

Legislative Council—No 148

As introduced and read a first time, 8 September 2021

South Australia

**Fire and Emergency Services (Bushfires)
Amendment Bill 2021**

A BILL FOR

An Act to amend the *Fire and Emergency Services Act 2005* and to make related amendments to the *Emergency Management Act 2004*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Fire and Emergency Services (Bushfires) Amendment Act 2021*.

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2—Commencement

This Act comes into operation 3 months after the day on which it is assented to by the Governor.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Fire and Emergency Services Act 2005*

4—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *owner* insert:

non-burn fuel reduction and management means actions including slashing, mulching, clearing, thinning, grazing or earthworks (including establishment and maintenance of asset protection zones, bushfire buffer zones, firebreaks and fire access tracks) for the purpose of reducing or managing fuel loads;

- (2) Section 3(1)—after the definition of *owner* insert:

prescribed burn means the planned use of fire in a particular area (whether on public or private land) for the purpose of reducing fuel loads to acceptable levels;

- (3) Section 3—after the definition of *spouse* insert:

State Bushfire Management Plan means the State Bushfire Management Plan prepared under section 73, as in force from time to time;

State-wide Plan for Conducting Prescribed Burns means the part of the State Bushfire Management Plan referred to in section 73(4a), as in force from time to time;

5—Amendment of section 71A—Functions of State Bushfire Coordination Committee

Section 71A(1)—after paragraph (c) insert:

- (ca) to advise the State Emergency Management Committee in relation to the bushfire prevention and management (including planning and execution of prescribed burns, placement and use of bushfire monitoring and detection cameras, and the use of images and data captured by bushfire monitoring and detection cameras under this Act);

6—Amendment of section 71E—Annual reports

Section 71E—after subsection (1) insert:

- (1a) Without limiting subsection (1), the annual report of the State Bushfire Coordination Committee must include information setting out—
- (a) the contribution of the State Bushfire Coordination Committee and bushfire management committees in implementing the State-wide Plan for Conducting Prescribed Burns during the preceding financial year; and

- (b) any impediments to full implementation of the State-wide Plan for Conducting Prescribed Burns during the preceding financial year of which the State Bushfire Coordination Committee became aware; and
- (c) the number and location of all approved bushfire monitoring and detection cameras operating under this Act during the preceding financial year (whether the camera was installed during the preceding financial year or otherwise); and
- (d) the ways in which images and other data captured by approved bushfire monitoring and detection cameras were used by the State Bushfire Coordination Committee and bushfire management committees during the preceding financial year; and
- (e) the effect (if any) that images and other data captured by approved bushfire monitoring and detection cameras had on the early detection of, and response to, bushfires; and
- (f) any other matter required by the regulations.

7—Amendment of section 73—State Bushfire Management Plan

Section 73—after subsection (4) insert:

(4a) Without limiting subsection (2), the plan must contain the following:

- (a) a part setting out a plan (the *State-wide Plan for Conducting Prescribed Burns*) relating to the conduct of prescribed burns on an annual basis to meet community safety needs and environmental objectives;
- (b) an annual program for implementation of the State-wide Plan for Prescribed Burns (including information setting out the human resources and physical assets required to carry out the plan in future years, and the ways in which they will be deployed);

Note—

This will include an ecologically sustainable cycle of patchwork burns to keep fuel loads at acceptable levels.

- (c) any other information required by regulations.

8—Amendment of section 73A—Bushfire Management Area Plans

Section 73A(4)(a)—after "Plan" insert:

(including the State-wide Plan for Prescribed Burns)

9—Insertion of Part 4 Division 7B and 7C

Part 4—after Division 7A insert:

Division 7B—Implementation of State-wide Plan for Conducting Prescribed Burns

73B—Chief Officer responsible for implementation of the State-wide Plan for Conducting Prescribed Burns

- (1) The Chief Officer is responsible for ensuring the provisions of State-wide Plan for Conducting Prescribed Burns are implemented.
- (2) In performing the function under this section, the Chief Officer may take such action as the Chief Officer considers appropriate (including, without limiting this section, any powers conferred under another provision of this Act).

Division 7C—Bushfire monitoring and detection cameras

73C—Interpretation

- (1) In this Division—
approved bushfire monitoring and detection camera means an apparatus approved as a bushfire monitoring and detection camera under section 73D;
declared bushfire monitoring and detection location—see section 73E;
fire danger season has the same meaning as in the *Fire and Emergency Services Act 2005*.
- (2) For the purposes of this Division, a reference to a bushfire monitoring and detection camera includes a reference to a smoke or heat detector (however described) forming part of, or ancillary to, a bushfire monitoring and detection camera.

73D—Approval of apparatus as bushfire monitoring and detection camera

The Governor may, by regulation, approve an apparatus of a specified kind as a bushfire monitoring and detection camera.

73E—Declared bushfire monitoring and detection location

- (1) The State Bushfire Coordination Committee may, by notice in the Gazette, declare a specified area in the State that, in the opinion of the State Bushfire Coordination Committee—
 - (a) is at high risk of bushfire during fire danger season (whether due to the natural features of the area, the commission of offences or for any other reason); and
 - (b) should be monitored to allow for the early detection of bushfires,

to be a *declared bushfire monitoring and detection location*.

- (2) Before making a declaration under subsection (1) in relation to an area that includes a road, the State Bushfire Coordination Committee must undertake the following consultation:
- 5 (a) consultation with the person or body in whom care, control or management of the road to which the declaration relates is vested;
- (b) such other consultation as may be required by the regulations.
- 10 (3) The State Bushfire Coordination Committee may, by further notice in the Gazette, vary, substitute or revoke a declaration under this section.

73F—State Bushfire Management Plan to include reference to bushfire monitoring and detection cameras

15 Without limiting any other provision of this Act, the State Bushfire Management Plan must include the following information relating to the operation of this Division:

- (a) information setting out the location of each declared bushfire monitoring and detection location;
- 20 (b) information setting out how the areas comprising declared bushfire monitoring and detection location will be determined by the State Bushfire Coordination Committee;
- (c) information setting out how approved bushfire monitoring and detection cameras installed under this Act will be used;
- 25 (d) information setting out how images and other data captured by approved bushfire monitoring and detection cameras installed under this Act will be used;
- (e) any other information required by the regulations.

73G—State Bushfire Coordination Committee must cause approved bushfire monitoring and detection cameras to be installed within declared bushfire monitoring and detection locations

- 30 (1) The State Bushfire Coordination Committee must, as soon as is reasonably practicable after the commencement of this section and in accordance with the regulations, cause an approved bushfire monitoring and detection camera to be installed within each declared bushfire monitoring and detection location.
- 35 (2) The State Bushfire Coordination Committee must cause an approved bushfire monitoring and detection camera installed in a declared bushfire monitoring and detection location to be maintained and monitored in accordance with any requirements set out in the regulations.
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- (3) The State Coordinator may alter or replace an approved bushfire monitoring and detection camera installed in a declared bushfire monitoring and detection location.

73H—State Bushfire Coordination Committee may cause approved bushfire monitoring and detection cameras to be installed in other areas

Without limiting section 73G, the State Bushfire Coordination Committee may, with the approval of the Minister and in accordance with any requirements set out in the regulations, install, maintain, alter or remove, or cause to be installed, maintained, altered or removed, an approved bushfire monitoring and detection camera in an area outside of a declared bushfire monitoring and detection location.

73I—Powers of State Bushfire Coordination Committee

In performing a function under section 73G or 73H, the State Bushfire Coordination Committee has such powers as may be necessary or expedient.

73J—Interference with approved bushfire monitoring and detection cameras

A person who, without proper authority or reasonable excuse, interferes with an approved bushfire monitoring and detection camera or its proper functioning is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 1 year.

73K—Evidentiary provision

- (1) In proceedings for an offence against this or any other Act, an approved bushfire monitoring and detection camera proved to have been within a declared bushfire monitoring and detection location will be conclusively presumed to have been lawfully installed there under this Act.
- (2) In proceedings for an offence against this or any other Act, a document produced by the prosecution and purporting to certify that an image specified in the document—
- (a) was captured by a specified approved bushfire monitoring and detection camera and is accurate to the extent indicated in the document; and
 - (b) was captured at a specified time on a specified date; and
 - (c) is an image of a specified place,

constitutes, in the absence of proof to the contrary, proof of the facts so certified.

- 5 (3) In proceedings for an offence against this or any other Act, evidence obtained through the use of an approved bushfire monitoring and detection camera installed within a declared bushfire monitoring and detection location will not be inadmissible merely because it was so obtained.

10—Amendment of section 101—Annual reports

Section 101(2)—after paragraph (a) insert:

- 10 (ab) include the following information relating to the operation of Division 7B:
- 15 (i) details of each prescribed burn conducted during the preceding financial year; and
- (ii) the extent to which the State-wide Plan for Conducting Prescribed Burns was implemented during the preceding financial year; and
- (iii) the extent to which there were any impediments preventing the successful completion of the prescribed burns under the State-wide Plan for Conducting Prescribed Burns during the preceding financial year; and
- (iv) any other matter required by the regulations.

20 Schedule 1—Related amendments to *Emergency Management Act 2004*

1—Amendment of section 5A—State Emergency Management Plan

Section 5A—after subsection (2) insert:

- 25 (2a) Without limiting a preceding subsection, the SEMP must include a part setting out—
- (a) the State-wide Plan for Conducting Prescribed Burns under the *Fire and Emergency Services Act 2005*, as in force from time to time; and
- 30 (b) strategies relating to the use of images and data captured by bushfire monitoring and detection cameras under the *Fire and Emergency Services Act 2005* to increase the effectiveness of bushfire prevention and management in the State.

2—Amendment of section 13—Annual report by SEMC

Section 13—after subsection (1) insert:

(1a) Without limiting the matters that may included in an annual report, the annual report must include information setting out—

- 5
- (a) details of each current declared bushfire monitoring and detection location under the *Fire and Emergency Services Act 2005* (whether or not declared during the relevant financial year); and
- 10
- (b) the number and location of all approved bushfire monitoring and detection cameras installed and operating under the *Fire and Emergency Services Act 2005* during the preceding financial year (whether the camera was installed during the relevant financial year or otherwise); and
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- (c) the ways in which images and other data captured by approved bushfire monitoring and detection cameras were used during the preceding financial year; and
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- (d) any recommendations that the SEMC wishes to make in relation to the location and use of bushfire monitoring and detection cameras, or the use of images and other data captured by approved bushfire monitoring and detection cameras, for the purposes of this Act; and
- (e) any other matter required by the regulations.