

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

BUSHFIRE (AMENDMENT) BILL 1998

EXPLANATORY MEMORANDUM

**Circulated by the Authority of the Minister for Justice and Community Safety
Gary Humphries**

FURTHER DETAILS OF THE BILL

PRELIMINARY

Clause 1-Short Title

Clause 1 is the formal reference to the short title of the Bill

Clause 2-Commencement

Clause 2 states that the date of commencement of the Act is the date of notification of the Act in the Gazette

Clause 3-Principal Act

Clause 3 states that "Principal Act" in the Bill means the *Bushfire Act 1936*

SUBSTANTIVE PROVISIONS

Clause 4-Days of acute fire danger

Clause 4 of the Bill amends Section 7A of the Principal Act as follows:

- (a) The Principal Act imposes a prohibition on lighting, use or maintenance of a fire in the open for the day or periods specified in prescribed warnings of acute fire danger. Clause 4(a) of the Bill amends this prohibition by omitting "Minister" from Section 7A(1) and replaces it with "Chief Fire Control Officer". Responsibility for causing publication of a warning of the likelihood of such conditions is accordingly removed from the Minister responsible for the administration of the Principal Act and is made the responsibility of the Chief Fire Control Officer.
- (b) This is a consequential change resulting from the amendment to the Principal Act referred to in Clause 4(d) of the Bill below
- (c) This is also a consequential change resulting from the amendment to the Principal Act referred to in Clause 4(d) of the Bill below
- (d) Lighting, maintenance or use of a fire in accordance with an exemption permit granted under Section 7B is made an exemption from the prohibition in Section 7A(1) of the Principal Act.

Clause 5-Insertion

Clause 5 of the Bill inserts a new Section 7B in the Principal Act. This provision provides for the controlled use of fire during periods of acute fire danger by the discretionary issue of exemption permits by the Chief Fire Control Officer.

The new Section 7B(1) provides that the Chief Fire Control Officer may permit a person in writing to light, maintain or use a fire in a public place on a day or during a period in which the prescribed warnings of an acute fire danger have been published

The new Section 7B(2) provides directions as to the requirements for such applications for exemption permits. An application for an exemption permit shall be in a form approved by the Chief Fire Control Officer and shall-

- (a) specify the location of the proposed fire,
- (b) specify the nature of the proposed fire;
- (c) specify the date and time of the proposed fire; and
- (d) specify the safety precautions proposed to be taken.

The new Section 7B(3) provides directions to the Chief Fire Control Officer as to the matters to be taken into account in deciding whether or not to grant an exemption permit in such conditions. These are

- (a) the matters set out in Section 7B(2)(a) to 2(b) inclusive;
- (b) weather conditions forecast for the time of the proposed activity;
- (c) the availability of the Territory's fire fighting resources at the time of the proposed fire,
- (d) any other matters relating to fire safety that the Chief Fire Control Officer considers relevant.

The new Section 7B(4) maintains a demarcation in decision making between the fire brigade, which deals with firefighting in built up areas and the Rural Firefighting Service. Section 7B(4) provides that the Chief Fire Control Officer is not to issue an exemption permit under Section 7B(1) for a proposed fire within the built up area where the Fire Commissioner advises that the proposed fire would cause an unacceptable danger to a person or property in a built- up area.

The new Section 7B(5), to remove doubt, excludes the use of fireworks from authorised uses of an exemption permit when a declaration of an acute fire danger is in force

The new Section 7B(6) provides, for the purpose of clarifying administrative arrangements, that an exemption permit for a day or period when a declaration of an acute fire danger is in force

- (a) may be subject to conditions,
- (b) operates on the date and at the times specified in the written exemption permit;
- (c) remains in effect for the period specified on the written exemption permit, unless it is revoked in the meantime

The new Section 7B(7) provides that for the purposes of Section 7B, an "exemption permit" means a permit granted under Section 7B(1)

BUSHFIRE (AMENDMENT) BILL 1998

OUTLINE

This Bill amends the *Bushfire Act 1936* (the Principal Act). The Principal Act:

- (a) provides for reduction of fire risk by inspection of properties;
- (b) establishes the Bush Fire Council,
- (c) establishes the Rural Firefighting Service,
- (d) provides for prevention and control of bush and grass fires, and
- (e) provides for the establishment and administration of a Bushfire Fuel Management Plan

Purpose of the Amending Bill

The purpose of the amendments to the Principal Act is to provide the Chief Fire Control Officer with a discretionary power to grant exemption permits to community organisations to permit low risk activities, including the use of fire in the open air, which are of importance to those organisations or to the community generally despite the existence of weather conditions which potentially or in fact constitute an acute fire danger. Because of the need to balance the needs of such organisations with the needs of the wider community and resources available for firefighting, it is important that the Chief Fire Control Officer have a wide discretion to determine applications on an individual basis having regard to the circumstances of each case and to issue exemption permits subject to conditions which must be met before the function can proceed.

Key elements of the Amending Bill are:

- (a) Amendments to Section 7A of the Principal Act that provide for the prohibition of lighting of fires in the open in periods of acute fire danger which result in a declaration of a total fire ban. To achieve the necessary technical judgement, degree of flexibility and co-ordination in decision making, responsibility for public dissemination through the media of a warning of the likelihood of such conditions is removed from the Minister responsible for the administration of the Principal Act and is made the responsibility of the Chief Fire Control Officer. In addition the lighting, maintenance or use of a fire in accordance with an authority granted under Clause 7B becomes an additional exemption from the prohibition
- (b) Insertion of a new Clause 7B in the Principal Act providing the Chief Fire Control Officer with the necessary discretionary powers to issue exemption permits in periods of acute fire danger

There are no direct costs associated with the Bill