

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

BUSHFIRE (AMENDMENT) BILL 1998

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

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

BUSHFIRE (AMENDMENT) BILL 1998

SUPPLEMENTARY OUTLINE

This Government Assembly Amendment substitutes amendments in the *Bushfire (Amendment) Bill 1998* to 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 Supplementary Amendments to the Amending Bill

On 17 November 1998 the *Bushfire (Amendment) Bill 1998* was tabled in the Legislative Assembly to allow, among other things, for the exemption of fires, during a total fire ban, that were maintained for a ceremonial or commemorative purpose. At the time it was intended to make amendments to the *Bushfire Regulations* once the Bill came into effect by adding another class of fire to Regulation 6 which would identify a specific fire such as the "Eternal Flame" at the War Memorial for exemption. It was found however that some aspects of the proposed amendments to the Regulations under the Bill were still inconsistent with the *Bushfire Act 1936* because it is impossible to limit the criteria set by the Act by Regulation.

Because regulations cannot be enacted if they are inconsistent with the Act, a further amendment to Section 7A of the *Bushfire Act 1936* is required to allow for specific fires to be maintained as a continuous fire during a total fire ban when they represent a symbol of importance to the public. This is because it is not possible to limit a fire maintained as a symbol of importance to the public by regulation as a class of fire, without including the ability to light and use the fire. If the ability to light and use the fire is included in the Regulation it is not possible to limit such fires to specific ceremonial or commemorative fires. A failure to restrict such fires would create the risk of undesirable fires being lit, used and

maintained during periods of potential or actual acute fire danger. Such fires may constitute a danger to the public, property and to the environment.

It is intended that this Government Assembly Amendment will ensure that only those ceremonial or commemorative fires that are notified in the Gazette will be exempt from the total fire ban provisions.

Amendments to the Bushfire (Amendment) Bill 1998 are:

(1) Paragraphs 4(c), (d) and (e)

Amendments to paragraphs 4(c), (d) and (e) of the Bill. Clause 4 of the Bill amends Section 7A of the *Principal Act*. The Government Supplementary Amendments are to be inserted at Page 2, line 1 of the *Bushfire (Amendment) Bill*. The existing paragraphs 4(c), (d) and (e) of the *Bushfire (Amendment) Bill* are omitted and the amendments on Page 1 of the *Government Assembly Amendment* are substituted for those initial amendments. This has the effect of creating two classes of exemptions of fires from total fire bans, namely under an exemption permit granted under Section 7B of the *Bushfire (Amendment) Bill* and a fire declared by the Minister to be an exempt fire under paragraph 4(3) of the *Government Assembly Amendment*. Paragraph 4(3) gives the Minister power to declare a fire to be an exempt fire by instrument published in the *Gazette* where the conditions in that paragraph have been met.

(2) Clause 5

- (a) This amendment is on Page 2, line 29 of the Bill. This amendment substitutes "a built-up area" for the existing phrase "the built-up area".