debt due to the Commissioner**

A fire brigade contribution instalment, or any part of a fire brigade contribution instalment, not paid by a local council or an insurance company within 90 days after the day on which it was payable:

(a) constitute a debt due and payable to the Commissioner, and

(b) may be recovered in a court of competent jurisdiction by the Commissioner.

## Division 4 Contributions by Treasurer

### 51 Contributions by Treasurer

- (1) The Treasurer may, in addition to the fire brigade contribution payable by the Treasurer, from time to time advance money to the Fund subject to the terms and conditions decided by the Treasurer.
- (2) A fire brigade contribution paid by the Treasurer, and any money advanced to the Fund by the Treasurer, is to be paid out of money provided by the Parliament.

## Division 5 Contributions by local councils

### 52 Contributions by local councils for fire districts

- (1) The fire brigade contribution payable by a local council is to be determined by the Minister on the basis of the fire brigade contribution payable for each fire district.
- (2) The fire brigade contribution payable by local councils for each fire district is 11.7% of the estimate of the amount of estimated expenditure applicable to the fire district adopted by the Minister under section 45 (1) (b).
- (3) The fire brigade contribution payable for a fire district is to be paid by the local council of the local government area or areas the whole or part of which is or are within the fire district.
- (4) However, if a fire district comprises a reserved area and no other area:
  - (a) a local council of an area within the fire district is not required to pay a fire brigade contribution for the fire district, and
  - (b) the fire brigade contribution for the fire district is to be paid from the National Parks and Wildlife Fund established under the *National Parks and Wildlife Act 1974*.
- (5) In this section:

**reserved area** has the same meaning as in section 5.

### 53 Apportionment between local councils

- (1) If a fire district comprises more than one local government area, the amount of the fire brigade contribution payable by the local council of each local government area in the fire district is to be apportioned according to the current 5-year average of the total land values of all rateable land in the local government area or in the part of it in the fire district.

(2) In this section:

**current 5-year average**, in relation to the total land values of land, means the arithmetic mean of the total land values of the land (estimated in accordance with section 67 of the *Valuation of Land Act 1916*) as at 1 July in each of the 5 financial years before the date on which the average is being calculated.

#### **54 Annual assessment notice**

- (1) The Commissioner must give to each local council that is required to make a fire brigade contribution in a financial year an assessment notice for that year.
- (2) The assessment notice must state the following:
  - (a) the amount of the fire brigade contribution payable by the local council for the financial year,
  - (b) the amount of any fire brigade contribution instalments already paid by the local council for the financial year,
  - (c) if the amount of the fire brigade contribution payable by the local council for the financial year is more than the fire brigade contribution instalments already paid by the local council for the financial year:
    - (i) the number of fire brigade contribution instalments remaining to be paid for the financial year, and
    - (ii) the amount payable for each remaining fire brigade contribution instalment,
  - (d) if the amount of the fire brigade contribution payable by the local council for the financial year is less than the total amount of the fire brigade contribution instalments already paid by the local council for the financial year, the amount of money to be refunded to the local council.
- (3) If the assessment notice states that the amount of the fire brigade contribution payable by the local council for the financial year is less than the fire brigade contribution instalments already paid by the local council for that year, the Commissioner must refund the outstanding amount to the local council not later than 30 June in that year.

#### **55 Instalment notices**

- (1) The Commissioner must give to each local council that is required to make a fire brigade contribution instalment a written notice (an **instalment notice**) that specifies:
  - (a) the amount of the fire brigade contribution instalment payable under the

instalment notice, and

(b) the date by which the fire brigade contribution instalment is payable.

- (2) If the instalment notice is prepared before the assessment notice for the local council for the financial year has been prepared, the fire brigade contribution instalment payable under the instalment notice is to be determined by the Commissioner based on the fire brigade contribution payable by the local council in the previous financial year.

## **56 How contribution is to be funded**

The fire brigade contribution payable by a local council is to be paid out of the council's consolidated fund.

## **Division 6 Contributions by insurance companies**

### **57 Definitions**

In this Division:

**foreign insurance company** means an insurance company not authorised under a law of the Commonwealth or of a State or Territory to carry on an insurance business.

**total amount**, in relation to premiums:

- (a) includes any brokerage or commission paid or due to be paid or allowed to be paid on:
- (i) the premiums, or
  - (ii) bonuses or return premiums allowed in respect of a policy of insurance the subject of the premiums, or
  - (iii) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to another insurance company in the State, but
- (b) does not include duty payable under the [Duties Act 1997](#) in respect of policies of insurance the subject of the premiums.

### **58 Returns by insurance companies**

- (1) An insurance company must, by 30 September in each financial year or another date specified by the Commissioner in a notice published in the Gazette, give to the Commissioner:
- (a) a return in the form approved by the Commissioner showing the total

amount of premiums received by or due to the company for the previous financial year for relevant insurance, and

- (b) a certificate from an auditor that relates to the return and complies with subsection (2).
- (2) The certificate from the auditor must:
- (a) be in the form approved by the Commissioner, and
  - (b) be from an auditor who is:
    - (i) a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth, or
    - (ii) a person not resident in the State who has qualifications that, in the Commissioner's opinion, are appropriate for the giving of the certificate.
- (3) An insurance company that ceases to receive, and to be entitled to receive, premiums for relevant insurance must, within 30 days of ceasing to receive and being entitled to receive the premiums, give the Commissioner written notice of that fact.
- (4) If the Commissioner receives a notice under subsection (3) from an insurance company:
- (a) before 31 March in a financial year, the insurance company is not discharged from its liability to pay any fire brigade contribution instalments for the financial year of which the company has already been given notice by the Commissioner, or
  - (b) on or after 31 March in a financial year, the insurance company is not discharged from its liability to pay any fire brigade contribution instalments of which the company has already been given notice by the Commissioner.
- (5) An insurance company is guilty of an offence if it:
- (a) fails to give the Commissioner a return or written notice as required by this section, or
  - (b) gives the Commissioner a return that is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

## **59 Assessments**

- (1) If an insurance company gives the Commissioner a return under section 58 for a financial year, the Commissioner must calculate the fire brigade contribution

payable by the insurance company for the year assessed in accordance with the following formula:

$$\text{contribution payable} = \frac{a \times b}{c}$$

where:

**a** is the total amount of premiums subject to contribution specified in the return made by the company.

**b** is the total amount of fire brigade contributions payable by all insurance companies for the financial year to which the return relates.

**c** is the total amount of all premiums subject to contribution specified in returns under section 58 made by all insurance companies for the financial year.

- (2) For the purposes of subsection (1), the amount of premiums subject to contribution for an insurance company for a financial year is the amount of the proportion of premiums received by or due to the company for relevant insurance for the financial year indicated in Schedule 1.

## **60 Annual assessment notice**

- (1) The Commissioner must give to each insurance company that is required to make a fire brigade contribution in a financial year an assessment notice for that year.
- (2) The assessment notice must state the following:
- (a) the amount of the fire brigade contribution payable by the insurance company for the financial year,
  - (b) the amount of any fire brigade contribution instalments already paid by the insurance company for the financial year,
  - (c) if the amount of the fire brigade contribution payable by the insurance company for the financial year is more than the fire brigade contribution instalments already paid by the company for the financial year:
    - (i) the number of fire brigade contribution instalments remaining to be paid for the financial year, and
    - (ii) the amount payable for each remaining fire brigade contribution instalment,
  - (d) if the amount of the fire brigade contribution payable by the insurance company for the financial year is less than the fire brigade contribution instalments already paid by the company for the financial year, the amount

of money to be refunded to the company.

- (3) If the assessment notice states that the amount of the fire brigade contribution payable by the insurance company for the financial year is less than the fire brigade contribution instalments already paid by the company for that year, the Commissioner must refund the outstanding amount to the company not later than 30 June in that year.

## **61 Instalment notices**

- (1) The Commissioner must give to each insurance company that is required to make a fire brigade contribution instalment a written notice (an **instalment notice**) that specifies:
  - (a) the amount of the fire brigade contribution instalment payable under the instalment notice, and
  - (b) the date by which the fire brigade contribution instalment is payable.
- (2) If the instalment notice is prepared before the assessment notice for the insurance company for the financial year has been prepared, the fire brigade contribution instalment payable under the instalment notice is to be determined by the Commissioner based on the fire brigade contribution payable by the company in the previous financial year.

## **62 Liability of owner where foreign insurer involved**

- (1) The Commissioner may notify a relevant owner that the owner is responsible for the fire brigade contributions required to be paid by a foreign insurance company because of premiums received by the company in respect of the owner's property.
- (2) The relevant owner must pay to the Commissioner the fire brigade contributions that would otherwise be payable by the foreign insurance company in respect of those premiums.
- (3) If the relevant owner fails to pay the fire brigade contribution within 30 days after it becomes payable, the relevant owner is guilty of an offence.

Maximum penalty: 10 penalty units.

- (4) The provisions of this Division apply to the relevant owner as if the owner were the foreign insurance company that received those premiums, subject to any modification of the provisions required by the regulations.
- (5) The amount of a fire brigade contribution paid under subsection (2) may be deducted from any premium recoverable in the State by or on behalf of the foreign insurance company on the issue or renewal of an insurance policy on the

property or may be recovered from the foreign insurance company as a debt by the person making the payment.

- (6) This section applies whether the premium concerned was received in or outside the State.
- (7) In this section:

**relevant owner** means a person who is the owner of property in respect of which a foreign insurance company has received a premium subject to a fire brigade contribution.

### **63 Returns by owners of property**

- (1) If a foreign insurance company holds a risk in respect of property within a fire district, the owner of the property must, before the return date, give the Commissioner a written return that shows the amount of the premiums paid by the owner in respect of the property to the company during:
- (a) the previous financial year, or
  - (b) another period decided by the Commissioner.

Maximum penalty: 20 penalty units.

- (2) In this section:

**return date** means:

- (a) 30 September, or
- (b) another date decided by the Commissioner and published in a notice in the Gazette.

### **64 Audit of accounts of insurance companies**

- (1) At the request of the Minister, the Auditor-General must examine and audit, or cause to be examined and audited, the accounts (and any books and documents relating to the accounts) of any insurance company liable to pay fire brigade contributions.
- (2) The examination and audit is to be in respect of matters relating to or arising out of the provisions of this Part.
- (3) The Auditor-General is to forward a report on the audit to the Minister as soon as practicable after it is completed.
- (4) It is an offence for a person to:
- (a) obstruct the Auditor-General, or any other person acting on behalf of the

Auditor-General, when exercising functions under this section, or

- (b) fail, without lawful excuse, when requested to do so for the purposes of this section by the Auditor-General or a person so acting, to produce any account, book or record in the person's possession or under the person's control or to answer any question.

Maximum penalty: 50 penalty units.

## **Division 7 Administration of Funds**

### **64A New South Wales Fire Brigades Fund**

- (1) There is to be established in the Special Deposits Account in the Treasury a New South Wales Fire Brigades Fund.
- (2) The Fund is to consist of the following accounts:
  - (a) the recurrent expenditure account,
  - (b) the capital account.
- (3) There is to be paid into the recurrent expenditure account all fire brigade contributions and other money received under this Part, other than money that is required under subsection (4) to be paid into the capital account.
- (4) The following monies are to be paid into the capital account:
  - (a) all money appropriated by Parliament for the capital works and services of the Department,
  - (b) any money appropriated by Parliament for the recurrent services of the Department for the financial year as is necessary to cover depreciation of the Department's assets,
  - (c) any money arising from the sale of any of the Department's assets,
  - (d) any other money that is required to be paid into the capital account by or under this Act or any other Act.
- (5) Payments may be made from the recurrent expenditure account:
  - (a) to assist in meeting the costs of fire brigades expenditure, and
  - (b) as otherwise directed or permitted by or under this Act or another Act.
- (6) Payments may be made from the capital account, with the Treasurer's agreement, as directed or permitted by or under this Act or another Act.

## **64B Management of unspent funds**

Any money remaining to the credit of the Department at the end of a financial year, other than money that is required to be paid into the capital account, is to be paid into the recurrent expenditure account.

## **Division 8 Miscellaneous**

### **64C Amendment of Schedule 1**

- (1) If the Minister is satisfied that at least two-thirds of the insurance companies liable to pay fire brigade contributions are seeking to have Schedule 1 amended in a particular way, and the Commissioner recommends the amendment, the Minister may by notice published on the NSW legislation website, amend the Schedule in that way.
- (2) An amendment under subsection (1) takes effect from the date specified in the notice, being a date not earlier than the publication of the notice.

#### **[2] Schedule 1 Proportion of premiums subject to contribution**

Omit “(Sections 55, 58)”.

#### **[3] Schedule 4 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Emergency Services Legislation Amendment (Finance) Act 2009*, but only to the extent it amends this Act

## **1.2 National Parks and Wildlife Act 1974 No 80**

### **Section 139 Payments out of Fund**

Omit “section 34A of the *Fire Brigades Act 1909*” from section 139 (1).

Insert instead “section 52 (2) (b) of the *Fire Brigades Act 1989*”.

## **1.3 Rural Fires Act 1997 No 65**

### **[1] Section 101 Definitions**

Insert in alphabetical order:

***assessment notice*** means:

- (a) an assessment notice given to a relevant council under section 112, or

(b) an assessment notice given to an insurance company under section 117A.

**contributors**—see section 107.

**estimated expenditure**—see section 103.

**relevant council** means a council of an area that is wholly or partly outside a fire district.

**relevant insurance** means insurance against loss or damage to property in the State under the classes of policies specified in Schedule 2.

**rural fire brigade contribution** means an amount payable under this Part for a financial year by a contributor.

**rural fire brigade contribution instalments**—see section 108.

**[2] Part 5, Divisions 3-6A**

Omit Divisions 3-6. Insert instead:

## **Division 3 Estimates of rural fire brigade expenditure**

### **103 Minister to prepare estimate of rural fire brigade expenditure**

- (1) Before or as soon as practicable after the end of a financial year, the Minister must:
  - (a) prepare and, subject to the Treasurer's agreement, adopt an estimate of the rural fire brigade expenditure (the **estimated expenditure**) for the next financial year, and
  - (b) prepare and adopt an estimate of the amount of estimated expenditure for each relevant council for the next financial year.
- (2) In determining the amount of estimated expenditure for each relevant council, the Minister may apportion the total estimated capital expenditure between relevant councils in the way the Minister thinks fit.
- (3) To assist the Minister in preparing and adopting the estimated expenditure for a financial year, the Commissioner must prepare and give to the Minister a written report and recommendations about rural fire brigade expenditure for the year and the estimated expenditure for each relevant council.
- (4) The Minister must consider the Commissioner's report and recommendations in preparing the estimates.

#### **104 Relevant councils to give information to Minister**

To enable the Minister to prepare the estimated expenditure, a relevant council, rural fire brigade or fire control officer must, at the times and in the way required by the Commissioner, give the Commissioner any of the following information required by the Commissioner:

- (a) information relating to the rural fire brigades or other fire fighting personnel,
- (b) information relating to the fire fighting apparatus of the rural fire brigades or other fire fighting personnel,
- (c) information about any other matter relating to the organisation of the rural fire brigades or other fire fighting personnel.

#### **105 Adjustment of estimates of recurrent expenditure**

- (1) If, for a financial year, the amount received from rural fire brigade contributions is less than the estimate of recurrent expenditure included in the estimated expenditure for the financial year:
  - (a) the Minister may, with the Treasurer's agreement, decide that the whole or a part of the deficit is to be added to the estimated expenditure for the following financial year, and
  - (b) the rural fire brigade contributions for the following financial year are to be increased accordingly.
- (2) If, for a financial year, the amount received from rural fire brigade contributions is more than the estimate of recurrent expenditure included in the estimated expenditure for the financial year:
  - (a) the surplus is to be credited to the estimated expenditure for the following financial year, and
  - (b) the rural fire brigade contributions for the following financial year are to be decreased accordingly.

### **Division 4 Imposition of rural fire brigade contributions**

#### **106 Imposition of rural fire brigade contributions to be paid**

- (1) Rural fire brigade contributions for each financial year are payable to the Commissioner.
- (2) The total amount of rural fire brigade contributions to be paid for a financial year is the amount of the estimated expenditure for the financial year, adjusted as necessary under section 105.

### **107 Who is liable to pay rural fire brigade contributions**

- (1) The following persons (**contributors**) are liable to pay rural fire brigade contributions:
  - (a) the Treasurer,
  - (b) relevant councils,
  - (c) insurance companies.
- (2) The total amount of rural fire brigade contributions to be paid for a financial year is to be paid in the following proportions by contributors:
  - (a) the Treasurer, 14.6%,
  - (b) relevant councils, 11.7%,
  - (c) insurance companies, 73.7%.

### **108 When rural fire brigade contributions are to be paid**

- (1) The rural fire brigade contribution payable by a contributor for a financial year must be paid in 4 instalments (each of which is a **rural fire brigade contribution instalment**).
- (2) A contributor must, in accordance with an instalment notice given to the contributor by the Commissioner, pay a rural fire brigade contribution instalment on or before each of the following days in a financial year:
  - (a) 1 July,
  - (b) 1 October,
  - (c) 1 January,
  - (d) 1 April.
- (3) If a relevant council or an insurance company fails to pay a rural fire brigade contribution instalment within 30 days of it being payable, the council or insurance company is guilty of an offence.

Maximum penalty: 50 penalty units.

### **109 Unpaid rural fire brigade contributions a debt due to the Commissioner**

A rural fire brigade contribution instalment, or any part of a rural fire brigade contribution instalment, not paid by a relevant council or an insurance company within 90 days after the day on which it was payable:

- (a) constitute a debt due and payable to the Commissioner, and

(b) may be recovered in a court of competent jurisdiction by the Commissioner.

## **Division 5 Contributions by Treasurer**

### **110 Contributions by Treasurer**

- (1) The Treasurer may, in addition to the rural fire brigade contribution payable by the Treasurer, from time to time advance money to the Fund subject to the terms and conditions decided by the Treasurer.
- (2) A rural fire brigade contribution paid by the Treasurer, and any money advanced to the Fund under subsection (1), is to be paid out of money provided by the Parliament.

## **Division 6 Contributions by relevant councils**

### **111 Contributions by relevant councils for rural fire districts**

- (1) The rural fire brigade contribution payable by a relevant council is to be determined by the Minister on the basis of the fire brigade contribution payable for each rural fire district.
- (2) The rural fire brigade contribution payable by relevant councils for each rural fire district is 11.7% of the amount of the estimated expenditure applicable to the rural fire district.
- (3) The rural fire brigade contribution to be paid for a rural fire district is to be paid by the relevant council or councils of an area the whole or part of which is included in the rural fire district.
- (4) The Governor may, on the recommendation of the Minister, exempt a relevant council from making a rural fire brigade contribution if the Governor is satisfied the danger from bush fires in the council's area is negligible.
- (5) If a relevant council has been exempted under subsection (4) from making contributions to the Fund, no payment is to be made in or towards the purpose specified in section 118 for the benefit of the council's area.
- (6) Funds of a relevant council derived from donations and other voluntary contributions made for the purposes of this Act may not be used towards the payment of rural fire brigade contributions by the relevant council unless approved by the Minister.
- (7) A relevant council or an officer of a relevant council must, if asked by the Minister, give the Minister any document required by the Minister to decide the council's rural fire brigade contribution.

## 112 Annual assessment notice

- (1) The Commissioner must give to each relevant council that is required to make a rural fire brigade contribution in a financial year an assessment notice for that year.
- (2) The assessment notice must state the following:
  - (a) the amount of the rural fire brigade contribution payable by the relevant council for the financial year,
  - (b) the amount of any rural fire brigade contribution instalments already paid by the relevant council for the financial year,
  - (c) if the amount of the rural fire brigade contribution payable by the relevant council for the financial year is more than the total amount of the rural fire brigade contribution instalments already paid by the relevant council for the financial year:
    - (i) the number of rural fire brigade contribution instalments remaining to be paid for the financial year, and
    - (ii) the amount payable for each remaining rural fire brigade contribution instalment,
  - (d) if the amount of the rural fire brigade contribution payable by the relevant council for the financial year is less than the total amount of the rural fire brigade contribution instalments already paid by the relevant council for the financial year, the amount of money to be refunded to the relevant council.
- (3) If the assessment notice states that the amount of the rural fire brigade contribution payable by the relevant council for the financial year is less than the rural fire brigade contribution instalments already paid by the relevant council for that year, the Commissioner must refund the outstanding amount to the relevant council not later than 30 June in that year.

## 113 Instalment notices

- (1) The Commissioner must give to each relevant council that is required to make a rural fire brigade contribution instalment a written notice (an **instalment notice**) that specifies:
  - (a) the amount of the rural fire brigade contribution instalment payable under the instalment notice, and
  - (b) the date by which the rural fire brigade contribution instalment is payable.
- (2) If the instalment notice is prepared before the assessment notice for the

relevant council for the financial year has been prepared, the rural fire brigade contribution instalment payable under the instalment notice is to be determined by the Commissioner based on the rural fire brigade contribution payable by the council in the previous financial year.

#### **114 How contribution is to be funded**

The rural fire brigade contribution payable by a relevant council is to be paid out of the council's consolidated fund.

### **Division 6A Contributions by insurance companies**

#### **115 Definitions**

In this Division:

**foreign insurance company** means an insurance company not authorised under a law of the Commonwealth or of a State or Territory to carry on an insurance business.

**total amount**, in relation to premiums:

- (a) includes any brokerage or commission paid or due to be paid or allowed to be paid on:
  - (i) the premiums, or
  - (ii) bonuses or return premiums allowed in respect of policies of insurance the subject of the premiums, or
  - (iii) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to another insurance company in the State, but
- (b) does not include duty payable under the [Duties Act 1997](#) in respect of policies of insurance the subject of the premiums.

#### **116 Returns by insurance companies**

- (1) An insurance company must, by 30 September in each financial year or another date specified by the Commissioner in a notice published in the Gazette, give to the Commissioner:
  - (a) a return in the form approved by the Commissioner showing the total amount of premiums received by or due to the company for the previous financial year for relevant insurance, and
  - (b) a certificate from an auditor that relates to the return and complies with subsection (2).

- (2) The certificate from the auditor must:
- (a) be in the form approved by the Commissioner, and
  - (b) be from an auditor who is:
    - (i) a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth, or
    - (ii) a person not resident in the State who has qualifications that, in the Commissioner's opinion, are appropriate for the giving of the certificate.
- (3) An insurance company that ceases to receive, and to be entitled to receive, premiums for relevant insurance must, within 30 days of ceasing to receive and being entitled to receive the premiums, give the Commissioner written notice of that fact.
- (4) If the Commissioner receives a notice under subsection (3) from an insurance company:
- (a) before 31 March in a financial year, the insurance company is not discharged from its liability to pay any rural fire brigade contribution instalments for the financial year of which the company has already been given notice by the Commissioner, or
  - (b) on or after 31 March in a financial year, the insurance company is not discharged from its liability to pay any rural fire brigade contribution instalments of which the company has already been given notice by the Commissioner.
- (5) An insurance company is guilty of an offence if it:
- (a) fails to give the Commissioner a return or written notice as required by this section, or
  - (b) gives the Commissioner a return that is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

## 117 Assessments

- (1) If an insurance company gives the Commissioner a return under section 116 for a financial year, the Commissioner must calculate the rural fire brigade contribution payable by the insurance company for the year assessed in accordance with the following formula:

$$\text{contribution payable} = \frac{a \times b}{c}$$

where:

**a** is the total amount of premiums subject to contribution specified in the return made by the company.

**b** is the total amount of rural fire brigade contributions payable by all insurance companies for the financial year to which the return relates.

**c** is the total amount of all premiums subject to contribution specified in returns under section 116 made by all insurance companies for the financial year.

- (2) For the purposes of subsection (1), the amount of premiums subject to contribution for an insurance company for a financial year is the amount of the proportion of premiums received by or due to the company for relevant insurance for the financial year indicated in Schedule 2.

#### **117A Annual assessment notice**

- (1) The Commissioner must give to each insurance company that is required to make a rural fire brigade contribution in a financial year an assessment notice for that year.
- (2) The assessment notice must state the following:
- (a) the amount of the rural fire brigade contribution payable by the insurance company for the financial year,
  - (b) the amount of any rural fire brigade contribution instalments already paid by the insurance company for the financial year,
  - (c) if the amount of the rural fire brigade contribution payable by the insurance company for the financial year is more than the rural fire brigade contribution instalments already paid by the company for the financial year:
    - (i) the number of rural fire brigade contribution instalments remaining to be paid for the financial year, and
    - (ii) the amount payable for each remaining rural fire brigade contribution instalment,
  - (d) if the amount of the rural fire brigade contribution payable by the insurance company for the financial year is less than the rural fire brigade contribution instalments already paid by the company for the financial year, the amount of money to be refunded to the company.
- (3) If the assessment notice states that the amount of the rural fire brigade contribution payable by the insurance company for the financial year is less than

the rural fire brigade contribution instalments already paid by the insurance company for that year, the Commissioner must refund the outstanding amount to the company not later than 30 June in that year.

#### **117B Instalment notices**

- (1) The Commissioner must give to each insurance company that is required to make a rural fire brigade contribution instalment a written notice (an ***instalment notice***) that specifies:
  - (a) the amount of the rural fire brigade contribution instalment payable under the instalment notice, and
  - (b) the date by which the rural fire brigade contribution instalment is payable.
- (2) If the instalment notice is prepared before the assessment notice for the insurance company for the financial year has been prepared, the rural fire brigade contribution instalment payable under the instalment notice is to be determined by the Commissioner based on the rural fire brigade contribution payable by the company in the previous financial year.

#### **117C Liability of owner where foreign insurer involved**

- (1) The Commissioner may notify a relevant owner that the owner is responsible for the rural fire brigade contributions required to be paid by a foreign insurance company because of premiums received by the company in respect of the owner's property.
- (2) The relevant owner must pay to the Commissioner the rural fire brigade contributions that would otherwise be payable by the foreign insurance company in respect of the premiums.
- (3) The provisions of this Division apply to the relevant owner as if the owner were the foreign insurance company that received those premiums, subject to any modification of those provisions required by the regulations.
- (4) If the relevant owner fails to pay the rural fire brigade contribution within 30 days after it is due, the owner is guilty of an offence.  
  
Maximum penalty: 10 penalty units.
- (5) The amount of a rural fire brigade contribution paid under subsection (2) may be deducted from any premium recoverable in the State by or on behalf of the foreign insurance company on the issue or renewal of an insurance policy on the property or may be recovered from the foreign insurance company as a debt by the person making the payment.
- (6) This section applies whether the premium concerned was received in or outside

the State.

(7) In this section:

**relevant owner** means a person who is the owner of property in respect of which a foreign insurance company has received a premium subject to a rural fire brigade contribution.

#### **117D Returns by owners of property**

(1) If a foreign insurance company holds a risk in respect of property within a rural fire district, the owner of the property must, before the return date, give the Commissioner a written return that shows the amount of the premiums paid by the owner in respect of the property to the company during:

- (a) the previous financial year, or
- (b) another period decided by the Commissioner.

Maximum penalty: 20 penalty units.

(2) In this section:

**return date** means:

- (a) 30 September, or
- (b) another date decided by the Commissioner and published in a notice in the Gazette.

#### **117E Audit of accounts of insurance companies**

(1) At the request of the Minister, the Auditor-General must examine and audit, or cause to be examined and audited, the accounts (and any books and documents relating to the accounts) of any insurance company liable to pay rural fire brigade contributions.

(2) The examination and audit is to be in respect of matters relating to or arising out of the provisions of this Part.

(3) The Auditor-General is to forward a report on the audit to the Minister as soon as practicable after it is completed.

(4) It is an offence for a person to:

- (a) obstruct the Auditor-General, or any other person acting on behalf of the Auditor-General, when exercising functions under this section, or
- (b) fail, without lawful excuse, when requested to do so for the purposes of this section by the Auditor-General or a person so acting, to produce any

account, book or record in the person's possession or under the person's control or to answer any question.

Maximum penalty: 50 penalty units.

**[3] Section 121**

Insert after section 120:

**121 Amendment of Schedule 2**

- (1) If the Minister is satisfied that at least two-thirds of the insurance companies liable to pay rural fire brigade contributions are seeking to have Schedule 2 amended in a particular way, and the Commissioner recommends the amendment, the Minister may by notice published on the NSW legislation website, amend the Schedule in that way.
- (2) An amendment under subsection (1) takes effect from the date specified in the notice, being a date not earlier than the publication of the notice.

**[4] Schedule 2 Contributions of insurance companies**

Omit "(Section 112)".

**[5] Schedule 3 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Emergency Services Legislation Amendment (Finance) Act 2009*, but only to the extent it amends this Act

**1.4 State Emergency Service Act 1989 No 164**

**[1] Part 5A**

Omit the Part. Insert instead:

**Part 5A Contribution to State Emergency Service costs**

**Division 1 Preliminary**

**24A Definitions**

In this Part:

***assessment notice*** means:

- (a) an assessment notice given to a local council under section 24K, or
- (b) an assessment notice given to an insurance company under section 24Q.

**capital account** means the capital account established under section 24V (2) (b).

**contributors**—see section 24F.

**estimated expenditure**—see section 24B.

**financial year** means the period of 12 months starting on 1 July in a year.

**Fund** means the New South Wales State Emergency Service Fund established under section 24V (1).

**insurance company** means a person, partnership, association or underwriter that:

- (a) issues or undertakes liability under policies of insurance against loss of or damage to property situated in the State, or
- (b) receives premiums in respect of policies of insurance against loss of or damage to property situated in the State on behalf of or for transmission to a person, partnership, association or underwriter outside the State.

**recurrent expenditure account** means the recurrent expenditure account established under section 24V (2) (a).

**relevant insurance** means insurance against loss or damage to property in the State under the classes of policies specified in Schedule 2.

**SES contribution** means an amount payable under this Part for a financial year by a contributor.

**SES contribution instalments**—see section 24G.

**SES expenditure**, in relation to a financial year, means the total of:

- (a) recurrent expenditure incurred during the year in the exercise of the State Emergency Service's functions, and
- (b) capital expenditure incurred during the year in the exercise of the State Emergency Service's functions, and
- (c) recurrent expenditure incurred during the year in respect of the administrative costs of the State Emergency Service or the Minister under the authority of this Act.

## **Division 2 Estimates of SES expenditure**

### **24B Minister to prepare estimate of SES expenditure**

- (1) Before or as soon as practicable after the end of a financial year, the Minister must:
  - (a) prepare and, subject to the Treasurer's agreement, adopt an estimate of the SES expenditure (the ***estimated expenditure***) for the next financial year, and
  - (b) prepare and adopt an estimate of the amount of estimated expenditure applicable to the area of each local council for the next financial year.
- (2) In determining the amount of estimated expenditure applicable to each local council's area, the Minister may apportion the total estimated capital expenditure between relevant councils in the way the Minister thinks fit.
- (3) To assist the Minister in preparing and adopting the estimated expenditure for a financial year, the Commissioner must prepare and give to the Minister a written report and recommendations about SES expenditure for the year.
- (4) The Minister must consider the Commissioner's report and recommendations in preparing the estimates.

### **24C Local councils to give information to Commissioner**

To enable the Minister to prepare the estimated expenditure, a local council must, at the times and in the way required by the Commissioner, give the Commissioner any of the following information required by the Commissioner:

- (a) information relating to the State Emergency Service, SES units or emergency officers,
- (b) information relating to the equipment of the State Emergency Service,
- (c) information about any other matter relating to the organisation of the State Emergency Service.

### **24D Adjustment of estimates of recurrent expenditure**

- (1) If, for a financial year, the amount received from SES contributions is less than the estimate of recurrent expenditure included in the estimated expenditure for the financial year:
  - (a) the Minister may, with the Treasurer's agreement, decide that the whole or a part of the deficit is to be added to the estimated expenditure for the following financial year, and

- (b) the SES contributions for the following financial year are to be increased accordingly.
- (2) If, for a financial year, the amount received from SES contributions is more than the estimate of recurrent expenditure included in the estimated expenditure for the financial year:
  - (a) the surplus is to be credited to the estimated expenditure for the following financial year, and
  - (b) the SES contributions for the following financial year are to be decreased accordingly.

### **Division 3 Imposition of SES contributions**

#### **24E Imposition of SES contributions to be paid**

- (1) SES contributions for each financial year are payable to the Commissioner.
- (2) The total amount of SES contributions to be paid for a financial year is the amount of the estimated expenditure for the financial year, adjusted as necessary under section 24D.

#### **24F Who is liable to pay SES contributions**

- (1) The following persons (**contributors**) are liable to pay SES contributions:
  - (a) the Treasurer,
  - (b) local councils,
  - (c) insurance companies.
- (2) The total amount of SES contributions to be paid for a financial year is to be paid in the following proportions by contributors:
  - (a) the Treasurer, 14.6%,
  - (b) local councils, 11.7%,
  - (c) insurance companies, 73.7%.

#### **24G When SES contributions are to be paid**

- (1) The SES contribution payable by a contributor for a financial year must be paid in 4 instalments (each of which is a **SES contribution instalment**).
- (2) A contributor must, in accordance with an instalment notice given to the contributor by the Commissioner, pay a SES contribution instalment on or before each of the following days in a financial year:

- (a) 1 July,
- (b) 1 October,
- (c) 1 January,
- (d) 1 April.

- (3) If a local council or an insurance company fails to pay a SES contribution instalment within 30 days of it being payable, the local council or insurance company is guilty of an offence.

Maximum penalty: 50 penalty units.

#### **24H Unpaid SES contributions a debt due to the Commissioner**

A SES contribution instalment, or any part of a SES contribution instalment, not paid by a local council or an insurance company within 90 days after the day on which it was payable:

- (a) constitute a debt due and payable to the Commissioner, and
- (b) may be recovered in a court of competent jurisdiction by the Commissioner.

### **Division 4 Contributions by Treasurer**

#### **24I Contributions by Treasurer**

- (1) The Treasurer may, in addition to the SES contribution payable by the Treasurer, from time to time advance money to the Fund subject to the terms and conditions decided by the Treasurer.
- (2) A SES contribution paid by the Treasurer, and any money advanced to the Fund by the Treasurer, is to be paid out of money provided by the Parliament.

### **Division 5 Contributions by local councils**

#### **24J Contributions by local councils**

- (1) The amount of the SES contribution to be made by each local council is to be decided by the Minister.
- (2) Funds of a local council derived from donations and other voluntary contributions made for the purposes of this Act may not be used towards the payment of SES contributions by the local council unless approved by the Minister.
- (3) A local council or an officer of a council must, if asked by the Minister, give the Minister any document required by the Minister to decide the council's SES

contribution.

#### **24K Annual assessment notice**

- (1) The Commissioner must give to each local council that is required to make a SES contribution in a financial year an assessment notice for that year.
- (2) The assessment notice must state the following:
  - (a) the amount of the SES contribution payable by the local council for the financial year,
  - (b) the amount of any SES contribution instalments already paid by the local council for the financial year,
  - (c) if the amount of the SES contribution payable by the local council for the financial year is more than the total amount of the SES contribution instalments already paid by the local council for the financial year:
    - (i) the number of SES contribution instalments remaining to be paid for the financial year, and
    - (ii) the amount payable for each remaining SES contribution instalment,
  - (d) if the amount of the SES contribution payable by the local council for the financial year is less than the total amount of the SES contribution instalments already paid by the local council for the financial year, the amount of money to be refunded to the local council.
- (3) If the assessment notice states that the amount of the SES contribution payable by the local council for the financial year is less than the SES contribution instalments already paid by the local council for that year, the Commissioner must refund the outstanding amount to the local council not later than 30 June in that year.

#### **24L Instalment notices**

- (1) The Commissioner must give to each local council that is required to make a SES contribution instalment a written notice (an **instalment notice**) that specifies:
  - (a) the amount of the SES contribution instalment payable under the instalment notice, and
  - (b) the date by which the SES contribution instalment is payable.
- (2) If the instalment notice is prepared before the assessment notice for the local council for the financial year has been prepared, the SES contribution instalment payable under the instalment notice is to be determined by the Commissioner based on the SES contribution payable by the local council in the previous

financial year.

#### **24M How contribution is to be funded**

The SES contribution payable by a local council is to be paid out of the council's consolidated fund.

### **Division 6 Contributions by insurance companies**

#### **24N Definitions**

In this Division:

**foreign insurance company** means an insurance company not authorised under a law of the Commonwealth or of a State or Territory to carry on an insurance business.

**total amount**, in relation to premiums:

- (a) includes any brokerage or commission paid or due to be paid or allowed to be paid on:
  - (i) the premiums, or
  - (ii) bonuses or return premiums allowed in respect of policies of insurance the subject of the premiums, or
  - (iii) such part of the premiums received by or due to the company as is paid or due to be paid by way of reinsurance by the company to another insurance company in the State, but
- (b) does not include duty payable under the [Duties Act 1997](#) in respect of policies of insurance the subject of the premiums.

#### **24O Returns by insurance companies**

- (1) An insurance company must, by 30 September in each financial year or another date specified by the Commissioner in a notice published in the Gazette, give to the Commissioner:
  - (a) a return in the form approved by the Commissioner showing the total amount of premiums received by or due to the company for the previous financial year for relevant insurance, and
  - (b) a certificate from an auditor that relates to the return and complies with subsection (2).
- (2) The certificate from the auditor must:
  - (a) be in the form approved by the Commissioner, and

- (b) be from an auditor who is:
  - (i) a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - (ii) a person not resident in the State who has qualifications that, in the Commissioner's opinion, are appropriate for the giving of the certificate.
- (3) An insurance company that ceases to receive, and to be entitled to receive, premiums for relevant insurance must, within 30 days of ceasing to receive and being entitled to receive the premiums, give the Commissioner written notice of that fact.
- (4) If the Commissioner receives a notice under subsection (3) from an insurance company:
  - (a) before 31 March in a financial year, the insurance company is not discharged from its liability to pay any SES contribution instalments for the financial year of which the company has already been given notice by the Commissioner, or
  - (b) on or after 31 March in a financial year, the insurance company is not discharged from its liability to pay any SES contribution instalments of which the company has already been given notice by the Commissioner.
- (5) An insurance company is guilty of an offence if it:
  - (a) fails to give the Commissioner a return or written notice as required by this section, or
  - (b) gives the Commissioner a return that is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

## **24P Assessments**

- (1) If an insurance company gives the Commissioner a return under section 240 for a financial year, the Commissioner must calculate the SES contribution payable by the insurance company for the year assessed in accordance with the following formula:

$$\text{contribution payable} = \frac{a \times b}{c}$$

where:

**a** is the total amount of premiums subject to contribution specified in the return made by the company.

**b** is the total amount of SES contributions payable by all insurance companies for the financial year to which the return relates.

**c** is the total amount of all premiums subject to contribution specified in returns under section 240 made by all insurance companies for the financial year.

- (2) For the purposes of subsection (1), the amount of premiums subject to contribution for an insurance company for a financial year is the amount of the proportion of premiums received by or due to the company for relevant insurance for the financial year indicated in Schedule 2.

#### **24Q Annual assessment notice**

- (1) The Commissioner must give to each insurance company that is required to make a SES contribution in a financial year an assessment notice for that year.
- (2) The assessment notice must state the following:
- (a) the amount of the SES contribution payable by the insurance company for the financial year,
  - (b) the amount of any SES contribution instalments already paid by the insurance company for the financial year,
  - (c) if the amount of the SES contribution payable by the insurance company for the financial year is more than the SES contribution instalments already paid by the company for the financial year:
    - (i) the number of SES contribution instalments remaining to be paid for the financial year, and
    - (ii) the amount payable for each remaining SES contribution instalment,
  - (d) if the amount of the SES contribution payable by the insurance company for the financial year is less than the SES contribution instalments already paid by the company for the financial year, the amount of money to be refunded to the company.
- (3) If the assessment notice states that the amount of the SES contribution payable by the insurance company for the financial year is less than the SES contribution instalments already paid by the company for that year, the Commissioner must refund the outstanding amount to the company not later than 30 June in that year.

#### **24R Instalment notices**

- (1) The Commissioner must give to each insurance company that is required to make a SES contribution instalment a written notice (an **instalment notice**)

that specifies:

- (a) the amount of the SES contribution instalment payable under the instalment notice, and
  - (b) the date by which the SES contribution instalment is payable.
- (2) If the instalment notice is prepared before the assessment notice for the insurance company for the financial year has been prepared, the SES contribution instalment payable under the instalment notice is to be determined by the Commissioner based on the SES contribution payable by the company in the previous financial year.

#### **245 Liability of owner where foreign insurer involved**

- (1) The Commissioner may notify a relevant owner that the owner is responsible for the SES contributions required to be paid by a foreign insurance company because of premiums received by the company in respect of the owner's property.
- (2) The relevant owner must pay to the Commissioner the SES contributions that would otherwise be payable by the foreign insurance company in respect of those premiums.
- (3) The provisions of this Division apply to the relevant owner as if the owner were the foreign insurance company that received those premiums, subject to any modification of those provisions required by the regulations.
- (4) If the relevant owner fails to pay the SES contribution within 30 days after it is due, the owner is guilty of an offence.

Maximum penalty: 10 penalty units.

- (5) The amount of a SES contribution paid under subsection (2) may be deducted from any premium recoverable in the State by or on behalf of the foreign insurance company on the issue or renewal of an insurance policy on the property or may be recovered from the foreign insurance company as a debt by the person making the payment.
- (6) This section applies whether the premium concerned was received in or outside the State.
- (7) In this section:

**relevant owner** means a person who is the owner of property in respect of which a foreign insurance company has received a premium subject to a SES contribution.

## **24T Returns by owners of property**

- (1) If a foreign insurance company holds a risk in respect of property in the State, the owner of the property must, before the return date, give the Commissioner a written return that shows the amount of the premiums paid by the owner in respect of the property to the company during:
  - (a) the previous financial year, or
  - (b) another period decided by the Commissioner.

Maximum penalty: 20 penalty units.

- (2) In this section:

**return date** means:

- (a) 30 September, or
- (b) another date decided by the Commissioner and published in a notice in the Gazette.

## **24U Audit of accounts of insurance companies**

- (1) At the request of the Minister, the Auditor-General must examine and audit, or cause to be examined and audited, the accounts (and any books and documents relating to the accounts) of any insurance company liable to pay SES contributions.
- (2) The examination and audit is to be in respect of matters relating to or arising out of the provisions of this Part.
- (3) The Auditor-General is to forward a report on the audit to the Minister as soon as practicable after it is completed.
- (4) It is an offence for a person to:
  - (a) obstruct the Auditor-General, or any other person acting on behalf of the Auditor-General, when exercising functions under this section, or
  - (b) fail, without lawful excuse, when requested to do so for the purposes of this section by the Auditor-General or a person so acting, to produce any account, book or record in the person's possession or under the person's control or to answer any question.

Maximum penalty: 50 penalty units.

## **Division 7 Administration of Funds**

### **24V New South Wales State Emergency Service Fund**

- (1) There is to be established in the Special Deposits Account in the Treasury a New South Wales State Emergency Service Fund.
- (2) The Fund is to consist of the following accounts:
  - (a) the recurrent expenditure account,
  - (b) the capital account.
- (3) There is to be paid into the recurrent expenditure account all SES contributions and other money received under this Part, other than money that is required under subsection (4) to be paid into the capital account.
- (4) The following monies are to be paid into the capital account:
  - (a) all money appropriated by Parliament for the capital works and services of the State Emergency Service,
  - (b) any money appropriated by Parliament for the recurrent services of the State Emergency Service for the year as is necessary to cover depreciation of the State Emergency Service's assets,
  - (c) any money arising from the sale of any of the State Emergency Service's assets,
  - (d) any other money that is required to be paid into the capital account by or under this Act or any other Act.
- (5) Payments may be made from the recurrent expenditure account:
  - (a) to assist in meeting the costs of SES expenditure, and
  - (b) as otherwise directed or permitted by or under this Act or another Act.
- (6) Payments may be made from the capital account, with the Treasurer's agreement, as directed or permitted by or under this Act or another Act.

### **24W Management of unspent funds**

Any money remaining to the credit of the State Emergency Service at the end of a financial year, other than money that is required to be paid into the capital account, is to be paid into the recurrent expenditure account.

### **24X Disposal by local councils of equipment purchased from Fund**

- (1) A local council must not sell or dispose of any equipment purchased or

constructed wholly or partly from money to the credit of the Fund without the written consent of the Commissioner.

(2) There is to be paid to the credit of the Fund:

(a) if the whole of the cost of the purchase or construction of any equipment was met by money to the credit of the Fund:

(i) an amount equal to the proceeds of sale of any such equipment, and

(ii) any amount recovered (whether under a policy of insurance or otherwise) in respect of the damage to, or destruction or loss of, any such equipment, and

(b) if a part only of the cost of the purchase or construction of any equipment was met by money to the credit of the Fund—an amount that bears to the amount that would be required by this subsection to be paid if the whole of that cost had been met by money to the credit of the Fund the same proportion as that part of the cost bears to the whole of that cost.

## **Division 8 Miscellaneous**

### **24Y Amendment of Schedule 2**

(1) If the Minister is satisfied that at least two-thirds of the insurance companies liable to pay SES contributions are seeking to have Schedule 2 amended in a particular way, and the Commissioner recommends the amendment, the Minister may by notice published on the NSW legislation website, amend the Schedule in that way.

(2) An amendment under subsection (1) takes effect from:

(a) the following 1 July, or

(b) the date specified in the notice, being a date not earlier than the publication of the notice.

### **[2] Schedule 1 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Emergency Services Legislation Amendment (Finance) Act 2009*, but only to the extent it amends this Act.

### **[3] Schedule 2 Contributions of insurance companies**

Omit “(Section 24M (4))”.

## **1.5 Valuation of Land Act 1916 No 2**

### **[1] Section 67 Valuation for the purposes of the Fire Brigades Act 1989**

Omit “section 51” from section 67 (3) (b). Insert instead “section 53”.

### **[2] Section 67 (3) (b)**

Omit “the Board”. Insert instead “fire brigades”.