FIRE AND EMERGENCY SERVICES Bill

Received from the House of Assembly and read a first time.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it.

Leave granted.

On 14 May 2003, the Government tabled in the Parliament report on the review of the emergency service undertaken by the John Dawkins AO, the Hon Stephen Baker and Mr Richard MCN-
Finally, the Bill contains transitional provisions to enable the transition from the existing structures to the new structures.

This legislation is a significant step in reforming the emergency services sector. The time and effort that has gone into its development represents the commitment of the Government and the people in the emergency services sector to a reform process aimed at improving the delivery of emergency services to the South Australian community.

I commend the Bill to the House.

**EXPLANATION OF CLAUSES**

**Part 1—Preliminary**

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Interpretation

This clause sets out the definitions required for the purposes of the measure.

An emergency services organisation will be—

(a) the South Australian Metropolitan Fire Service (SAMFS); or

(b) the South Australian Country Fire Service (SACFS); or

(c) the South Australian State Emergency Service (SASES).

The emergency services sector will comprise—

(a) the South Australian Fire and Emergency Services Commission: and

(b) SAMFS; and

(c) SACFS; and

(d) SASES.

An emergency will be an event that causes, or threatens to cause—

(a) the death of, or injury or other damage to the health of, any person; or

(b) the destruction of, or damage to, any property; or

(c) a disruption to essential services or to services usually enjoyed by the community; or

(d) harm to the environment, or to flora or fauna.

However, in conjunction with this definition of emergency, the measure will not apply to any action to bring an industrial dispute to an end or to control civil disorders (but may apply in relation to any fire or other emergency arising during the course of an industrial dispute or any civil disorder)—see clause 5.

In exercising a power or function under Part 4, a relevant authority will be required—

(a) to have due regard to the impact of any action on the environment; and

(b) to seek to achieve a proper balance between bushfire prevention and proper land management in the country.

4—Establishment of areas for fire and emergency services

The Commission will establish a fire district or fire districts for the purposes of the operations of SAMFS. Any part of the State outside a fire district will constitute the area or areas for the purposes of the operations of SACFS. SASES will act in relation to any part of the State.

5—Application of Act

This measure will not limit or derogate from the provisions of any other Act.

**Part 2—South Australian Fire and Emergency Services Commission**

**Division 1—Establishment of Commission**

6—Establishment of Commission

The South Australian Fire and Emergency Services Commission is to be established. The Commission will be a body corporate. The Commission will be an agency of the Crown.

7—Ministerial control

The Commission will be subject to the control and direction of the Minister. However, any Ministerial direction under this provision will need to be in writing and a statement of the fact of the giving of any Ministerial direction will be published in the Commission's annual report.

**Division 2—Functions and powers of Commission**

8—Functions and powers
measures in place to protect against fire or another emergen-
cy.

37—Rectification where safeguards inadequate
If adequate measures are found not to be in place in a public
building, the Chief Officer or the authorised officer will be
able to take action, or require action to be taken, to remedy
the situation.

38—Closure orders
This clause sets out the powers of the Chief Officer or an
authorised officer to issue a closure order in relation to a
public building in a case where the safety of persons cannot
be reasonably ensured by other means. A closure order will
initially operate for a period not exceeding 48 hours. The
Magistrates Court will be able to extend the period of
operation of a closure order (and will be able, on application,
to rescind a closure order).

39—Powers in relation to places at which danger of
fire may exist
This clause allows the Chief Officer to enter any building,
vehicle or place where he or she has reason to believe that
there may be a source of danger to life or property through
the outbreak of fire.

40—Related matters
A person exercising a power under this Division may be
accompanied by 1 or more members of SAMFS or police
officers. It will be an offence to fail to comply with an order
under this Division.

Division 6—Powers and duties relating to fires and
emergencies
Subdivision 1—Exercise of control at scene of fire or
other emergency
41—Exercise of control at scene of fire or other emergen-
cy
This clause sets out the circumstances where SAMFS may
assume control of a situation that may involve an emergency.
This provision will operate subject to the provisions of the new

Subdivision 2—Exercise of powers at scene of fire or
other emergency
42—Powers
This clause sets out the powers that may be exercised by an
officer of SAMFS, and any person acting under the command
of an officer, at the scene of a fire or other emergency. This
provision will operate subject to the provisions of the new

Subdivision 3—Related matters
43—Provision of water
A water authority may be directed to send a competent person
to shut off or disconnect the supply of water.

44—Disconnection of gas or electricity
A body supplying gas or electricity to any place where a fire
or other emergency is occurring must, if directed to do so,
send a competent person to shut off or disconnect the supply
of gas or electricity.

Division 7—Discipline
Subdivision 1—The Disciplinary Committee
45—The South Australian Metropolitan Fire Service
Disciplinary Committee
This clause provides for the continuation of the South
Australian Metropolitan Fire Service Disciplinary Committee.

Subdivision 2—Disciplinary proceedings
46—Chief Officer may reprimand
The Chief Officer may reprimand an officer or firefighter who
the Chief Officer finds to have been guilty of miscon-
duct.

47—Proceedings before Disciplinary Committee
The Chief Officer may lay a complaint against an officer or
firefighter for alleged misconduct. The Disciplinary Com-
mitee may exercise various powers if it finds that an officer
or firefighter has been guilty of misconduct.

48—Suspension pending hearing of complaint
The Chief Officer may suspend an officer or firefighter, on
full pay, pending the determination of a complaint.

Subdivision 3—Appeals
49—Appeals
An appeal will be to the District Court against a decision of
the Disciplinary Committee or Chief Officer in the exercise
of disciplinary functions.

50—Representation of parties and costs
An appellant may be represented by a member of an
industrial association to which the appellant belongs or by a
legal practitioner.

51—Participation of assessors in appeals
The District Court will sit with assessors in any proceedings
under these provisions.

Division 8—Related matters
52—Accounts and audit
SAMFS will be required to keep proper accounting records
and to prepare annual statements of account. These will be
audited by the Auditor-General.

53—Annual reports
SAMFS will prepare an annual report and provide it to the
Commission.

54—Common seal and execution of documents
This clause relates to the use of the common seal of SAMFS
and the execution of documents.

55—UFU
The associations that comprise UFU are to be recognised as
associations that represent the interests of firefighters.

56—Fire prevention on private land
This clause makes special provision to ensure that conditions
on private land in a fire district do not cause an undue risk in
relation to the outbreak or spread of fire. It is similar to
section 60B of the current Act.

Part 4—The South Australian Country Fire Service
Division 1—Continuation of service
57—Continuation of service
The South Australian Country Fire Service (SACFS) will
continue in existence. (SACFS is an agency of the Crown
and holds its property on behalf of the Crown.)

58—Constitution of SACFS
SACFS will consist of the Chief Officer, all other officers, all
SACFS organisations and members, and all employees of
SACFS. The Chief Officer will be responsible for the
management and administration of SACFS and an act or
decision of the Chief Officer in the management or admin-
istration of the affairs of SACFS will be an act or decision of
SACFS.

Division 2—Functions and powers
59—Functions and powers
This clause sets out the functions of SACFS. SACFS will be
able to exercise any powers that are necessary or expedient for
the performance of its functions.

Division 3—Chief Officer and staff
60—Chief Officer
This clause makes specific provision with respect to the
office of Chief Officer of SACFS. The Chief Officer will be
appointed by the Minister after taking into account the
recommendation of the Chief Executive of the Commission.
The Chief Officer is to assume ultimate responsibility for the
operations of SACFS and may therefore—
(a) control all resources of SACFS; and
(b) manage the staff of SACFS and give directions to
its members; and
(c) assume control of any SACFS operations; and
(d) perform any other function or exercise any other
power that may be conferred by or under this or any other
Act, or that may be necessary or expedient for, or
incidental to, maintaining, improving or supporting the
operation of SACFS.

61—Deputy Chief Officer and Assistant Chief Officers
The Chief Officer will be able to appoint a Deputy Chief
Officer and 1 or more Assistant Chief Officers.

62—Other officers
The Chief Officer will be able to appoint other officers to the
staff of SACFS.

63—Employees
The Chief Officer will be able to engage other persons as
employees of SACFS.

64—Staff
The staff of SACFS will comprise all officers and other
employees of SACFS. SACFS will also be able to make use
of the services of persons employed in a public sector agency.

65—Workforce plans
The Chief Officer will prepare a workforce plan. The plan
will be submitted to the Commission for its approval. An
appointment to the staff of SACFS must accord with the plan.
This clause sets out the functions of the Commission. The Commission will have the powers necessary or expedient for the performance of its functions. The Commission will prepare a charter relating to its functions and operations. The charter will be publicly available.

Direction

The Commission will be able to give directions to SAMFS, SACS or SASES. However, the Commission will not be able to give a direction relating to the procedures to be followed in response to an emergency, or relating to dealing with any matter that may arise at the scene of an emergency.

Division 3—Constitution of board

10—Commission to be managed by a board

The Commission is to be managed by a board. The board will be the governing body of the Commission and any act or decision of the board in the management or administration of the affairs of the Commission will be an act or decision of the Commission.

11—Constitution of the Board

The Board will be constituted by a presiding member (being the Chief Executive of the Commission), each Chief Officer of each emergency services organisation, and 2 other persons appointed by the Governor on the recommendation of the Minister. 1 of the appointed members will be a member of the Public Service. An appointed member will be known as an associate member.

12—Terms and conditions of membership

This clause sets out the terms and conditions of membership of the board. An associate member will hold office for a term not exceeding 5 years and is eligible for reappointment.

13—Vacancies or defects in appointment of members

An act or proceeding of the Board will not be invalid by reason only of a vacancy in its membership or a defect in an appointment.

14—Proceedings

This clause sets out the procedures that are to apply in relation to the proceedings of the Board.

15—Conflict of interest

This clause deals with the issue of conflicts of interest for members of the Board.

Division 4—Chief Executive and staff

16—Chief Executive

This clause provides for the office of Chief Executive of the Commission. A person will be able to be appointed to this position for a term not exceeding 5 years and will be eligible for reappointment. The Chief Officer will be responsible for managing the staff and resources of the Commission and may therefore—

(a) control all resources of SAMFS; and
(b) manage the staff of SAMFS and give directions to its members; and
(c) assume control of any SAMFS operations; and
(d) perform any other function or exercise any other power that may be conferred by or under this or any other Act, or that may be necessary or expedient for, or incidental to, maintaining, improving or supporting the operation of SAMFS.

25—Constitution of SAMFS

SAMFS will consist of the Chief Officer, all officers and firefighters, and all employees of SAMFS. The Chief Officer will be responsible for the management and administration of SAMFS and an act or decision of the Chief Officer in the management or administration of the affairs of SAMFS will be an act or decision of SAMFS.

Division 2—Functions and powers

26—Functions and powers

This clause sets out the functions of SAMFS. SAMFS will be able to exercise any powers that are necessary or expedient for the performance of its functions.

Division 3—Chief Officer and staff

27—Chief Officer

This clause makes specific provision with respect to the office of Chief Officer of SAMFS. The Chief Officer will be appointed by the Minister after taking into account the recommendation of the Chief Executive of the Commission. The Chief Officer is to assume ultimate responsibility for the operations of SAMFS and may therefore—

(a) control all resources of SAMFS; and
(b) manage the staff of SAMFS and give directions to its members; and
(c) assume control of any SAMFS operations; and
(d) perform any other function or exercise any other power that may be conferred by or under this or any other Act, or that may be necessary or expedient for, or incidental to, maintaining, improving or supporting the operation of SAMFS.

28—Deputy Chief Officer and Assistant Chief Officers

The Chief Officer will be able to appoint a Deputy Chief Officer and 1 or more Assistant Chief Officers.

29—Other officers and firefighters

The Chief Officer will appoint other officers and firefighters. An appointment under this clause will be made following procedures set out in subclause (2) (other than where the appointment is to the lowest rank in SAMFS). These procedures are currently found in section 40A, 40B and 40C of the existing Act.

30—Employees

The Chief Officer will be able to engage other persons as employees of SAMFS.

31—Staff

The staff of SAMFS will comprise all officers, firefighters and other employees of SAMFS. SAMFS will also be able to make use of the services of persons employed in any public sector agency.

32—Workforce plans

The Chief Officer will prepare a workforce plan. The plan will be submitted to the Commission for its approval. An appointment to the staff of SAMFS must accord with the plan.

33—Delegation

The Chief Officer will be able to delegate powers and functions.

Division 4—Fire brigades

34—Fire brigades

The Chief Officer will establish fire brigades within its districts.

Division 5—Fire and emergency safeguards

35—Interpretation and application

This clause sets out terms that are to be defined for the purposes of the Division relating to fire and emergency guards. The scheme established by this Division is the scheme in Part 5 Division 3 of the current Act.

36—Power to enter and inspect a public building

The Chief Officer or any authorised officer will have power to enter, inspect any public building to ensure that there are at
66—Delegation
The Chief Officer will be able to delegate powers and functions.

Division 4—SACFS regions
67—SACFS regions
The Chief Officer will be able to establish SACFS regions within the country.

Division 5—Organisational structure
68—Establishment of SACFS organisations
The Chief Officer will be able to establish SACFS brigades. The Chief Officer will also be able to establish an SACFS group in relation to 2 or more SACFS brigades within a region.

69—South Australian Volunteer Fire-Brigades Association
This clause provides for the continuation of the South Australian Volunteer Fire-Brigades Association.

70—Command structure
This clause sets out the SACFS command structure. The relative authority of each officer and member of SACFS will be in accordance with a command structure determined by the Chief Officer.

Division 7—Fire prevention authorities
Subdivision 1—The South Australian Bushfire Prevention Advisory Committee
71—The South Australian Bushfire Prevention Advisory Committee
This clause provides for the appointment of a fire prevention officer by each rural council.

Subdivision 2
72—The Advisory Committee’s functions
The South Australian Bushfire Prevention Advisory Committee will continue in existence.

Subdivision 3—Fire prevention officers
73—Regional bushfire prevention committees
74—Functions of regional committees
75—District bushfire prevention committees
76—Functions of district committees
The scheme for regional bushfire prevention committees and district bushfire prevention committees will continue.

Subdivision 4—Fire prevention officers
77—Fire prevention officers
This clause provides for the appointment of a fire prevention officer by each rural council.

Subdivision 5—Fire prevention
78—Fire danger season
The Chief Officer will fix the fire danger seasons for the State. A fire danger season will continue to be fixed after consultation with any regional bushfire prevention committee.

79—Fires during fire danger season
This clause sets out controls during a fire danger season.

Subdivision 2—Total fire ban
80—Total fire ban
The Chief Officer will be able to impose total fire bans. It will be an offence to fail to comply with a ban under this clause.

Subdivision 3—Permits
81—Permit to light and maintain fire
This clause continues the permit system relating to lighting and maintaining fires.

Subdivision 4—Power of direction
82—Power to direct
This clause sets out a specific power of direction where a fire has been lit contrary to the Act, or where a fire may get out of control.

Subdivision 5—Duties to prevent fires
83—Private land
This clause makes special provision to ensure that owners of private land in the country take reasonable steps to protect property on land from fire and to prevent or inhibit the spread of fire.

84—Council land
A rural council must take reasonable steps to protect property on land under the care, control or management of the council from fire and to prevent or inhibit the spread of fire.

85—Crown land
Government bodies must take reasonable steps to protect property on land under the care, control or management of the relevant bodies from fire and to prevent or inhibit the spread of fire.

Subdivision 6—Miscellaneous precautions against fire
86—Fire safety at premises
An authorised officer may require the owner of premises to prescribe steps to prevent the outbreak of fire at the premises, or to take such steps as are necessary to prevent the spread of fire from the premises.

87—Removal of debris from roads
88—Fire extinguishers to be carried on caravans
89—Restriction on the use of certain appliances etc
90—Burning objects and material
91—Duty to report unattended fires
These clauses provide for various matters with respect to safety within the country. These provisions are based on provisions in the current Act.

Subdivision 7—Supplementary provisions
92—Power of inspection
This is a specific power of inspection to ensure that appropriate measures have been taken on any land with respect to the prevention, control or suppression of fires.

93—Delegation by councils
This is a specific power of delegation by councils to the prevention officers under this scheme.

94—Failure by a council to exercise statutory powers
This clause addresses the action to be taken if a council fails to exercise or discharge a power or function under this scheme.

95—Endangering life or property
This clause creates a specific offence relating to endangering life or property through the lighting of fires in a fire danger season.

Division 8—Powers and duties relating to fires and emergencies
Subdivision 1—Exercise of control at scene of fire or other emergency
96—Exercise of control at scene of fire or other emergency
This clause sets out the circumstances where SACFS may assume control of a situation that may involve an emergency. This provision will operate subject to the provisions of the Emergency Management Act 2004.

Subdivision 2—Exercise of powers at scene of fire or other emergency
97—Powers
This clause sets out the powers that may be exercised by SACFS at the scene of a fire or other emergency. This provision will operate subject to the provisions of the Emergency Management Act 2004.

Subdivision 3—Related matters
98—Provision of water
A water authority may be directed to send a competent person to the scene of a fire or other emergency to assist in the provision of water.

99—Disconnection of gas or electricity
A body supplying gas or electricity to any place where a fire or other emergency is occurring must, if directed to do so, send a competent person to shut off or disconnect the supply of gas or electricity.

Division 10—Related matters
100—Accounts and audit
SACFS will be required to keep proper accounting records and to prepare annual statements of account. The accounts SACFS will be audited by the Auditor-General. The accounts of SACFS will be audited in accordance with the regulations.

101—Annual reports
SACFS will prepare an annual report and provide it to the Commission.

102—Common seal and execution of documents
This clause relates to the use of the common seal of SACFS and the execution of documents.

103—Fire control officers
The Chief Officer will be able to appoint fire control officers for designated areas of the State.

104—Giving of expiation notices
An authority from a council to issue expiation notices may only be given to a fire prevention office.

105— Appropriation of penalties
If a council lays a complaint for a summary offence against this Part, any fine recoverable from the defendant must be paid to the council.

Part 5—The South Australian State Emergency Service

Division 1—Continuation of service

106—Continuation of service

The State Emergency Service will continue as the South Australian State Emergency Service (SASES). (SASES is an agency of the Crown and holds its property on behalf of the Crown.)

107—Constitution of SASES

SASES will consist of the Chief Officer, all other officers, all SASES units and members, and all employees of SASES. The Chief Officer will be responsible for the management and administration of SASES and an act or decision of the Chief Officer in the management or administration of the affairs of SASES will be an act or decision of SASES.

Division 2—Functions and powers

108—Functions and powers

This clause sets out the functions of SASES. SASES will be able to exercise any powers that are necessary or expedient for the performance of its functions.

Division 3—Chief Officer and staff

109—Chief Officer

This clause makes specific provision with respect to the office of Chief Officer of SASES. The Chief Officer of SASES. The Chief Officer will be appointed by the Minister after taking into account the recommendation of the Chief Executive of the Commission. The Chief Officer is to assume ultimate responsibility for the operations of SASES and may therefore—

(a) control all resources of SASES; and
(b) manage the staff of SASES and give directions to its members; and
(c) assume control of any SASES operations; and
(d) perform any other function or exercise any other power that may be conferred by or under this or any other Act, or that may be necessary or expedient for, or incidental to, maintaining, improving or supporting the operation of SASES.

110—Deputy Chief Officer and Assistant Chief Officers

The Chief Officer will be able to appoint a Deputy Chief Officer and 1 or more Assistant Chief Officers.

111—Other officers

The Chief Officer will be able to appoint other officers to the staff of SASES.

112—Employees

The Chief Officer will be able to engage other persons as employees of SASES.

113—Staff

The staff of SASES will comprise all officers and other employees of SASES. SASES will be able to make use of the services of persons employed in a public sector agency.

114—Workforce plans

The Chief Officer will prepare a workforce plan. The plan will be submitted to the Commission for approval. An appointment to the staff of SASES must accord with the plan.

115—Delegation

The Chief Officer will be able to delegate powers and functions.

Division 4—SASES units

116—SASES units

The Chief Officer will be able to establish SASES brigades.

Division 5—Powers and duties relating to emergencies

Subdivision 1—Exercise of control at scene of emergency

117—Exercise of control at scene of emergency

This clause sets out the circumstances where SASES may assume control of a situation that may involve an emergency. This provision will operate subject to the provisions of the Emergency Management Act 2004.

Subdivision 2—Exercise of powers at scene of emergency

118—Powers

This clause sets out the powers that may be exercised by SASES at the scene of an emergency. This provision will operate subject to the provisions of the Emergency Management Act 2004.

Subdivision 3—Related matter

119—Disconnection of gas or electricity

A body supplying gas or electricity to any place where an emergency is occurring must, if directed to do so, send a competent person to shut off or disconnect the supply of gas or electricity.

Division 6—Related matters

120—Accounts and audit

SASES will be required to keep proper accounting records and to prepare annual statements of account. The accounts of SASES will be audited by the Auditor-General. The accounts of an SASES unit will be audited in accordance with the regulations.

121—Annual reports

SASES will prepare an annual report and provide it to the Commission.

122—Common seal and execution of documents

This clause relates to the use of the common seal of SASES and the execution of documents.

123—S.A.S.E.S. Volunteers' Association Incorporated

S.A.S.E.S. Volunteers' Association Incorporated is recognised as an association that represents the interests of members of SASES units.

Part 6—Miscellaneous

124—Investigations

An authorised officer will be able to investigate the cause of a fire or other emergency.

125—Obstruction etc

126—Impersonating an emergency services officer etc

These are offence provisions.

127—Protection from liability

This clause provides protection from personal liability in relation to persons acting under the Act.

128—Exemption from certain rates and taxes

Emergency service organisations are to be exempt from water and sewerage rates, land tax and the emergency services levy (and see Schedule 6 in relation to council rates).

129—Power to provide sirens

An emergency services organisation or a council will be able to erect, test and use sirens to warn of the threat or outbreak of fire or the threat or occurrence of an emergency.

130—Provision of uniforms

A body within the emergency services sector may issue uniforms and insignia.

131—Protection of names and logos

The Commission will be able to protect and control the use of certain logos and titles.

132—Attendance by police

This clause makes specific provision with respect to the attendance of police officers at the scene of a fire or other emergency.

133—Disclosure of information

A person suspected of committing, or being about to commit, an offence may be required to provide his or her full name and address and to provide evidence of his or her identity.

134—Unauthorised fire brigades

This clause controls the establishment of other fire brigades in the country.

135—Interference with fire plugs, fire alarms etc

136—False or misleading statements

137—Continuing offences

138—Offences by bodies corporate

These clauses relate to offences.

139—Onus of proof

This clause will require a person who lights or maintains a fire ban was imposed to prove some lawful authority to light or maintain the fire.

140—Evidence

This is an evidentiary provision.

141—Insurance policies to cover damage

A policy of insurance against damage or loss due to fire or other emergency will be taken to extend to damage or loss arising from measures taken under this Act.

142—Payment of costs and expenses for certain vessels and property

This clause provides for the recovery of costs and expenses involving a fire on a vessel for which an emergency services levy has not been paid.
143—Fees
The regulations may set out fees and charges for the provision of prescribed services.

144—Services
It will be possible for an entity to be engaged to provide a special service for a fee set by the relevant organisation.

145—Acting outside the State
146—Recognised interstate organisations
These clauses relate to interstate situations.

147—Inquests
The Commission or any emergency services organisation is entitled to be heard at any inquest into the causes of a fire or other emergency and may be represented at the inquest by counsel or by one of its officers.

148—Regulations
This clause relates to regulations under the Act. A regulation may be made with respect to a matter specified in Schedule 5.

149—Review of Act
A review of the operation of the Act is to be undertaken after the second anniversary of the commencement of the Act.

Schedule 1—Appointment and selection of assessors for District Court proceedings under Part 3
Schedule 2—Code of conduct to be observed by officers and firefighters for the purposes of Part 3
Schedule 3—Supplementary provisions relating to the South Australian Bushfire Prevention Advisory Committee
Schedule 4—Supplementary provisions relating to regional and district bushfire prevention committees
Schedule 5—Regulations
Schedule 6—Related amendments, repeals and transitional provisions

These schedules provide for related matters.

The Hon. R.J. LUCAS secured the adjournment of the debate.