

2005

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Police and Emergency Services)

## Emergencies Amendment Bill 2005

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## Emergencies Amendment Bill 2005

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### A Bill for

An Act to amend the *Emergencies Act 2004*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1 Name of Act**

This Act is the *Emergencies Amendment Act 2005*.

**2 Commencement**

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Legislation amended**

This Act amends the *Emergencies Act 2004*.

*Note* This Act also amends the following legislation (see sch 1):

- *Fuels Control Act 1979*
- *Occupational Health and Safety Act 1989*.

**4 Authority functions**  
**Section 9 (4) (j)**

*substitute*

(j) establish an emergency coordination centre for the ACT; and

(k) participate in strategic and operational planning for emergencies.

**Examples of strategic and operational planning for emergencies**

- 1 strategic planning for recovery from a natural disaster
- 2 operational planning for response to a fuel shortage emergency

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**5 New section 19A***insert***19A Delegation by commissioner**

The commissioner may delegate the commissioner's functions under this Act or another territory law to a public servant or a member of an emergency service.

*Note* For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

**6 Section 54***substitute***54 Rural fire brigades**

- (1) The chief officer (rural fire service) may establish rural fire brigades for the rural fire service.
- (2) The chief officer (rural fire service) must, after consulting with the bushfire council, determine the number of rural fire brigades for the rural fire service.
- (3) The chief officer (rural fire service) may also determine names for the brigades.
- (4) A determination under this section is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**7 Section 59***substitute***59 SES operational units**

- (1) The chief officer (SES) may establish operational units for the SES.

1           (2) The chief officer (SES) must determine the number of operational  
2           units for the SES.

3           (3) The chief officer (SES) may also determine names for the  
4           operational units.

5           (4) A determination under this section is a notifiable instrument.

6           *Note*       A notifiable instrument must be notified under the Legislation Act.

7           **8           New section 59A**

8           *in part 4.4, insert*

9           **59A       Ranks for SES members**

10           The chief officer (SES) may give members of the SES various ranks  
11           in accordance with the standards and protocols for the SES.

12           **9           Content of strategic bushfire management plan**  
13           **Section 74 (3) (b)**

14           *substitute*

15           (b) requirements for a bushfire operational plan.

16           **Examples**

17           1       prevention activities

18           2       preparedness activities

19           3       performance indicators for activities

20           **10          Public consultation for strategic bushfire management**  
21           **plan**  
22           **Section 75 (1) (b)**

23           *substitute*

24           (b) inviting interested people to give written comments about the  
25           draft plan to the authority at a stated address during a stated  
26           period ending at least 15 business days after the end of the  
27           period mentioned in paragraph (a).

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**11      Assessment of resources and capabilities**  
**Section 76 (1)**

*substitute*

- (1) After the Minister makes the strategic bushfire management plan, the authority must conduct an assessment, based on the plan, of available resources and capabilities for bushfire prevention and preparedness.

**12      Sections 78 and 79**

*substitute*

**78      Bushfire operational plans**

- (1) This section applies to a person who is—
- (a) the manager of an area of unleased territory land or land occupied by the Territory, unless the land is exempt from the operation of this section under the strategic bushfire management plan; and
  - (b) the owner of an area of land in a bushfire abatement zone if—
    - (i) the strategic bushfire management plan sets out requirements for a bushfire operational plan for the bushfire abatement zone; and
    - (ii) the land is identified in the strategic bushfire management plan as land for which a bushfire operational plan must be prepared; and
    - (iii) there is no land management agreement applying to the land that is consistent with the strategic bushfire management plan.
- (2) The person must give the authority a draft bushfire operational plan for the area in accordance with the strategic bushfire management plan.

- 1           (3) The authority may—
- 2               (a) approve the draft bushfire operational plan for the area; or
- 3               (b) approve the draft plan for the area with stated amendments; or
- 4               (c) decide not to approve the draft plan.
- 5           (4) The authority is taken to have approved a draft bushfire operational
- 6               plan without amendments if the authority does not make a decision
- 7               about the approval within 40 working days after the day the plan is
- 8               given to the authority.
- 9           (5) The person must review the bushfire operational plan and give the
- 10               authority a draft updated bushfire operational plan at intervals of not
- 11               longer than 2 years.

12 **13       Fire permits**

13 **Section 118 (2), note**

14 *substitute*

15 *Note 1*   If a form is approved under s 200 for this provision, the form must be

16               used.

17 *Note 2*   A fee may be determined under s 201 for this provision.

18 **14       Using fires and appliances for cooking etc in open air**

19 **Section 122 (4) (d)**

20 *substitute*

21 (d) an adequate means of putting out the fire is available for use.

22 **Examples**

- 23       • a fire extinguisher
- 24       • a fire blanket
- 25       • a continuous stream of water

26 *Note*       An example is part of the Act, is not exhaustive and may extend, but

27               does not limit, the meaning of the provision in which it appears (see

28               Legislation Act, s 126 and s 132).



1	<b>15</b>	<b>Section 154 heading</b>
2		<i>substitute</i>
3	<b>154</b>	<b>Minister to give reports to community during state of alert</b>
4	<b>16</b>	<b>Section 154, examples</b>
5		<i>substitute</i>
6	1	community vulnerability to the effects of the emergency that is likely to
7		happen
8	2	preparation for the emergency that is likely to happen
9	<b>17</b>	<b>Emergency powers for declared state of emergency</b>
10		<b>Section 163 (4)</b>
11		<i>omit</i>
12		subsection (1)
13		<i>substitute</i>
14		subsection (2)
15	<b>18</b>	<b>Protection of officials from liability</b>
16		<b>Section 198 (2), (3) and (4)</b>
17		<i>substitute</i>
18	(2)	An official is not personally liable for anything done or omitted to
19		be done honestly and without recklessness—
20	(a)	in the exercise of a function under this Act; or
21	(b)	in the reasonable belief that the conduct was in the exercise of
22		a function under this Act.
23	(3)	Any liability that would, apart from this section, attach to an official
24		attaches instead to the Territory.
25	(4)	For subsection (1) (e), and without limiting it, a person is taken to be
26		exercising a function under this Act if the person is—

- 1 (a) a member of an interstate or overseas emergency service to  
 2 which section 64 (Interstate and overseas emergency services)  
 3 applies; or  
 4 (b) engaged in an activity under a cooperative arrangement; or  
 5 (c) a casual volunteer taking part in an activity under section 26  
 6 (Casual volunteers); or  
 7 (d) giving assistance to a member of an emergency service under  
 8 section 34 (1) (m) (General powers of chief officers).  
 9 *Note* A reference to an Act includes a reference to the statutory instruments  
 10 made or in force under the Act, including regulations (see Legislation  
 11 Act, s 104).

12 **19 Schedule 2, items 3 and 4**

13 *substitute*

3	deciding not to approve a draft bushfire operational plan for an area of land under section 78 (3)	the owner or manager of the land
4	approving a draft bushfire operational plan for an area of land with amendments under section 78 (3)	the owner or manager of the land

14 **20 Dictionary, definition of *bushfire operational plan***

15 *substitute*

16 ***bushfire operational plan*** means a bushfire operational plan  
 17 approved under section 78.

- 1    **21       Dictionary, definition of *commissioner***
- 2       *substitute*
- 3       *commissioner* means the ACT Emergency Services Commissioner.
- 4    **22       Dictionary, definition of *emergency*, examples**
- 5       *substitute*
- 6       **Examples of events**
- 7       1    fire, flood, storm or earthquake
- 8       2    accident or explosion
- 9       3    epidemic or animal disease
- 10      4    shortage of electricity, gas, fuel or water

## **Schedule 1            Other amendments**

(see s 3)

### **Part 1.1            Fuels Control Act 1979**

#### **[1.1]            Section 12 heading**

*substitute*

#### **12            Powers of emergency services authority during emergency**

#### **[1.2]            Section 12**

*omit*

controller

*substitute*

emergency services authority

#### **[1.3]            New section 12A**

*insert*

#### **12A            Controller to give information to authority**

- (1) This section applies if a declaration under section 11 (1) is in force.
- (2) The controller must give the emergency services authority any information required by the authority about the storage, supply or use of declared fuel.

#### **[1.4]            Section 16 (2)**

*substitute*

- (2) This section does not apply in relation to the fuel if a requirement has been made of the person under section 12 in relation to the fuel.

**[1.5] Section 17 (c)**

*omit*

controller or an inspector

*substitute*

controller, the emergency services authority or an inspector

**Part 1.2 Occupational Health and Safety Act 1989**

**[1.6] Dictionary, definition of *associated law*, paragraph (a)**

*omit*

**[1.7] Dictionary, definition of *associated law*, paragraphs (b) to (g)**

*renumber as paragraphs (a) to (f)*

**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2005.

**2 Notification**

Notified under the Legislation Act on 2005.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).