

Explanatory Statement

FIRE AND EMERGENCY LEGISLATION AMENDMENT BILL 2024

SERIAL NO. 116

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
MINISTER FOR NORTHERN TERRITORY FIRE AND EMERGENCY SERVICE
THE HON BRENT POTTER MLA

EXPLANATORY STATEMENT

GENERAL OUTLINE

This Bill amends the *Emergency Management Act 2013*, *Fire and Emergency Act 1996*, *Fire and Emergency Regulations 1996*, and the *Public Sector Employment and Management Act 1993*.

The purpose of this Bill is to create a Commissioner for Fire and Emergency Services, independent from the Northern Territory Police Force. This Bill also simplifies the process for applying for a permit to light a fire in an emergency response area.

NOTES ON CLAUSES

PART 1 Preliminary matters

Clause 1. Short title.

This is a formal clause which provides for the citation of the Bill. The Bill, when passed, will be cited as the *Fire and Emergency Legislation Amendment Act 2024* ('the amendment Act').

Clause 2. Commencement.

This clause sets out how the amendment Act will be commenced. In this case, the amendment Act will commence on the day fixed by the Administrator by *Gazette* notice. If a provision of the amendment Act does not commence before 12 February 2026, it will commence on that day.

PART 2 Amendment of Emergency Management Act 2013

Clause 3 Act amended

This is a formal clause which provides that Part 2 amends the *Emergency Management Act 2013*.

Clause 4 Section 8 amended (Definitions)

This clause amends definitions in section 8 of the *Emergency Management Act 2013* as follows:

- (1) Repeal the definition of 'Director'. This position will be replaced by the position of Chief Officer.
- (2) Insert a definition of 'Chief Officer' by reference to section 48(1).
- (3) Insert a definition of 'Commissioner' by reference to section 3(1) of the *Fire and Emergency Act 1996*.
- (4) Insert a note referencing the *Interpretation Act 1978*.

Clause 5 Section 25 amended (Duties of Chief Executive Officers)

This clause amends section 25 by adding a note to clarify that that the duties of all Chief Executive Officers of Agencies apply to the Commissioner.

Clause 6 section 40 amended (Membership of Council)

This clause amended section 40 by removing the reference to Director. This clause further adds the Commissioner and Chief Officers for both the Northern Territory Emergency Services (NTES) and Northern Territory Fire and Rescue Service (NTFRS) to the Territory Emergency Management Council.

Clause 7 Section 45 amended (Membership of NTES)

This clause amends the membership of the NTES by removing the Director and Commissioner of Police, adding the Commissioner (of Fire and Emergency Services) and the Chief Officer.

Clause 8 Section 48 replaced

This clause replaces the Director position with the new Chief Officer position. This clause provides that the Chief Officer still needs to be a public sector employee.

This clause further provides that the Chief Officer has operational responsibility for the NTES, subject to the directions of the Commissioner, and the power to do all things

necessary or convenient to be done for or in connection with or incidental to the performance or exercise of their functions and duties. This clause mirrors the responsibilities of the Chief Officer (formally Chief Fire Officer) under section 9 of the *Fire and Emergency Act 1996*.

Clause 9 Section 49 amended (Functions of Director)

This clause amends section 49 to provide that the functions previously held by the Director will be the functions of the new Commissioner. Per Schedule 1 of the amendment Act, the Commissioner will have the power under s 112(1)(d) to delegate any of their functions under the *Emergency Management Act 2013*.

Clause 10 Section 50 amended (Powers of Director)

This clause amends section 50 to provide that the powers previously held by the Director will be the powers of the new Commissioner. Per Schedule 1 of the amendment Act, the Commissioner will have the power under s 112(1)(d) to delegate any of their powers under the *Emergency Management Act 2013*.

Clause 11 Section 51 repealed (Director subject to directions)

This clause repeals section 51. The Chief Officer will be subject to the directions of the new Commissioner, per clause 8. The new Commissioner will be subject to the direction of the Territory Controller in relation to emergency operations, per clause 5.

Clause 12 Section 61 amended (Membership of Regional Emergency Committee)

This clause amends section 61(2)(a) to provide that the NTES member appointed to a Regional Emergency Committee will be nominated by the Commissioner. This clause further amends section 61(2)(b) to provide that the NTFRS member will also be a person appointed by the Commissioner.

Clause 13 Section 98 (Authorised officers)

This clause amends the meaning of authorised officer by deleting the reference to Director and adding the Commissioner and the Chief Officers of NTES and NTFRS.

Clause 14 Part 9 inserted

This clause inserts new Part 9 which provides for transitional matters.

New section 128 provides that commencement for the purpose of Part 9 means the day on which section 3 of the amendment Act commences.

New section 129(1) provides that the person appointed to the position of Director immediately before commencement, is taken to be the taken to be the Chief Officer after

commencement. New section 129(2) provides that a person nominated under section 61(2)(b) as a member of a Regional Emergency Committee immediately before commencement continues to be a member after commencement.

New section 130 provides that any action taken, agreement or arrangement made or other things done by the Director and in effect immediately before commencement are taken to have been taken, made or done by the Commissioner after commencement.

New section 131 provides protection from liability to any act done or omitted to be done in good faith in the exercise of a power or performance of a function by the Director before commencement.

Clause 15 Schedules 3 and 4 repealed

This clause formally repeals Schedules 3 and 4 of the *Emergency Management Act 2013*. The amendments in these Schedules are in force in their respective legislation.

Clause 16 Act further amended

This clause provides that Schedule 1 of the amendment Act further amends the *Emergency Management Act 2013*.

Part 3 Amendment of Fire and Emergency Act 1996

Clause 17 Act amended

This is a formal clause which provides that Part 3 amends the *Fire and Emergency Act 1996*.

Clause 18 Section 3 amended (Interpretation)

This clause amends definitions in section 3 of the *Fire and Emergency Act 1996* as follows:

- (1) Repeal the definitions of **Chief Executive Officer**, **Chief Fire Officer** and **Director**.
- (2) Insert definitions of *approved form*, **Chief Officer** and **Commissioner**.
- (3) Amend the definitions of **authorised** and **emergency** to reference the Commissioner instead of Director (the position of Director will no longer exist).
- (4) Insert a reference to the *Interpretation Act 1978*.

Clause 19 Section 5 amended (Northern Territory Fire and Rescue Service)

This clause redrafts subsection (1) and deletes subsection (2). The Agency will be determined by the Administrative Arrangements Order, in line with normal Government

processes. The Commissioner will be deemed the Chief Executive Officer under section 1 of Schedule 1 of the *Public Sector Employment and Management Act 1993*.

Clause 20 Section 6 amended (Role of Fire and Rescue Service)

This clause makes a minor drafting amendment to section 6(c).

Clause 21 Section 7 and 8 replaced

This clause deletes section 7 and 8.

This clause further inserts section 6A which provides for the appointment of a Commissioner of Fire and Emergency Services (Commissioner). This section is modelled on the equivalent provisions for the appointment and functions of the Commissioner of Police under Part II Division 2 of the *Police Administration Act 1978*. This clause also provides that powers and functions previously held by the Director under section 8 are now the powers and functions of the Commissioner. Under section 10, as amended by clause 24 of the amendment Act, the Commissioner may delegate any of their powers and functions.

This clause also inserts new section 6B to provide for an acting Commissioner. This section is modelled on the equivalent provision under section 12 of the *Police Administration Act 1978*.

This clause inserts a new section 7 to provide for the Chief Officer position. This position replaces the position of Chief Fire Officer. The position of Director will no longer exist.

Clause 22 Section 9 amended (Powers and functions of Chief Fire Officer)

This clause amends section 9 by amending 'Chief Fire Officer' to the new position title of 'Chief Officer'. This clause further provides that the Chief Officer is subject to the direction of the Commissioner.

Clause 23 Section 10 amended (Delegation)

This clause amends section 10 to provide that the Commissioner has the power to delegate any of their powers or functions in writing. Subsection (2) is repealed as it is no longer required.

Clause 24 Section 30 amended (Granting of Permits)

Section 30 provides for the power to issue a permit to light a fire in emergency response areas. This clause amends section 30 by amending references from 'Director' to 'Commissioner'.

This clause also deletes subsections (3) and (4). Steps required for permit applications will be a matter of internal procedure, better aligning permits to light a fire for an emergency response area with permits to light a fire issued under section 46 of the *Bushfires Management Act 2016*.

Clause 25 Part 9 inserted

This clause inserts new Part 9 which provides for transitional matters.

New section 56 provides that commencement for the purpose of Part 9 means the day on which section 17 of the amendment Act commences.

New section 57 provides that person appointed to the position of Chief Fire Officer immediately before commencement, is taken to be the taken to be the Chief Officer after commencement.

New section 58(1) provides that any action taken, agreement or arrangement made or other things done by the Director of the Chief Executive Officer and in effect immediately before commencement are taken to have been taken, made or done by the Commissioner after commencement.

New section 58(2) provides that any action taken, agreement or arrangement made or other things done by the Chief Fire Officer before commencement are taken to have been taken, made or done by the Chief Officer after commencement. This excludes nominated under section 61(2)(b) of the Emergency Management Act 2013. This aligns with the transitional provision inserted by clause 14.

Clause 26 Act further amended

This clause provides that Schedule 2 of the amendment Act further amends the *Fire and Emergency Act 1996*.

Part 4 Fire and Emergency Regulations

Clause 27 Regulations amended

This is a formal clause which provides that Part 4 amends the *Fire and Emergency Regulations 1996*.

Clause 28 Regulation 18A amended (Withdrawal of Infringement notice)

This clause amends the reference from 'Director' to 'Commissioner'.

Clause 29 Regulation 20 amended (Fees and charges)

This clause amends the reference from 'Director' to 'Commissioner'.

Part 5 Public Sector Employment and Management Act 1993

Clause 30 Act amended

This is a formal clause which provides that Part 5 amends the *Public Sector Employment and Management Act 1993*.

Clause 31 Schedule 1 amended (Chief Executive Offices of particular Agencies)

This clause amends Schedule 1. This clause adds Northern Territory Fire and Emergency Service as an Agency, and Commissioner of Fire and Emergency Services as an Office the holder of which is the Chief Executive Officer.

Part 6 Repeal

Clause 32 Repeal of Act

This is a formal clause which provides that the Act is repealed on the day after it commences.

Schedule 1

Schedule 1 provides further amendments to the *Emergency Management Act 2013*.

Schedule 2

Schedule 2 provides further amendments to the *Fire and Emergency Act 1996*.