

Emergency Services Legislation Amendment Act 2018 No 59

[2018-59]



New South Wales

Status Information

Currency of version

Repealed version for 27 October 2018 to 7 December 2018 (accessed 18 July 2024 at 5:26)

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**

This Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 8.12.2018.

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 Act 2018 No 59



New South Wales

An Act to make miscellaneous amendments to various Acts that relate to emergency services and associated matters.

1 Name of Act

This Act is the *Emergency Services Legislation Amendment Act 2018*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedule 1 commences on 7 December 2018.

Schedule 1 Amendment of **State Emergency and Rescue Management Act 1989 No 165**

[1] Section 3 Definitions

Omit the definition of **emergency services organisation** from section 3 (1).

Insert in alphabetical order:

emergency services organisation means the following:

- (a) Ambulance Service of NSW,
- (b) Fire and Rescue NSW,
- (c) a fire brigade within the meaning of the *Fire and Rescue NSW Act 1989*,
- (d) NSW Police Force,
- (e) NSW Rural Fire Service,
- (f) State Emergency Service,

- (g) Surf Life Saving New South Wales,
- (h) New South Wales Volunteer Rescue Association Inc,
- (i) Volunteer Marine Rescue NSW,
- (j) an agency that manages or controls an accredited rescue unit,
- (k) a non-government agency that is prescribed by the regulations for the purposes of this definition.

New South Wales Volunteer Rescue Association Inc means NSW Volunteer Rescue Association Inc (ABN 68 767 393 968).

Surf Life Saving New South Wales means Surf Life Saving New South Wales (ACN 138 025 573).

Volunteer Marine Rescue NSW means Volunteer Marine Rescue NSW (ABN 98 138 078 092).

[2] Section 3 (1), definition of “State Disasters Council”

Omit the definition.

[3] Section 3 (1), definition of “State Emergency Service”

Insert “NSW” after “means the”.

[4] Section 4 Definition of “emergency”

Insert at the end of paragraph (b) of the definition of ***emergency*** in section 4 (1):

or

- (c) causes a failure of, or a significant disruption to, an essential service or infrastructure,

[5] Part 2, Division 1, Subdivision 1, heading

Omit “**and the State Disasters Council**”.

[6] Section 10 Minister

Omit section 10 (2).

[7] Section 11 State Disasters Council

Omit the section.

[8] Section 14 State Emergency Management Committee

Insert after section 14 (2) (a1):

- (a2) the chief executive of the Ambulance Service of NSW, and
- (a3) the Commissioner of Fire and Rescue NSW, and
- (a4) the Commissioner of Police, and
- (a5) the Commissioner of the NSW Rural Fire Service, and
- (a6) the Commissioner of the State Emergency Service, and

[9] Section 15 Functions of State Emergency Management Committee

Insert before section 15 (a):

- (a1) to advise the Minister on all matters relating to the prevention of, preparation for, response to and recovery from emergencies (including the co-ordination of the activities of government and non-government agencies in connection with those matters),

[10] Section 32A Definitions

Omit “unit controller” from paragraph (c) of the definition of ***emergency services officer***.

Insert instead “unit commander”.

[11] Section 34 Publication of declaration

Insert at the end of the section:

- (2) The Premier may cause a copy of the relevant order to be published on the internet or any other electronic communications service.

[12] Section 37F Authority to enter premises

Omit section 37F (3). Insert instead:

- (3) However, a police officer exercising a power to enter premises, or to take action on premises, must produce his or her warrant card if required to do so by the owner or occupier of the premises in lieu of an authority (unless the police officer is in uniform).

[13] Section 42 State Rescue Board

Omit section 42 (1). Insert instead:

- (1) There is established by this Act a State Rescue Board of New South Wales.

[14] Section 43 Composition of Board

Omit section 43 (1) (f)-(g1). Insert instead:

- (f) the chief executive of the Ambulance Service of NSW,
(g) the Commissioner of the New South Wales Volunteer Rescue Association Inc,
(g1) the Commissioner of Volunteer Marine Rescue NSW,

[15] Section 51 Emergency services organisations to notify police of rescue incidents

Omit section 51 (2). Insert instead:

- (2) This section does not apply:
- (a) if the organisation is aware that the incident has already been notified to a member of the NSW Police Force, or
- (b) to Surf Life Saving New South Wales in relation to an incident that only requires, or is likely to only require, surf life-saving.

[16] Section 53 Offence to operate rescue unit or rescue vehicle without accreditation

Insert “, the NSW Rural Fire Service” after “State Emergency Service” in section 53 (2) (a).

[17] Section 53 (3) (b)

Omit the paragraph.

[18] Section 53 (3) (c)

Omit “*Mines Rescue Act 1994*”. Insert instead “*Coal Industry Act 2001*”.

[19] Section 57 Register of personnel of rescue units

Omit “every 6 months thereafter” from section 57 (2).

Insert instead “then every 6 months or, if the State Rescue Board specifies different periods, at the periods specified”.

[20] Section 60A Interpretation

Omit “engaged in” from the definition of **emergency operations** in section 60A (1).

Insert instead “carried out”.

[21] Section 60AA

Insert after section 60A:

60AA Emergency operations to which this Part applies

This Part applies to the following emergency operations:

- (a) emergency operations carried out in a part of the State in which a state of emergency exists until:
 - (i) the end of that state of emergency, or
 - (ii) the Premier, by order published in the Gazette or on the NSW legislation website, declares that this Part no longer applies,
- (b) emergency operations to which this Part applies because of an order in force under section 60D.

[22] Section 60B Employees taking part in emergency operations protected from victimisation

Omit “in emergency operations as a member of an emergency services organisation and the absence occurred while this Part applied to the operations (pursuant to an order of the Premier under this Part)”.

Insert instead “, as a member of an emergency services organisation, in emergency operations to which this Part applies”.

[23] Section 60D Order of Premier or authorised officer applying Part to emergency operations

Insert “or an authorised officer” after “The Premier” in section 60D (1).

[24] Section 60D (2)

Insert “or authorised officer” after “the Premier”.

[25] Section 60D (3)

Omit “The Premier’s order”. Insert instead “An order”.

[26] Section 60D (4)

Omit “The Premier’s order”. Insert instead “An order made by the Premier”.

[27] Section 60D (4A)

Insert after section 60D (4):

(4A) An order made by an authorised officer remains in force for the period, not exceeding 48 hours, specified in the order (unless revoked earlier). Revocation is to be by a further order of the authorised officer or the Premier published in the Gazette or on the NSW legislation website.

[28] Section 60D (6)

Insert after section 60D (5):

(6) In this section:

authorised officer means any of the following:

- (a) the Commissioner or a Deputy Commissioner of the NSW Rural Fire Service or the State Emergency Service,
- (b) the State Emergency Operations Controller or Deputy State Emergency Operations Controller referred to in section 18.

[29] Sections 60KA (definition of “danger area”), 60L (1) and (1A), 61 (1), 61B (1) (c), 61D (1)-(3) and 62A (1) (b) and (c) (ii)

Omit “senior police officer” wherever occurring. Insert instead “directing officer”.

[30] Section 60KA Definitions

Insert in alphabetical order:

directing officer means:

- (a) the Minister, or
- (b) the State Emergency Operations Controller, or
- (c) a police officer of or above the rank of sergeant, or
- (d) a police officer of a class prescribed by the regulations for the purposes of this definition.

[31] Section 60KA, definition of “emergency or rescue management organisation”

Omit paragraph (a).

[32] Section 60KA, definition of “emergency or rescue management organisation”

Omit “paragraphs (a)–(e)” from paragraph (f). Insert instead “paragraphs (b)–(e)”.

[33] Section 60KA, definition of “senior police officer”

Omit the definition.

[34] Sections 60L (1) and (1A), 61 (1) and 62A (1) (b) and (c) (ii)

Omit “another police officer” wherever occurring. Insert instead “a police officer”.

[35] Section 61 Power to take other safety measures

Omit “a senior police officer” from section 61 (3).

Insert instead “the directing officer or a police officer”.

[36] Section 61 (5)

Omit “senior police officer”. Insert instead “directing officer or police officer”.

[37] Sections 61A, 61B (1) and 61C

Omit “A police officer” and “a police officer” wherever occurring.

Insert instead “A person” and “a person”, respectively.

[38] Section 61B (2)

Omit “the police officer”. Insert instead “the person”.

[39] Section 61D Use of force by police officers

Insert “by a police officer” after “Reasonable force may be used” in section 61D (1).

[40] Section 61E

Omit the section. Insert instead:

61E Authority to enter premises

- (1) A power conferred to enter premises, or to take action on premises, may not be exercised unless the person proposing to exercise the power is in possession of an authority and produces the authority if required to do so by the owner or occupier of the premises.

- (2) The authority must be a written authority that:
- (a) states that it is issued under this Act, and
 - (b) gives the name of the person to whom it is issued, and
 - (c) describes the nature of the powers conferred and the source of the powers, and
 - (d) states the date (if any) on which it expires, and
 - (e) describes the kind of premises to which the power extends, and
 - (f) bears the signature of the directing officer or the police officer who issued the direction under section 61.
- (3) However, a police officer exercising a power to enter premises, or to take action on premises, must produce his or her warrant card if required to do so by the owner or occupier of the premises in lieu of an authority (unless the police officer is in uniform).

[41] Section 62 Personal liability

Insert at the end of the section:

- (2) A matter or thing done by a government sector employee, or by a member (or member of staff) of an emergency services organisation, does not, if the matter or thing was done in good faith for the purposes of executing this Act, subject the employee or member to any action, liability, claim or demand.

- (3) In this section:

government sector employee means a person employed in a government sector agency (within the meaning of the [Government Sector Employment Act 2013](#)).

[42] Section 63A Staff

Omit section 63A (2) (a).

[43] Schedule 2 Provisions relating to members and procedure of emergency management organisations

Omit "(Sections 11 (5), 14 (5), 22 (5) and 28 (7))".

Insert instead "(Sections 14 (5), 22 (5) and 28 (7))".

[44] Schedule 2, clause 1, definition of "relevant organisation"

Omit paragraph (a).

[45] Schedule 4 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering:

Part Provisions consequent on [Emergency Services Legislation Amendment Act 2018](#)

Definition

In this Part, **amending Act** means the [Emergency Services Legislation Amendment Act 2018](#).

Abolition of State Disasters Council

- (1) On the repeal of section 11 by the amending Act, the State Disasters Council is abolished.
- (2) The persons who were members of the State Disasters Council cease, on that abolition, to hold office as members and are not entitled to any remuneration or compensation because of the loss of that office.

Decorporatisation of State Rescue Board

- (1) On the substitution of section 42 (1) by the amending Act, the State Rescue Board ceases to be a corporation constituted by this Act.
- (2) The assets, rights and liabilities of the State Rescue Board become, on that cessation, the assets, rights and liabilities of the Crown.
- (3) The persons who were members of the State Rescue Board become, on that cessation, members of the State Rescue Board established by this Act as amended by the amending Act.
- (4) In this clause:
 - assets** means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.
 - liabilities** means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).
 - rights** means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

Schedules 2-5 (Repealed)