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Robyn Webb  
Chief Parliamentary Counsel  
Dated 7 December 2021



TASMANIA

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## **FIRE SERVICE ACT 1979**

**No. 35 of 1979**

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## **FIRE SERVICE ACT 1979**

**No. 35 of 1979**

**An Act to amalgamate fire services in the State, to consolidate and amend the law relating to preventing and extinguishing fires and the protection of life and property from fire, to make provision with respect to incidental matters, and to amend and repeal certain enactments**

**[Royal Assent 19 July 1979]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART I – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *Fire Service Act 1979*.

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**2. Commencement**

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsections (1), (3), and (4), this Act shall commence on a date to be fixed by proclamation.
- (3) Sections 79, 80, and 81 shall commence on a date to be fixed by proclamation, being a day that is the same as, or that is subsequent to, the date fixed under subsection (2).
- (4) Division 3 of Part VI (sections 79, 80, and 81 excepted), Division 4 of that Part, and section 104 shall commence on 1st July 1980.

**3. Interpretation**

- (1) In this Act, unless the contrary intention appears –

*approved form* means a form approved or provided by the Commission;

*brigade* means a fire brigade established and maintained under this Act;

*brigade chief* means a person appointed as brigade chief under section 26;

*Chief Officer* means the person appointed as Chief Officer under section 10;

*civil emergency* includes –

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- 
- (a) the escape or potential escape of a non-flammable gas, chemical or other potentially hazardous substance; and
  - (b) the flooding of a building or public place; and
  - (c) the stranding or entrapment of a person or an animal; and
  - (d) such other dangerous or potentially dangerous circumstances as may be prescribed;

***Commission*** means the State Fire Commission established under section 7;

***Committee*** means a Fire Management Area Committee established under section 18 in respect of a Fire Management Area;

***composite brigade*** means a brigade consisting of permanent and volunteer members;

***Council*** means the State Fire Management Council established under section 14;

***employee*** means a person who is appointed pursuant to section 24;

***equipment*** includes appliances, engines, vehicles, reels, buckets, hoses, ladders, escapes, tanks, tools, radio equipment, and other implements and things used for or in connection with the extinguishing

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or control of fire or the protection of life or property in the event of a fire occurring;

***fire-fighter*** means a member of a brigade who is not of officer rank;

***fire-fighting operation*** includes any act that is necessary or expedient for the purpose of

—

- (a) extinguishing a fire; or
- (b) preventing the outbreak or spread of a fire; or
- (c) protecting people or property from fire; or
- (d) preventing or dealing with the spillage of petrol or other flammable liquids; or
- (e) preventing or dealing with the escape of flammable gases; or
- (f) rendering assistance in a civil emergency; or
- (g) providing logistical support to persons who are performing an act of the kind referred to in paragraph (a), (b), (c), (d), (e) or (f); or
- (h) carrying out fire safety or fire prevention activities; or

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(i) carrying out training activities;

***fire management*** means a strategic defined program to manage bushfire fuels;

***Fire Management Area*** means a Fire Management Area declared under section 17;

***fire officer*** means a member of the Fire Service, other than a group officer or brigade chief, who holds officer rank;

***fire permit officer*** means a person appointed and holding office as a fire permit officer under section 65;

***fire permit period*** means a period declared to be a fire permit period under section 61;

***fire protected area*** means an area declared to be a fire protected area under section 53;

***Fire Service*** means the Tasmania Fire Service established under this Act;

***forest officer*** means an employee of the Forestry corporation continued by section 6 of the *Forest Management Act 2013*;

***Forestry corporation*** means the Forestry corporation continued by section 6 of the *Forest Management Act 2013*;

***functions*** includes duties and responsibilities;

***goods and services tax*** means the GST as defined in the *A New Tax System (Goods*

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*and Services Tax) Act 1999* of the Commonwealth;

***group officer*** means a person appointed as group officer of a group of brigades under section 33;

***group of brigades*** means a group of brigades formed under section 33;

***industry brigade*** means a fire brigade, other than a brigade established and maintained under this Act, formed for the purpose of fighting fires;

***local council*** means a council within the meaning of the *Local Government Act 1993*;

***member***, in relation to a brigade, means a person holding any position in the brigade, whether as group officer, brigade chief, fire officer or fire-fighter and whether as a permanent or volunteer member or in a full-time or part-time capacity;

***member of the Fire Service*** means –

- (a) an employee who is a member of a brigade; or
- (b) an employee who is not a member of a brigade; or
- (c) a volunteer member;

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***municipal area*** means a municipal area within the meaning of the *Local Government Act 1993*;

***occupier*** includes a person having the care, control, or management of any land or premises;

***officer*** or ***officer of the Fire Service*** means a group officer, brigade chief or fire officer;

***operational district*** means a district determined under section 27;

***owner***, in relation to any land or premises, means the person for the time being in the actual receipt of, or entitled to receive, or who, if the land or premises were let to a tenant, would be entitled to receive, the rents and profits of the land or premises, whether as beneficial owner, trustee, executor, mortgagee in possession, or otherwise, and includes any person constituted by any Act, or appointed by the Governor under the authority of any Act, to administer or control any business or undertaking on behalf of the State, but does not include a mesne tenant;

***permanent brigade*** means a brigade consisting mainly of permanent members;

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***permanent member*** means a member of a brigade who is an employee appointed pursuant to section 24;

***potential fire*** means a situation which could produce an outbreak of fire or which indicates that an outbreak of fire is possible;

***powers*** includes authorities;

***premises*** includes structures;

***property*** means land or personal property, and includes trees, crops, or vegetation growing or standing on any land;

***regulations*** means regulations made under this Act (other than regulations made under section 133);

***ship*** includes any description of vessel used, or capable of being used, in navigation, however propelled, and whether in the course of construction or completed;

***State forest*** means a State forest within the meaning of the *Forestry Act 1920*;

***structure*** includes any building, erection, or other associated work;

***vegetation*** includes trees, bushes, plants, and undergrowth of any kind (whether alive or dead) and any parts of any trees, bushes, plants, or undergrowth (whether severed from the trees, bushes, plants, or



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undergrowth or not), but does not include trees of such species or sizes as may be prescribed;

***volunteer*** means a person who is not a permanent member;

***volunteer brigade*** means a brigade consisting of volunteer members;

***volunteer member*** means a member of a brigade who is a volunteer;

***Wellington Park*** has the same meaning as in the *Wellington Park Act 1993*;

***Wellington Park Management Trust*** means the Wellington Park Management Trust established under section 9 of the *Wellington Park Act 1993*.

- (2) In relation to any land owned or occupied by the Crown, ***owner*** or ***occupier*** means such officer as may be prescribed.
- (3) A reference in this Act to a fire not being subject to or being excluded from the ban is, in relation to a day of total fire ban, a reference to a fire specified in the declaration declaring that day to be a day of total fire ban as not being subject to the ban.

#### **4. Application of Act**

Except as otherwise expressly provided in this Act, the provisions of this Act relating to

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restrictions on the lighting of fires do not apply to or in relation to –

- (a) the lighting of a fire in a properly constructed fireplace in an enclosed building;
- (b) the igniting of any prescribed class of domestic appliance in an enclosed building; or
- (c) any other prescribed class of fire or any fire lit for a prescribed purpose.

**5. Act binds the Crown**

This Act binds the Crown.

**PART II – ADMINISTRATION**

***Division 1 – Central administration***

**6. Tasmania Fire Service**

There is established by this Act a fire service to be called the “Tasmania Fire Service” which shall be under the control of the Commission.

**7. State Fire Commission**

- (1) There is established by this Act a corporation with the corporate name of “State Fire Commission”.
- (2) The Commission –
  - (a) has perpetual succession;
  - (b) shall have an official seal;
  - (c) may take proceedings, and be proceeded against, in its corporate name;
  - (d) may, subject to this Act, acquire, hold, and dispose of real and personal property;
  - (e) may do and suffer all other things that corporations may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted; and

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- (f) has the functions imposed, and the powers conferred, on it by or under this or any other Act.
- (3) The Commission consists of –
- (a) the Chief Officer; and
  - (ab) a chairperson appointed in accordance with section 7A; and
  - (b) a person nominated by the United Firefighters Union (Tasmanian Branch); and
  - (c) a person nominated by the Tasmanian Retained Firefighters Association; and
  - (d) a person nominated by the Tasmanian Volunteer Fire Brigades Association; and
  - (e) a person nominated by the Secretary of the responsible Department in relation to the *Financial Management Act 2016*; and
  - (f) 2 persons nominated by the Local Government Association of Tasmania.
- (4) Subsection (3)(e) does not preclude the Secretary of the responsible Department in relation to the *Financial Management Act 2016* from nominating himself or herself as a member of the Commission.
- (5) . . . . .

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- (6) The members of the Commission referred to in paragraphs (b), (c), (d), (e) and (f) of subsection (3) are appointed by the Governor.
- (6A) The Minister may require a body referred to in paragraph (b), (c), (d) or (f) of subsection (3) to submit a list of names within a specified period, being a period of not less than 30 days.
- (6B) If a body referred to in paragraph (b), (c), (d) or (f) of subsection (3) fails to comply with subsection (6A), the Minister may nominate a person for the purposes of that paragraph.
- (6C) If a body referred to in paragraph (b), (c), (d) or (f) of subsection (3) changes its name, the Governor may, by order, amend that paragraph by substituting the body's new name.
- (6D) If a body referred to in paragraph (b), (c), (d) or (f) of subsection (3) ceases to exist, the Governor, on the recommendation of the Commission, may, by order, amend that paragraph by substituting the name of a body which the Governor is satisfied substantially represents the interests represented by the first-mentioned body.
- (7) Schedule 1 has effect with respect to the membership and meetings of the Commission.

**7A. Chairperson of Commission**

- (1) The Governor, on the recommendation of the Minister, is to appoint a person as chairperson of the Commission.

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- (2) The chairperson is to be a person who the Minister considers will carry out the duties of chairperson in an independent and fair manner.
- (3) The chairperson holds office for the term, and on the conditions, specified in his or her instrument of appointment.

**8. Functions and powers of Commission**

- (1) Subject to any directions given to it by the Minister pursuant to section 11, the functions of the Commission are –
  - (a) to formulate the policy in respect of the administration and operation of the Fire Service;
  - (b) to co-ordinate and direct the development of all fire services throughout the State;
  - (c) to develop effective fire prevention and protection measures throughout the State;
  - (d) to develop and promulgate a State fire protection plan;
  - (e) to standardize, as far as is practicable, fire brigade equipment throughout the State;
  - (f) to establish and maintain training facilities for brigades;
  - (g) to conduct such investigations into fires as it considers necessary, and to prepare reports and recommendations to the

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Minister arising from those investigations;

- (h) to conduct such investigations into the use of fire as it considers necessary, to instruct the public in the wise use of fire, and to disseminate information regarding fire protection measures and other related matters;
- (i) to advise the Minister on such matters relating to the administration of this Act as may be referred to it by the Minister, and on matters that, in the opinion of the Commission, should be brought to the attention of the Minister; and
- (j) to exercise such other functions vested in or imposed on it by this Act or such other functions relating to the preventing or extinguishing of fires as may be imposed on it by the Minister from time to time.

(1A - 4) . . . . .

(5) Any land proposed to be acquired by the Commission under the authority of section 7(2) may, with the consent of the Governor, be taken in accordance with the provisions of the *Land Acquisition Act 1993* and the purpose for which the land is so taken shall be deemed to be an authorized purpose within the meaning of that Act.

(6) The Commission is to perform its functions in respect of Wellington Park in a manner that is consistent with the purposes for which

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Wellington Park is set aside under the *Wellington Park Act 1993* and with any management plan in force in respect of Wellington Park.

- (7) The Commission is to perform its functions in respect of any reserved land, as defined in the *Nature Conservation Act 2002*, in a manner that is consistent with the purposes for which the reserved land is set aside under the *National Parks and Reserves Management Act 2002* and with any management plan in force in respect of the reserved land.

**8A. Commission may charge for services**

- (1) The Commission may fix scales of charges for any services provided by the Commission or a brigade under or for the purposes of this Act.
- (2) Subsection (1) does not apply in relation to services provided by a brigade at a fire.
- (3) Where it appears to the Commission that the collection of a charge that has been imposed under this section would cause undue hardship on, or would be unjust or unfair to, the person on whom it is imposed, the Commission may waive the whole or any part of the charge.
- (4) A charge imposed under this section is payable to the Commission.



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**9. Delegation by Commission**

The Commission, by resolution, may delegate to the Chief Officer any of its functions or powers other than this power of delegation.

**10. Chief Officer**

- (1) The Governor may appoint a State Service officer or State Service employee to be Chief Officer, and that person shall hold that office in conjunction with State Service employment.
- (1A) The person appointed as Chief Officer is to be a person who appears to the Governor to have expertise and experience in fire service administration and in the management of fire-fighting operations.
- (2) The Chief Officer is the chief executive officer of the Fire Service and as such is responsible for —
  - (a) the control and management of the fire-fighting resources of the Fire Service; and
  - (b) the training of officers and fire-fighters; and
  - (c) the inspection of brigades, equipment and facilities.
- (3) The Chief Officer must perform such other functions as are imposed on the Chief Officer by this or any other Act or as may from time to time

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be imposed on the Chief Officer by the Commission.

- (4) The Chief Officer may do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of the Chief Officer's functions.

10A. . . . .

**11. Directions from Minister**

- (1) The Minister may give written directions to the Commission regarding the performance and exercise of its functions and powers under this Act and the Commission must comply with any such directions.
- (2) The fact that the Minister has power to give directions to the Commission under this section or gives such directions does not have the effect of –
  - (a) making the Commission the servant or agent of the Crown for the purposes of this or any other Act; or
  - (b) conferring on the Commission any status, privilege, or immunity of the Crown.

12 - 13. . . . .

**14. State Fire Management Council**

- (1) A State Fire Management Council is established.
- (2) The Council consists of –
  - (a) a person nominated by the Minister; and
  - (b) the Chief Officer; and
  - (c) the person for the time being holding, in the Fire Service, an office or position determined by the Chief Officer; and
  - (d) the chief executive officer of the Forestry corporation; and
  - (e) a person nominated by the chief executive officer of the Forestry corporation; and
  - (f) the Director of National Parks and Wildlife; and
  - (g) a person nominated by the Director of National Parks and Wildlife; and
  - (h) a person nominated by the Tasmanian Farmers' and Graziers' Association; and
  - (i) a person nominated by the Forest Industries Association of Tasmania; and
  - (j) a person nominated by the Local Government Association of Tasmania.
- (3) The member of the Council referred to in subsection (2)(a) is chairperson of the Council.

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- (4) The members of the Council referred to in paragraphs (a), (e), (g), (h), (i) and (j) of subsection (2) are appointed by the Governor.
- (5) The Minister may require a body referred to in paragraph (h), (i) or (j) of subsection (2) to submit a list of names within a specified period, being a period of not less than 30 days.
- (6) If a body referred to in paragraph (h), (i) or (j) of subsection (2) fails to comply with subsection (5), the Minister may nominate a person for the purposes of that paragraph.
- (7) If a body referred to in paragraph (h), (i) or (j) of subsection (2) changes its name, the Governor may, by order, amend that paragraph by substituting the body's new name.
- (8) If a body referred to in paragraph (h), (i) or (j) of subsection (2) ceases to exist, the Governor may, by order, amend that paragraph by substituting the name of a body which the Governor is satisfied substantially represents the interests represented by the first-mentioned body.
- (9) Schedule 5 has effect with respect to the membership and meetings of the Council.

**15. Functions of Council**

- (1) The Council has the following functions:
  - (a) to develop a State vegetation fire management policy to be used as the basis for all fire management planning;

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- (b) to advise and report regularly to the Minister on such matters relating to the administration of this Act, as it applies to vegetation fire management, as are referred to it by the Minister and on such matters concerning vegetation fire management as, in the opinion of the Council, should be brought to the attention of the Minister;
- (c) to advise the Commission on such matters relating to the prevention and mitigation of vegetation fires as are referred to it by the Commission or land managers and on such other matters as, in the opinion of the Council, should be brought to the attention of the Commission;
- (d) to perform such other functions relating to the prevention or mitigation of vegetation fires as the Minister may direct;
- (e) to provide an annual report to the Minister on its activities, for inclusion in the annual report of the Commission prepared under section 107G;
- (f) to provide an annual report to the Commission on the activities of the Fire Management Area Committees, for inclusion in the annual report of the Commission prepared under section 107G.

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- (2) The Council is to consider each fire protection plan submitted to it under section 20(1)(c) and may –
  - (a) approve the plan as submitted; or
  - (b) approve the plan subject to such modifications as it thinks fit; or
  - (c) reject the plan and instruct the Committee to recast the plan.
- (3) The Council is to perform its functions in respect of Wellington Park in a manner that is consistent with the purposes for which Wellington Park is set aside under the *Wellington Park Act 1993* and with any management plan in force in respect of Wellington Park.
- (4) The Council is to perform its functions in respect of any reserved land, as defined in the *Nature Conservation Act 2002*, in a manner that is consistent with the purposes for which the reserved land is set aside under the *National Parks and Reserves Management Act 2002* and with any management plan in force in respect of the reserved land.

***Division 2 – Regional and local administration***

16. . . . .

**17. Fire Management Areas**

- (1) The Council, by notice published in the *Gazette*, may declare any area of the State to be a Fire Management Area.
- (2) The Council, by the notice, may –
  - (a) assign a name to the Fire Management Area; and
  - (b) publish a map of the Fire Management Area.
- (3) The boundaries of Fire Management Areas need not coincide with the boundaries of municipal areas.
- (4) A notice under subsection (1) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

**18. Fire Management Area Committees**

- (1) The Council must establish a committee, called a Fire Management Area Committee, in respect of each Fire Management Area to be responsible for providing effective fire management in that area.
- (2) A Committee is to consist of –
  - (a) the Chief Officer or an officer of the Fire Service nominated by the Chief Officer; and

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- (b) a representative of each local council whose municipal area lies wholly or partly within the Fire Management Area or a person jointly nominated by those local councils; and
  - (c) if the Fire Management Area contains or is adjacent to State forest – a person nominated by the chief executive officer of the Forestry corporation; and
  - (d) if the Fire Management Area contains or is adjacent to any reserved land within the meaning of the *Nature Conservation Act 2002* – a person nominated by the Secretary of the responsible Department in relation to the *National Parks and Reserves Management Act 2002*; and
  - (e) if the Fire Management Area includes any part of Wellington Park – a person nominated by the Wellington Park Management Trust; and
  - (f) a person jointly nominated by the brigade chiefs of the brigades wholly or partly within the Fire Management Area.
- (3) The Council may appoint additional members to a Committee on the recommendation of that Committee.
  - (4) A member elected by the members and approved by the Council is chairperson.
  - (5) A Committee is to meet at least twice a year.



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- (6) A meeting of a Committee may be convened by the chairperson or by any 2 members.
- (7) The Council may direct a Committee to meet at a particular place and the Committee must comply with that direction.
- (8) A Committee must keep accurate minutes of its meetings.
- (9) Except as provided in this section, a Committee may regulate its own procedure.

19. . . . .

**20. Functions and powers of Fire Management Area Committees**

- (1) A Committee has the following functions:
  - (a) to co-ordinate fire management activities within its Fire Management Area, including –
    - (i) community education and information; and
    - (ii) fuel management;
  - (b) to identify and assess community bushfire risks in its Fire Management Area and to prioritise strategic works in response to those risks;

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- (c) to submit to the Council, on or before 30 September of each year, a fire protection plan for its Fire Management Area for the next 12 months commencing on 1 October;
- (d) to ensure that its fire protection plan is consistent with –
  - (i) the State fire protection plan developed pursuant to section 8(1)(d); and
  - (ii) the State vegetation fire management policy developed pursuant to section 15(1)(a); and
  - (iii) such instructions or guidelines as the Council may from time to time issue to the Committee regarding the fire protection plan;
- (e) to advise the Council on such matters relating to fire management and the Committee's other functions as the Council may refer to the Committee;
- (f) to advise the Council on such matters concerning fire management as, in the opinion of the Committee, should be brought to the Council's attention;
- (g) to perform such other functions relating to the prevention or mitigation of vegetation fires as the Council may direct.

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- (2) A Committee has power to do all things necessary or convenient to be done in connection with the performance of its functions.
- (3) A Committee is to perform its functions in respect of Wellington Park in a manner that is consistent with the purposes for which Wellington Park is set aside under the *Wellington Park Act 1993* and with any management plan in force in respect of Wellington Park.
- (4) A Committee is to perform its functions in respect of any reserved land, as defined in the *Nature Conservation Act 2002*, in a manner that is consistent with the purposes for which the reserved land is set aside under the *National Parks and Reserves Management Act 2002* and with any management plan in force in respect of the reserved land.
- (5) In this section –  

*fire protection plan* means a plan that describes the prevention, preparation, response and recovery arrangements for one or more hazards.

**21. Directions in relation to Fire Management Areas**

- (1) The Commission may give directions in writing to the Council in respect of the performance of the Council's functions in relation to the management of Fire Management Areas.

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- (2) The Council is to comply with directions given by the Commission under subsection (1).
- (3) The Council may give directions in writing to a Committee in respect of the performance of the Committee's functions in relation to the management of Fire Management Areas.
- (4) The Committee is to comply with directions given by the Council under subsection (3).

***Division 3 – Staff***

22 - 23. . . . .

**24. Appointments, &c.**

- (1) Subject to and in accordance with the *State Service Act 2000*, persons may be appointed or employed for the purposes of this Act.
- (2 - 5) . . . . .
- (6) A person appointed pursuant to this section who immediately before his appointment was a contributor to a prescribed superannuation scheme may, within one month after his appointment, elect to continue to contribute to that scheme.
- (7 - 7C) . . . . .
- (8) For the purposes of this Act, the Commission may make arrangements with the Head of a State Service Agency for such State Service officers and State Service employees employed in that

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Agency as may be considered necessary to be made available to the Commission to enable it to perform its functions under this Act and such officers and employees may, in conjunction with State Service employment, serve the Commission in any capacity.

(9 - 11) . . . . .

24A. . . . .

**PART III – BRIGADES**

***Division 1 – Establishment and composition of brigades, &c.***

25. . . . .

**26. Brigades**

- (1) The Commission may establish brigades.
- (2) A brigade may be established as a –
  - (a) permanent brigade; or
  - (b) composite brigade; or
  - (c) volunteer brigade.
- (3) If a permanent brigade is established –
  - (a) the Commission must appoint an employee as brigade chief of the brigade and appoint such employees as fire officers and fire-fighters of the brigade as the Commission considers necessary or expedient; and
  - (b) the Commission may appoint such volunteers as fire officers and fire-fighters of the brigade as the Commission considers necessary or expedient.
- (4) If a composite brigade is established, the Commission must –

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- (a) appoint an employee as brigade chief of the brigade; and
  - (b) appoint such employees and volunteers as fire officers and fire-fighters of the brigade as the Commission considers necessary or expedient.
- (5) If a volunteer brigade is established, the Commission must –
- (a) appoint a volunteer as brigade chief of the brigade; and
  - (b) appoint such volunteers as fire officers and fire-fighters of the brigade as the Commission considers necessary or expedient.
- (6) The Commission must not appoint a volunteer as an officer of a brigade unless that volunteer has been so nominated or elected by the other volunteers who are members of that brigade.
- (7) A brigade and its members must carry out such functions as the Chief Officer from time to time directs.
- (8) The Commission at any time may disband a brigade or amalgamate brigades.

**27. Operational districts of brigades**

- (1) When the Commission establishes a brigade it may determine which part of the State is to be the operational district within which that brigade is to operate.

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- (2) Before the Commission exercises its power under subsection (1), it must consult with each Committee having responsibilities in respect of the proposed operational district.
- (3) The Commission may publish notice and particulars of a determination under subsection (1) in the *Gazette*.

28. . . . .

**29. Powers and functions of brigade chiefs**

- (1) The brigade chief of a brigade shall, subject to the directions of the Chief Officer, control, direct, and regulate the working of the brigade.
- (2) Subject to section 39, the brigade chief of a brigade shall, on receipt of a call to a fire or potential fire, immediately after the first alarm, direct or cause members of his brigade to proceed with all possible speed to the place where the fire or potential fire is and take all necessary action to extinguish the fire or prevent an occurrence of fire and to save all property.
- (3) A brigade chief –
  - (a) may, either alone or with other persons under his command, enter and, if necessary, force open any outer or inner doors of any premises which are on fire or in the vicinity of a fire for the purpose of taking any action which he considers



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necessary for extinguishing, or for preventing the extension of, the fire, and may take, or give directions for taking, any equipment onto or over any land or premises which he considers convenient for the purpose;

- (b) may take any measures which appear to him necessary or expedient for the protection of life and property, and may cause –
  - (i) any premises to be entered, taken possession of, or pulled down;
  - (ii) any ship to be entered, taken possession of, or sunk; or
  - (iii) any premises or ship to be otherwise damaged, destroyed, or removed –

for the purpose of extinguishing or preventing the spread of fire;

- (c) may cause water to be shut off from any main or pipe in order to obtain a greater pressure and supply of water for the purpose of extinguishing any fire;
- (d) may give such directions or take such other action as he considers necessary –
  - (i) for the closure of any street, road, lane, or other thoroughfare in the vicinity of a fire; and

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- (ii) for regulating the use by persons or vehicles of any street, road, lane, or other thoroughfare in the vicinity of a fire;
- (e) may, at any time, pull down or shore up any wall or premises damaged by fire which may be, or may be likely to become, dangerous to life or property;
- (f) shall have the control and direction of any industry fire brigade present at any fire, and of any persons who voluntarily place their services at his disposal;
- (g) may remove or cause to be removed any person, vehicle, or thing whose presence at or in the vicinity of any fire in his opinion interferes with the operations of the brigade, and may take any measures which appear to him expedient for the protection of life and property;
- (h) may cause the debris resulting from a fire and any premises or ship where a fire has occurred to be searched, and may remove and keep possession of anything which may prove the cause of a fire;
- (i) may cause the supply of gas, electricity or other form of energy to any premises in the vicinity of a fire to be shut off or disconnected;
- (j) may cause any vegetation or flammable materials in the vicinity of a fire to be removed or destroyed;

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- (k) may cause fire breaks to be made to prevent the outbreak or spread of fire;
  - (l) may cause the access to any place threatened or likely to be threatened by fire to be made or improved; and
  - (m) may exercise such other powers and perform such other functions as may be prescribed.
- (4) A brigade chief shall not exercise the powers conferred on him under –
- (a) subsection (3)(d) where a police officer is present at the fire; or
  - (b) subsection (3)(h) where an investigation to ascertain whether a crime has been committed is being held by one or more police officers, without the approval of that officer or the most or more senior of those officers.
- (5) Every person supplying gas, electricity, or other form of energy to any premises which are on fire or any premises in the vicinity of any fire shall, on being directed by a brigade chief to do so, immediately send some competent person to shut off or disconnect the supply of the gas, electricity, or other form of energy to those premises.
- (6) A person supplying gas, electricity, or other form of energy to any premises shall not be liable for any damage by reason of any interruption of the supply of the gas, electricity,

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or other form of energy resulting from the carrying out of any direction given under subsection (5).

- (7) Where a fire or a potential fire occurs on or in any land or premises, and a brigade chief of a brigade in attendance at the fire is satisfied that, by reason of the nature of the fire or potential fire on or in the land or premises, it is necessary or desirable to do so for the purpose of preventing outbreaks of fire, or the entry of persons on areas of danger, or damage to, or interference with, any property or goods, the brigade chief may, when the fire has been extinguished, place in charge of the land or premises at, or in the vicinity of, the fire such members of the brigade or other persons as the brigade chief directs.
- (8) Where members of a brigade or any other persons have been placed in charge of any land or premises in accordance with subsection (7), the brigade chief may give to those members or persons such directions as he considers necessary for the purpose of this section, and shall, as soon as practicable after giving the directions, provide those members or persons with a written authority specifying the time for which, and the conditions under which, they have been so placed in charge of the land or premises.
- (9) A member of a brigade or other person placed in charge of any land or premises in accordance with subsection (7) shall, while remaining in charge of the land or premises, give effect to all

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directions given to him in relation to the land or premises by the brigade chief.

- (10) The brigade chief of a brigade, in addition to the functions and powers imposed and conferred on him under subsections (1), (2), (3), (7), and (8), shall –
- (a) cause a register to be kept containing the names, ages, occupations, and places of residence of all members of the brigade;
  - (b) summon at least once a month all or as many members of the brigade as may be required for practice in order to render the members fit and efficient for service;
  - (c) have at all times the immediate charge and control of all equipment, premises, and other property of the Commission allocated to his brigade, and shall cause that equipment, those premises, and that property to be kept in a fit state at all times for efficient service;
  - (d) at all times have free access to any land, ship, or premises for the purpose of ascertaining and reporting to the Chief Officer on any infringement of the laws relating to the storage of hazardous materials or flammable liquid, or on any matters relating to the storage, in or on that land, ship, or premises, of any packages, sawdust, shavings, hay, or straw, or other flammable substance or matter;

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- (e) at all times have free access to any –
- (i) premises specified in a licence granted under the *Liquor Licensing Act 1990*; or
  - (ia) premises set up for the purpose of providing overnight lodging facilities for tourists or travellers for a consideration; or
  - (ii) place of assembly within the meaning of the *Public Health Act 1997*; or
  - (iii) place of public entertainment within the meaning of Division 8 of Part 5 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* –

and shall report to the Chief Officer any case where the provisions of this Act are not being observed in any of the premises specified in subparagraphs (i), (ii) and (iii), and may in respect of any of those provisions, exercise all the powers and authorities that are conferred on inspectors by or under any of the Acts specified in those subparagraphs;

- (f) make such investigations and render such reports to the Chief Officer as the Chief Officer may require; and

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- (g) furnish a Committee with such advice, assistance, and information as the Committee requires to enable it to carry out its functions under this Act.
- (11) The powers and functions of a brigade chief under this section may, on the brigade chief's instructions or in the case of the brigade chief's absence or incapacity, be exercised or performed by the most senior fire officer of the brigade or, in the absence of a fire officer, the most senior fire-fighter of the brigade.
- (12) In relation to an emergency involving the escape of a dangerous substance or a situation that involves imminent danger of such an escape, a brigade chief has the same powers and functions as the brigade chief has under this section in relation to a fire or potential fire.
- (13) In this section –
- ASCC* means the Australian Safety and Compensation Council, being the tripartite (government, employer and employee) body of that name that was established under the executive power of the Commonwealth to –
- (a) lead and coordinate national efforts to improve occupational health and safety and workers compensation arrangements; and
- (b) declare national standards and codes of practice in relation to

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occupational health and safety matters; and

- (c) provide government with policy advice on those matters;

*dangerous substance* is a substance that –

- (a) has the potential to cause harm to persons, property or the environment because of one or more of the following:
- (i) the chemical properties of the substance;
  - (ii) the physical properties of the substance;
  - (iii) the biological properties of the substance; and
- (b) is, but is not limited to, the following:
- (i) a dangerous good, within the meaning of the *Dangerous Goods (Road and Rail Transport) Act 2010*;
  - (ii) a combustible liquid under the Australian Standard AS 1940 The Storage and Handling of Flammable and Combustible Liquids



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made by Standards Australia, as amended from time to time;

- (iii) a substance that is, or is capable of being, classified as a hazardous substance according to the Approved Criteria for Classifying Hazardous Substances published by the ASCC;
- (iv) an agricultural chemical product within the meaning of the Agvet Code of Tasmania;
- (v) a veterinary chemical product within the meaning of the Agvet Code of Tasmania;

*Standards Australia* means Standards Australia International Ltd ACN 087 326 690.

30 - 32A. . . . .

**33. Groups of brigades**

- (1) For the purpose of preventing or extinguishing fires or dealing with civil emergencies, 2 or

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more brigades may combine to form a group of brigades.

(2) On being notified of the formation of a group of brigades, the Commission may approve or refuse to approve the formation of the group.

(2A) If 2 or more brigades combine to form a group of brigades, the Commission may appoint a volunteer brigade chief as group officer of that group of brigades.

(3) The Commission may disband a group of brigades.

(4) . . . . .

34. . . . .

**35. Powers and functions of group officers**

Where a group officer is controlling a fire-fighting operation or an operation in respect of a civil emergency, the powers and functions imposed by this Act on a brigade chief may be performed and exercised by the group officer.

***Division 2 – Miscellaneous provisions***

36. . . . .

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**37. Salvage corps or fire brigade may not be constituted unless authorized**

A person shall not, without the authority of the Commission, constitute or maintain –

- (a) any salvage corps for the purpose of salvaging property at fires; or
- (b) any fire brigade for the purpose of extinguishing fires, elsewhere than on the premises or land owned or occupied by that person or at which that person is employed.

Penalty: Fine not exceeding 26 penalty units.

38. . . . .

**39. Attendance at fires**

- (1) On receiving a call to attend a fire or potential fire which is out of the area of operation of a brigade, the brigade chief shall –
  - (a) cause that brigade to attend the fire or potential fire; or
  - (b) attempt to arrange for another brigade to attend that fire or potential fire.
- (2) . . . . .
- (3) The functions conferred on a brigade chief under subsection (1) shall, on his instructions or in the

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case of his absence or incapacity, be performed by the most senior fire officer of the brigade.

(4) . . . . .

**40. Assistance in relation to civil emergencies**

(1) A brigade chief, at the request of any person, may cause the brigade under his or her control to render assistance in respect of a civil emergency.

(2) The power conferred on a brigade chief under subsection (1) shall, on his instructions or in the case of his absence or incapacity, be exercised by the most senior fire officer of the brigade.

(3) Where a brigade renders assistance pursuant to subsection (1), any member of the brigade who participates in the rendering of that assistance is taken to be engaged in fire-fighting operations for the purposes of section 5 of the *Workers Rehabilitation and Compensation Act 1988* and section 19 of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*.

(4) . . . . .

**41. Services outside fire-fighting**

(1) Subject to the directions, or with the approval, of the Chief Officer, a brigade chief may, if he thinks fit –

(a) employ any brigade under his command, or allow that brigade to be employed, in

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the performance of services other than fire-fighting, and use any equipment of the Commission, or allow any such equipment to be used, in the provision of those services; and

- (b) hire out or lend to, or make available for the use of, any person, any equipment of the Commission.
- (2) The Commission may fix scales of charges in respect of the hiring out, lending, or making available of any equipment under that subsection.
- (3) Where any equipment is hired out, lent, or made available under subsection (1), a charge determined in accordance with the scale of charges referred to in subsection (2) is payable to the Commission.
- (4) Where it appears to the Commission that the collection of a charge that has been imposed under this section would cause undue hardship on the person on whom it is imposed, the Commission may waive the whole or any part of the charge.
- (5) Where a brigade is engaged in the performance of services pursuant to subsection (1), a member of the brigade who participates in the rendering of those services is taken to be engaged in fire-fighting operations for the purposes of section 5 of the *Workers Rehabilitation and Compensation Act 1988* and section 19 of the *Asbestos-Related*

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*Diseases (Occupational Exposure)*  
*Compensation Act 2011.*

**42. Chain of command**

The Commission shall determine the chain of command and order of seniority of members of the Fire Service and members of brigades that applies during fire-fighting operations, and such a determination is binding on the persons to whom it relates.

**43. Powers of forest officers**

- (1) Subject to this Part, a forest officer may take such steps as he considers necessary to ascertain whether any fire is burning on any of the land specified in subsection (2) and to control or extinguish any fires so burning, and, for that purpose, he may enter upon that land taking with him such persons to assist him as he may require.
- (2) For the purposes of subsection (1), the following land is specified:
  - (a) any land within a fire protected area where that area includes the whole or any part of a State forest, or any Crown land; and
  - (b) any land in, or within 3 kilometres of the boundaries of, any State forest.
- (3) Notwithstanding anything in section 42, but subject to section 44, a forest officer who is

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present at a fire burning within a fire protected area where that area includes the whole or any part of a State forest, or any Crown land, shall have supreme charge of the operation of extinguishing the fire.

- (4) Where a forest officer is present at a fire (not being a fire referred to in subsection (3)) he may assist the person having supreme charge of the operation of extinguishing the fire, and, if he so assists that person, any employees of the Forestry corporation under his control shall assist that person in carrying out that operation in accordance with his directions.
- (5) Where a forest officer is present at a fire at which there is not present a person who has supreme charge of the operation of extinguishing the fire, he may, if he considers the fire constitutes a danger to any State forest, or any Crown land, assume supreme charge of extinguishing or controlling the fire.

**44. Powers of officers of Hydro-Electric Corporation**

Notwithstanding any other provision of this Act, where a fire is burning on any land that is a fire protected area by virtue of section 53(2), any authorized officer of the Hydro-Electric Corporation who is present at the fire and who is authorized by the Hydro-Electric Corporation to do so shall have supreme charge of the operation of extinguishing the fire.

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**45. Powers of authorized national park officers**

- (1) Notwithstanding anything in section 42, but subject to sections 43 and 44, where reserved land in the class of national park, State reserve, nature reserve or historic site under the *Nature Conservation Act 2002* is within a fire protected area and a fire occurs in that reserved land, an authorized national parks officer who is present at the fire shall have supreme charge of the operation of extinguishing the fire.
- (2) For the purposes of subsection (1), ***authorized national parks officer*** means a person authorized by the Director of National Parks and Wildlife to exercise the powers of an authorized national parks officer under that subsection.

46. . . . .

**47. Police officers at fires**

- (1) A police officer who is present at a fire shall aid the appropriate fire officer in maintaining the fire officer's authority and in enforcing compliance with the orders and directions of the fire officer in the performance of his functions under this Act.
- (2) A police officer who is present at a fire shall aid a brigade or group of brigades in the performance of its functions under this Act.



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- (3) A police officer of his own motion may, or, at the request of the appropriate fire officer, shall –
- (a) close any street, road, lane, or other thoroughfare in the vicinity of a fire;
  - (b) regulate the use of any street, road, lane, or other thoroughfare in the vicinity of the fire; and
  - (c) order to withdraw or, in the event of a refusal to withdraw, remove –
    - (i) any person who, by his presence or otherwise, interferes with any fire-fighting operations; or
    - (ii) any person, other than a member of the Fire Service, who is in or on any land or premises that is burning or is threatened by fire.
- (4) For the purpose of removing a person from any land or premises as provided in subsection (3)(c), a police officer may use such force as may be reasonably necessary.
- (5) In this section *fire officer* means the person who, under this Act, is in charge of a fire-fighting operation.

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Part IV – Preventing, controlling, and extinguishing fires

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**PART IV – PREVENTING, CONTROLLING, AND  
EXTINGUISHING FIRES**

**48. Inspection of land and premises**

- (1) In this section, *authorised person* means an officer of the Fire Service who is authorised in writing by the Commission to enter and inspect land and premises.
- (2) An authorised person may enter and inspect any land or premises to which this section applies, together with such other persons as he considers necessary, and shall make such recommendations in respect of that land or premises as he considers necessary or desirable for the purpose of –
  - (a) preventing fire;
  - (b) minimizing fire risk; or
  - (c) protecting life and property.
- (3) On receipt of a recommendation under subsection (2), the Commission may, if it considers it desirable in the public interest to do so, by notice in an approved form given to the owner or occupier of the land or premises in respect of which the recommendation is made, or the agent of the owner, require the owner, occupier, or agent, as the case may be, to take such steps as it may require and as may be specified in the notice for –
  - (a) preventing fire;

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- (b) minimizing fire risk; or
    - (c) providing precautions for protecting life and property –
- in respect of that land or premises.
- (4) A notice referred to in subsection (3) is given for the purpose of that subsection if –
    - (a) it is delivered to the owner or occupier of the land or premises to which it relates or to the agent of the owner; or
    - (b) it is sent by certified mail to the owner, occupier, or agent referred to in paragraph (a).
  - (5) A person to whom a notice is given under subsection (3) who fails, within such time as may be specified in the notice, to comply with the notice is guilty of an offence and liable to a fine not exceeding 26 penalty units.
  - (6) This section applies to such classes of land and premises as may be prescribed.

**49. Fire hazards**

- (1) Where, in the opinion of the Commission or an authorized officer any hedge, vegetation, rubbish, or similar matter in or on any land or premises is in such a condition, or, if permitted to remain in or on the land or premises, would become in such a condition as to constitute a fire danger, the Commission or authorized officer may, by notice in an approved form given to the

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occupier of the land or premises, require the occupier to take such steps as the Commission or authorized officer may require, and as may be specified in the notice for the –

- (a) trimming, cutting back, or removal of the hedge; or
  - (b) burning off, or removal of, the vegetation, rubbish, or matter.
- (2) A notice referred to in subsection (1) is given for the purpose of that subsection if –
- (a) it is delivered to the occupier of the land or premises to which it relates; or
  - (b) it is sent by certified mail to the occupier, referred to in paragraph (a).
- (3) An occupier to whom a notice is given under subsection (1) who fails, within such time as may be specified in the notice, to comply with the notice, is guilty of an offence and liable to a fine not exceeding 26 penalty units.
- (4) The owner of any land or premises which is unoccupied shall be deemed to be the occupier for the purpose of this section.
- (5) Where the Commission or an authorized officer reasonably considers that there is on any land –
- (a) a building or structure that –
    - (i) by reason of its defective construction or condition, inadequate insulation or

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- proximity to inflammable materials – is likely to catch fire and endanger the life of any person; or
- (ii) by reason of its age, condition or the combustible nature of its materials – is likely in the event of a fire to endanger the life or property of any person; or
  - (iii) by reason of the absence of means of escape or adequate means of escape – is likely in the event of a fire to endanger the life of any person; or
  - (iv) by reason of neglect or damage – is in a structural condition likely to endanger the life or property of any person; or
- (b) an accumulation of inflammable material or material liable to spontaneous combustion constituting a fire danger to the life or property of any person; or
  - (c) an escape of an inflammable liquid or vapour constituting a fire danger to the life or property of any person; or
  - (d) a hedge, scrub, bush, grass, weeds or other growth that is likely, then or after drying off, to constitute a fire danger to the life or property of any person –

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the Commission or authorized officer may, by notice in writing given to the council of the municipal area in which that land is situated, require that local council to deal with the fire danger, within such reasonable period of not less than 30 days as is specified in the notice, as if that fire danger were a nuisance under the *Local Government Act 1993*.

- (6) If the occupier or local council refuses or fails to comply with a requirement of the Commission or an authorized officer under subsection (1) or (5), members of the Fire Service authorised by the Commission for the purpose may enter on the land in question and do all such acts as are reasonably necessary to eliminate the fire danger.
- (7) The expenses incurred by the Commission in exercising the powers referred to in subsection (6) are a debt due from the occupier or the local council, as the case may be, to the Commission and are recoverable in a court of competent jurisdiction.
- (8) Where there is on any land any structure, material, or thing that, in the opinion of the Commission, constitutes a fire danger, members of the Fire Service may enter on that land and do all such acts as the Commission considers necessary to remove that risk.
- (9) The expenses incurred by the Commission in the exercise of the powers conferred on it by subsection (8) are a debt due from the occupier

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of the land to the Commission and are recoverable in a court of competent jurisdiction.

(10) Where –

- (a) pursuant to subsection (5), a notice has been served by a local council under section 200 of the *Local Government Act 1993* in respect of land; and
- (b) services have been rendered by a brigade at a fire on that land; and
- (c) the notice had not been complied with immediately before the rendering of those services by the brigade at that fire –

proceedings may be brought in a court of competent jurisdiction by the Commission against the occupier of that land for the recovery of an amount, being a charge for the services rendered by the brigade at the fire determined in accordance with the scale of charges fixed by the Commission under section 109(1).

- (11) In any proceedings brought by the Commission under subsection (10), the court may decline to make an order for the recovery of the amount referred to in that subsection if the person against whom the proceedings are brought satisfies the court that he took all reasonable steps to comply with the notice or that it was reasonable in all the circumstances that he did not comply with the notice.
- (12) In this section, *authorized officer* means an officer of the Fire Service authorized in writing

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by the Commission to give notices under this section.

**50. Protection of public premises**

- (1) On a request made to it by the appropriate authorized officer or a local council, the Commission shall provide such information or advice as may be required in relation to the protection from fire of –
  - (a) a place of assembly within the meaning of the *Public Health Act 1997*;
  - (b) a place of public entertainment within the meaning of Division 8 of Part 5 of the *Local Government (Building and Miscellaneous Provisions) Act 1993*; and
  - (c) premises specified in a licence or permit granted under the *Liquor Licensing Act 1990*.
  - (d) . . . . .
- (2) For the purposes of subsection (1), ***authorized officer*** means –
  - (a) the Secretary of the responsible Department in relation to the following enactments:
    - (i) *Public Health Act 1997*;
    - (ii) *Local Government Act 1993*;
    - (iii) *Liquor Licensing Act 1990*;



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- (iv) . . . . .
  - (v) *Education Act 2016*;
  - (vi) . . . . .
  - (vii) *Crown Lands Act 1976*; or
- (b) such other persons as may be prescribed.

**51. Storage of hazardous and flammable material**

- (1) Where the Commission is satisfied that any hazardous or flammable material is stored or about to be stored or transported or used in such a place or under such conditions as to constitute a danger to life or property, the Commission may –
- (a) by notice in writing, require the owner or person in charge of the material to take such measures as may be necessary to ensure the safe storage, transportation, or use of the material; or
  - (b) prohibit the storage, transportation, or use of the material.
- (2) An owner or a person in charge of any material referred to in subsection (1) who fails to comply with any requirement or prohibition imposed by the Commission under subsection (1) is guilty of an offence and liable to a fine not exceeding 26 penalty units.
- (3) Nothing contained in this section affects any provision of the *Explosives Act 2012*, *Work*

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*Health and Safety Act 2012 or Dangerous Goods  
(Road and Rail Transport) Act 2010.*

**52. Fire alarms**

- (1) The Commission may install and maintain in any public place such fire alarms as the Commission thinks necessary for the protection of life and property from fire, and, for that purpose, may carry out such works as may be necessary for that purpose.
- (2) Before exercising the power conferred on it by this section, the Commission shall notify any authority having control of the public place in which it proposes to install the fire alarm of its intention to do so, and shall have regard to any reasonable objections made by or on behalf of the authority.
- (3) If the Commission and any authority having control of a public place fail to agree as to whether or not any fire alarm shall be installed, or as to the location of any fire alarm, the decision of the Commission in respect of the installation or location is final.
- (4) Before exercising the power conferred on it by this section, the Commission shall consult with the Director, Environment Protection Authority.

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**53. Fire protected areas**

- (1) The Commission may, by notice published in the *Gazette*, declare a specified locality to be a fire protected area for the purposes of this Act.
- (2) The Commission, after consultation with the Hydro-Electric Corporation and by notice published in the *Gazette*, may declare an area of land vested in or occupied by the Hydro-Electric Corporation for hydro-electric works or purposes to be a fire protected area for the purposes of this Act.
- (3) An area of land declared under subsection (2) to be a fire protected area continues to be a fire protected area so long as it remains vested in or occupied by the Hydro-Electric Corporation or is required for hydro-electric works or purposes.
- (4) Any land that immediately before the commencement of the *Fire Service Amendment (Miscellaneous) Act 1994* was deemed to be a fire protected area ceases to be a fire protected area on the commencement of that Act.

54 - 55. . . . .

**56. Formation of firebreaks**

- (1) In this section, a reference to a firebreak authority is a reference to the Commission or the local council exercising on behalf of the

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Commission any powers conferred by this section.

- (2) The Commission may, in accordance with this section, cause the formation of such firebreaks as it considers necessary or desirable to arrest the spread of fires that may occur in any part of the State or to facilitate the suppression of any fires.
- (3) A local council may, in accordance with this section, cause the formation in its municipal area of such firebreaks as it considers necessary or desirable to arrest the spread or to facilitate the suppression of fires.
- (4) A firebreak authority may, for the purposes of this section, make arrangements with any other person for the formation of a firebreak, and, without prejudice to the generality of the foregoing provisions of this subsection, any such arrangements may be made with the holder of an office, or with a body established under an enactment, and the holder of that office for the time being or that body shall be deemed to have power to enter into and carry out those arrangements.
- (5) Where, under this section, a firebreak authority requires the formation of a firebreak on any particular land, the authority may serve notice in writing on the occupier of the land requiring the formation of that firebreak in such manner as is specified in the notice and within such time as is so specified.

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- (6) An occupier of land who is aggrieved by a notice served on him or her under subsection (5) may apply to the Magistrates Court (Administrative Appeals Division) for a review of the notice.
  
- (7 - 10) . . . . .
  
- (11) Where an occupier of land refuses to comply with the requirements of a notice served under subsection (5) with respect to that land or those requirements are not complied with, the firebreak authority by which the notice was served may enter onto the land and do such things as are necessary to form the firebreak.
  
- (12) Subsection (11) does not authorize a firebreak authority to destroy, injure, or remove any living trees that are required for the purposes of shade or shelter, or as a windbreak, or for the production of food for human beings or animals, or that contain timber of commercial value.
  
- (13) The expenses reasonably incurred by a firebreak authority in the exercise of the powers conferred on it by subsection (11) are a debt due from the occupier of the land to the firebreak authority and are recoverable in a court of competent jurisdiction.
  
- (14) If, having regard to the circumstances of any particular case, a firebreak authority considers it reasonable to do so, it may waive the whole or any part of a debt otherwise recoverable under subsection (13).
  
- (15) A reference in this section to the formation of a firebreak includes a reference to the clearing of

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the means of access to a firebreak formed or to be formed.

**57. Firebreaks on Crown land**

- (1) Subject to this section, a person who occupies land may, with the consent of the Minister administering the *Crown Lands Act 1976*, take, or cause to be taken, such steps as are necessary to form a firebreak on Crown land designed to arrest fires that may spread on to land in his occupation or to facilitate the suppression of fires that are likely to spread on to that land.
- (2) For the purpose of taking such steps as are referred to in subsection (1), a person may enter on Crown land with such vehicles and other equipment as may be required for the purpose.
- (3) A person may not under subsection (1) take, or cause to be taken, steps to form a firebreak on land that is more than 60 metres from the boundary of land that he occupies.
- (4) Except with the permission, in writing, of the Director-General of Lands, this section does not authorize the entry on to, or the formation of a firebreak on –
  - (a) any Crown land that is occupied or being used or managed by, or for the purposes of, any department or instrumentality of the State; or
  - (b) any Crown land that is subject to any estate, interest, or right pursuant to which

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the holder of the land has the right to occupy or use the land, or to carry out any operations on the land, or to take any products of the land or materials in the land, including materials beneath the surface.

**58. Powers of responsible fire officers**

- (1) In this section *responsible fire officer* means –
  - (a) in any case –
    - (i) the Chief Officer; or
    - (ii) an officer of the Fire Service; or
  - (b) in the case of a fire protected area – an authorized national parks officer within the meaning of section 45 or a forest officer.
- (2) Where, in the opinion of a responsible fire officer, a fire constitutes, or, if it is not promptly extinguished or controlled, is likely to constitute, a fire danger, he may order the occupier of any land on which the fire is burning or from which it has spread, to take, or assist in the taking of, such steps as are specified in the order to extinguish or control the fire.
- (3) An order under subsection (2) is sufficient authority for the person to whom it is addressed to take, or assist in taking, as required by the order, the steps specified in the order and, for that purpose, to enter onto any land of which he

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is not the occupier, except that he is not entitled by virtue of the order to enter on, or do anything on, any land contrary to the express directions given to him by the occupier of that land.

- (4) A person who fails to comply with an order given him under subsection (2) is guilty of an offence against this Act.
- (5) In any prosecution relating to a charge for an offence under subsection (4), the defendant has a defence to that charge if he satisfies the court –
  - (a) that the failure to comply with an order given to him under subsection (2) arose from the directions given to him by the occupier of the land that he had to enter in order to comply with the order; or
  - (b) that he took all reasonable steps to comply with the order or that it was reasonable in all the circumstances that he did not comply with the order.
- (6) Where a person is convicted of the offence of failing to comply with an order given under subsection (2) to extinguish or control a fire burning on any land and services were rendered by a brigade at that fire, the court which convicted the person may, in addition to imposing a penalty in respect of that offence, order that person to pay an amount being a charge for the services rendered by the brigade at that fire determined in accordance with the scale of charges fixed by the Commission under section 109(1).



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**59. Liability of occupiers of Crown land**

Nothing in the foregoing provisions of this Part relieves an occupier of Crown land from any liability or obligation to which he is subject under the *Crown Lands Act 1976*, and the liabilities and obligations imposed under the foregoing provisions of this Part are in addition to those imposed under that Act.

**60. Powers of electricity entities in relation to lands subject to wayleave easements**

- (1) Notwithstanding any Act or law to the contrary, the appropriate electricity entity shall, for the purposes only of this Act, be deemed to be the occupier of land that is subject to a wayleave easement or affected by a wayleave contract that is in force under section 13 (1) of the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995*, and that electricity entity or an officer of that electricity entity authorized by it to do so may, if it or he thinks it necessary for the purpose of protecting any transmission lines, poles, or other equipment or works of that electricity entity, cause any vegetation or flammable material on that land to be burned off or removed, but, in the exercise of the powers conferred by this section, that electricity entity or such an officer is subject, in all respects, to the provisions of this Act.
- (2) In this section,

*electricity entity* means an electricity entity within the meaning of the *Electricity*

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*Supply Industry Act 1995* which is also a prescribed electricity entity within the meaning of the *Electricity Entities (Contributions) Act 1997*.

## **PART IVA – ACCREDITATION**

### **60A. Interpretation of Part**

In this Part –

*approved* means approved by the Chief Officer;

*bushfire hazard management plan* means a plan showing means of protection from bushfires in a form approved in writing by the Chief Officer.

### **60B. Application for accreditation**

- (1) A person may apply to the Chief Officer for accreditation to certify that –
  - (a) a bushfire hazard management plan is acceptable; or
  - (b) there is insufficient risk from bushfire to warrant any specific protection measures.
- (2) An application must be –
  - (a) made in the approved manner and form; and
  - (b) accompanied by any charge fixed in accordance with section 8A.
- (3) The Chief Officer may require a person who has applied for accreditation –

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- (a) to supply further information requested by the Chief Officer; and
- (b) to verify by statutory declaration any information supplied to the Chief Officer.

**60C. Requirements for accreditation**

The Chief Officer must not grant accreditation to an applicant unless satisfied that the applicant –

- (a) has the appropriate competence and capacity for which accreditation is sought; and
- (b) has the approved qualifications or has successfully completed any approved course; and
- (c) is covered, or is likely to be covered, by appropriate insurance; and
- (d) has complied with any or all of the requirements approved for the purposes of this section.

**60D. Determination of application**

- (1) On receipt of an application, the Chief Officer may –
  - (a) grant the application, with or without any conditions or restrictions; or
  - (b) refuse to grant the application.

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- (2) If the Chief Officer refuses to grant the application, the Chief Officer must provide the applicant with written reasons for the refusal within the relevant period.
- (3) In this section, *relevant period*, in relation to an application, means –
  - (a) 3 months after the application is received by the Chief Officer; or
  - (b) if the Chief Officer has requested further information, 3 months after the Chief Officer receives the last information requested.

**60E. Approved conditions and restrictions**

Accreditation granted to a person under this Part is subject to any conditions or restrictions that are approved for the purposes of this section and are applicable to the grant of accreditation.

**60F. Breach of condition or restriction**

An accredited person must not fail to comply with a condition or restriction of the person's accreditation.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 2 000 penalty units;  
or

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- (b) an individual, a fine not exceeding 400 penalty units.

**60G. Surrender, revocation or suspension of accreditation**

- (1) An accredited person may surrender the person's accreditation at any time.
- (2) The Chief Officer may suspend or revoke a person's accreditation if the Chief Officer considers that the person –
  - (a) is no longer competent; or
  - (b) no longer satisfies the requirements set out in section 60C.
- (3) The Chief Officer, by notice to an accredited person –
  - (a) may suspend the accreditation, or part of the accreditation, of the accredited person for a period determined by the Chief Officer; or
  - (b) may revoke the accreditation of the accredited person wholly or in part, with immediate effect or with effect from a specified future date; or
  - (c) may impose conditions or restrictions on the accreditation; or
  - (d) may vary conditions or restrictions to which the accreditation is subject.

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- (4) If the Chief Officer revokes the accreditation of an accredited person, the Chief Officer may, in the notice of revocation, declare that the accredited person is disqualified from applying for accreditation during a period specified in the notice.
- (5) Before making a decision under subsection (2) or (3), the Chief Officer –
- (a) must notify the person in writing –
    - (i) that the Chief Officer is considering making a decision under that subsection of the kind, and for the reasons, specified in the notice; and
    - (ii) that the person may, within 28 days or a longer period specified in the notice, make written representations to the Chief Officer showing cause why the decision should not be made; and
  - (b) must consider any representations made under paragraph (a)(ii) and not withdrawn.
- (6) If the Chief Officer suspends or revokes the accreditation of the accredited person wholly or in part, the Chief Officer must include in the notice of suspension or revocation –
- (a) the reasons for the suspension or revocation; and

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- (b) information about the person's appeal rights.
- (7) The Chief Officer may withdraw a suspension of the accreditation of a person under subsection (2) by written notice given to the person.
- (8) If, for any period, an accredited person is not covered by insurance that the Chief Officer considers appropriate, the person's accreditation is suspended for that period.

**60H. Accreditation cannot be transferred or assigned**

- (1) An accreditation –
  - (a) is personal to the person who holds it; and
  - (b) is not capable of being transferred or assigned to any other person or otherwise dealt with by the person who holds it; and
  - (c) does not vest by operation of law in any other person.
- (2) A purported transfer or assignment of an accreditation or any other purported dealing with an accreditation by the person who holds it is of no effect.
- (3) This section has effect despite anything in any Act or rule of law to the contrary.



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**60I. Appeals**

- (1) If a person is aggrieved by a decision of the Chief Officer to refuse, revoke or suspend the person's accreditation, the person may request the Chief Officer to review the decision.
- (2) If a person is not satisfied with a review under subsection (1), the person may appeal to the Magistrates Court (Administrative Appeals Division).

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**PART V – EMERGENCY PROVISIONS**

**61. Fire permit period**

- (1) The Commission, with the approval of the Minister, may by public notice declare any day, or any period specified in the notice, to be a fire permit period throughout the State or in respect of parts of the State.
- (2) The Commission, with the approval of the Minister, may by public notice –
  - (a) declare that a fire permit period has commenced throughout the State or in any specified parts of the State; and
  - (b) declare that that fire permit period has ended.
- (3) Where a fire permit period is declared pursuant to subsection (1), the Commission shall take such steps as it considers necessary or as may be prescribed for the purpose of giving publicity to the declaration.
- (4) For the purpose of this section, *public notice* means a notice published in a daily newspaper published in the State that circulates in the part of the State to which the notice relates.

**62. Powers of Commission during fire permit periods**

- (1) Where a fire permit period has been declared pursuant to section 61, the Commission may –

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- (a) take all necessary steps to abate the danger of fire, and for that purpose requisition the services of persons, animals, plant, machines, engines, articles, appliances, or materials for the purposes of fire-fighting operations; and
- (b) prohibit the use, at any place in the State, or in the part or parts of the State specified in the notice declaring that period, of any specified plant, machine, engine, article, appliance, or material that it considers likely to cause a risk of fire.
- (2) The Commission may make such orders, give such notices and directions, and do all such other acts as appear to it to be necessary or desirable for the purpose of enabling it to exercise the powers conferred on it by subsection (1).
- (3) An order, notice, or direction made or given by the Commission under subsection (2) –
- (a) may be made or given so as to apply –
- (i) to a specified person, or to the persons of a specified class, or to persons generally; or
- (ii) to fires generally or to fires of a specified class; or
- (iii) to specified premises, animals, plant, machines, engines, articles, appliances, or materials, or to premises, animals, plant, machines, engines, articles,

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appliances, or materials of a specified class;

(b) may be made or given so as to apply generally throughout the State or in specified parts of the State;

(c) may exempt –

(i) a person, or all or any persons included in a class of persons;

(ii) a particular class or kind of fire; or

(iii) premises, animals, plant, machines, engines, articles, appliances, or materials, of any class or kind –

from the operation of all or any of the provisions of the order, notice, or direction; and

(d) may contain such incidental or supplementary provisions as the Commission considers to be necessary or convenient for the purposes of the order, notice, or direction.

(4) An order, notice, or direction made or given by the Commission under this section may be notified by publishing it in the *Gazette* or in a daily newspaper published in the State that circulates in that part of the State to which the order, notice, or direction relates, or by serving a

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copy of it on the person or persons to whom it relates.

- (5) A person who contravenes or fails to comply with an order, notice, or direction made or given by the Commission under this section is guilty of an offence against this Act.

**63. Restrictions on lighting fires**

Without limiting section 66, a person shall not, during a fire permit period, light or cause to be lit, or maintain or use, a fire in the open air on any land for the purpose, or that is likely to have the effect, of clearing vegetation from that land or for a similar purpose unless that person takes all reasonable precautions to prevent the fire from spreading to adjoining land, and observes such precautions as are determined by the Commission and as may be required by a brigade chief or other officer of the Fire Service.

Penalty: Fine not exceeding 26 penalty units.

**64. Duties of occupier of land**

- (1) Where a fire is burning on any land during a fire permit period, the occupier of the land shall, immediately after becoming aware of the fire –
- (a) take diligent steps to extinguish the fire or to prevent it from spreading; and
  - (b) report the fire to –

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- (i) the nearest brigade headquarters;  
or
  - (ii) a police officer; or
  - (iii) a member of the Fire Service.
- (2) Subsection (1) does not apply to –
- (a) a fire lit under the authority of, and in accordance with the conditions of, a permit granted under section 66 if and so long as that section is complied with in relation to that fire; or
  - (b) a fire to which section 69 applies if and so long as that section is complied with in relation to the fire.

**65. Fire permit officers**

- (1) The Council, on the recommendation of a Committee, may appoint–
- (a) fire permit officers in respect of the State forest within the Committee’s Fire Management Area; and
  - (b) fire permit officers in respect of any reserved land as defined in the *Nature Conservation Act 2002* within the Committee’s Fire Management Area; and
  - (c) fire permit officers in respect of other land within the Committee’s Fire Management Area.

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- (2) A person appointed under subsection (1)(a) is to be nominated for the appointment by the chief executive officer of the Forestry corporation.
- (3) A person appointed under subsection (1)(b) is to be nominated for the appointment by the Secretary of the responsible Department in relation to the *National Parks and Reserves Management Act 2002*.
- (4) A person appointed under subsection (1)(c) is to be –
  - (a) a member of a brigade that is based in the Fire Management Area; or
  - (b) a person who has skills, qualifications or experience that the Council considers would enable that person to carry out the duties of a fire permit officer competently.
- (5) A person appointed by the Commission under this section, and holding office immediately before the commencement day, is taken to have been appointed by the Council under this section on the same terms and conditions.
- (6) In this section –

***commencement day*** means the day on which the *Fire Service Amendment Act 2012* commences.

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**65A. Fire permit officers determine applications for permits**

- (1) An application for a permit under section 66 in respect of a Fire Management Area is to be determined by –
  - (a) in the case of State forest within that area – a fire permit officer appointed under section 65(1)(a); and
  - (b) in the case of any reserved land as defined in the *Nature Conservation Act 2002* within that area – a fire permit officer appointed under section 65(1)(b); and
  - (c) in the case of any other land within that area –
    - (i) a fire permit officer appointed under section 65(1)(c); or
    - (ii) a member of the Fire Service who is authorised by the Commission to determine such applications for that area.
- (2) In determining applications for permits, a fire permit officer or member of the Fire Service authorised under subsection (1)(c)(ii) is to have regard to such advice, recommendations and reports as he or she is given by the Commission or the relevant Committee.
- (3) A fire permit officer appointed under section 65(1)(c) is entitled to be reimbursed by the



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Commission for expenses that he or she incurs in the execution of his or her duties.

**65B. Public notice of appointment, &c.**

- (1) The Council may, in the *Gazette* or any newspaper –
  - (a) give notice of the appointment of a fire permit officer or an authorisation under section 65A(1)(c)(ii); and
  - (b) from time to time, publish a list of the fire permit officers and members of the Fire Service appointed or authorised in respect of each or any Fire Management Area.
- (2) A notice or list published under subsection (1) may contain such other information as the Council considers necessary or expedient in the public interest.

**66. Permits to light fires**

- (1) A person shall not, during a fire permit period, light or cause to be lit, or maintain or use –
  - (a) a fire in a fire protected area specified in subsection (2); or
  - (b) a fire for the purpose, or that is likely to have the effect, of clearing vegetation from land or for a like purpose –

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except under the authority and in accordance with the conditions of a permit granted by a fire permit officer in accordance with this section.

Penalty: Fine not exceeding 26 penalty units.

- (2) A fire protected area referred to in subsection (1)(a) is an area which includes the whole or any part of a State forest, any reserved land as defined in the *Nature Conservation Act 2002*, or any Crown land.
- (3) Subsection (1) does not apply to a fire, not being a fire referred to in subsection (1)(b), that is lit in a place specially constructed for the purpose.
- (4) . . . . .
- (5) Before determining an application for a permit under this section in respect of land not within a fire protected area referred to in subsection (1)(a), a fire permit officer shall, if practicable, confer with the appropriate officer and shall refuse the application if that officer considers that the prevailing conditions are such that a fire lit under the authority of the permit, if granted, might spread to land other than that to which the permit relates or might be beyond the capacity to control of the fire brigades readily available for the purpose.
- (6) For the purposes of subsection (5), ***appropriate officer*** means –
  - (a) in the case of land within a brigade’s operational district – the brigade chief of that brigade; or

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- (b) in the case of any other land – a brigade chief or other officer of the Fire Service.
- (7) A permit may be granted under this section –
  - (a) subject to such conditions as may be determined by the fire permit officer by whom it is granted; and
  - (b) where any conditions are determined by the Commission with respect to the permit, also subject to those conditions.
- (8) Without limiting subsection (7), the conditions referred to in that subsection may include –
  - (a) a condition that the fire to which the permit relates shall be lit and maintained by, or under the supervision of, a specified brigade, or a member of a specified brigade; and
  - (b) a condition that at least one person shall be present at the site of the fire from the time when it is lit until it is totally extinguished.
- (9) If a fire permit officer refuses to grant a permit under this section to a person who applies for such a permit, that person may, within 14 days after being refused a permit, appeal to the Commission against the refusal.
- (10) The Commission may allow or disallow an appeal under subsection (9) as it thinks fit, and, if it allows the appeal, may grant a permit to the appellant, either unconditionally or subject to

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such conditions (if any) as the Commission may, in its absolute discretion, impose and as are specified in the permit.

- (11) Subject to subsections (9) and (10), an appeal under subsection (9) shall be instituted, heard, and determined as the Commission determines.
- (12) A person who lights and controls a fire in accordance with the conditions of a permit granted to that person under this section is exempt from the *Environmental Management and Pollution Control Act 1994*.
- (13) A person who lights a fire in accordance with the conditions of a permit granted to that person under this section and complies with the directions contained in that permit is not liable for any loss, injury or damage caused by that fire unless it is proven that the person acted maliciously or recklessly.

**67. Revocation, suspension or variation of permits to light fires**

- (1) Where a fire permit officer is of the opinion that, by reason of the prevailing conditions, a permit granted under section 66 should be revoked, suspended, or varied, he shall, in such manner as he considers necessary, inform the person to whom the permit has been granted that the permit has been revoked, suspended, or varied.
- (2) Where a permit has been granted under section 66 in respect of any land and the appropriate officer is of the opinion that the prevailing

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conditions are conducive to the outbreak or spread of fires or that conditions conducive to the outbreak or spread of fires are imminent, he may, in such manner as he considers necessary, notify the person to whom the permit has been granted that the permit has been revoked, suspended, or varied.

- (3) In this section, *appropriate officer* means –
- (a) in respect of a permit relating to land in a fire protected area referred to in section 66(1)(a) –
    - (i) if the area includes the whole or a part of any reserved land as defined in the *Nature Conservation Act 2002*, the Director of National Parks and Wildlife or a person authorised by him, generally or in the particular case, to revoke the permit; or
    - (ii) if the area includes the whole or part of a State forest, or any Crown land not within any reserved land as defined in the *Nature Conservation Act 2002*, the forest officer in charge of the fire protected area; and
  - (b) in respect of a permit relating to other land –
    - (i) the Chief Officer; or

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- (ii) a brigade chief or other officer of the Fire Service.

**68. Area of extreme fire hazard**

(1) The Commission may, of its own motion or at the request of the owner or occupier of an area of land, by notice published in the *Gazette* and in a daily newspaper published in the State that circulates in that part of the State to which the notice relates, declare that area of land to be an area of extreme fire hazard.

(2) Where a notice under subsection (1) is in force, a person must not, except in the exercise of a power or authority conferred on that person by this Act, enter an area of land to which the notice relates without first obtaining a permit for that purpose from a brigade chief or other officer of the Fire Service.

Penalty: Fine not exceeding 26 penalty units.

(3) Where the whole or any part of a State forest, or any Crown land, is included within the boundaries of an area of land to which a notice under subsection (1) relates, the powers conferred on a brigade chief or other officer of the Fire Service by subsection (2) are exercisable also by a forest officer.

(4) The existence of a notice under subsection (1) does not prevent –

- (a) the entry onto land vested in, or occupied by, the Hydro-Electric Corporation by

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any person acting in the course of his employment with, or acting with the authority of, the Hydro-Electric Corporation; or

- (b) the entry onto any reserved land as defined in the *Nature Conservation Act 2002* by any person acting in the course of his duties as an employee employed in the responsible Department in relation to the *National Parks and Reserves Management Act 2002* or with the authority of the Director of National Parks and Wildlife.

**69. Camp fires, &c.**

- (1) This section applies to –

- (a) any fire for cooking or warmth;  
(b) any fire for the burning of carcasses; and  
(c) any other fire of a prescribed class –

not being a fire within an enclosed building.

- (2) A person shall not light a fire to which this section applies –

- (a) in or on peat, humus, or marram grass; or  
(b) within 3 metres of any stump, log, or standing tree.

Penalty: Fine not exceeding 50 penalty units.

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- (3) A person shall not leave unattended a fire to which this section applies unless it has been completely extinguished.

Penalty: Fine not exceeding 50 penalty units.

- (4) During a fire permit period a person shall not light a fire to which this section applies unless all flammable material has been moved to a place that is at least 3 metres from the site of the fire.

Penalty: Fine not exceeding 50 penalty units.

**70. Days of total fire ban**

- (1) The Commission may declare any specified day to be a day of total fire ban, or any specified days to be days of total fire ban, for the purposes of this Act, either throughout the State or in any part or parts of the State.
- (2) A declaration under subsection (1) in relation to any specified day or days of total fire ban may –
- (a) specify fires that are not subject to the ban; and
  - (b) prohibit or restrict the use of specified machines or apparatus in the open air on that day or those days.
- (3) With a view to ensuring general public knowledge of a declaration made under subsection (1), the Commission shall cause a declaration made under subsection (1) to be –



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- (a) transmitted by any radio or television station; or
  - (b) published in a daily newspaper published in the State which circulates in the State, or if the declaration relates to part of the State, that part of the State to which the declaration relates.
- (4) Subject to subsection (7), where pursuant to subsection (1) a declaration is made declaring a day to be a day of total fire ban or any days to be days of total fire ban –
- (a) all permits granted under section 66 in relation to land in any part of the State to which the declaration relates immediately cease to have effect;
  - (b) no permits shall be granted under that section so as to have effect on that day or those days in relation to land in any part of the State to which the declaration relates; and
  - (c) the occupier of land on which a fire occurs on any such day (being land in any part of the State to which the declaration relates) shall immediately after becoming aware of the existence of the fire –
    - (i) take diligent steps to extinguish the fire or to prevent it from spreading; and

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- (ii) report the fire to the brigade the headquarters of which is situated nearest to that land, to a police officer, or to any member of the Fire Service.
- (5) A person who fails to comply with subsection (4)(c) is guilty of an offence and liable to a fine not exceeding 50 penalty units.
- (6) It is a defence in proceedings for an offence under subsection (5) to show that the failure to comply with that subsection arose from the fact that the defendant did not know that a day of total fire ban had been declared.
- (7) Subsection (4) does not apply to any fire excluded from the ban by virtue of subsection (2)(a) or to any permit in so far as it authorizes the lighting of such a fire.

**71. Prohibition on fires, &c., on days of total fire ban**

Where a declaration is in force under section 70 declaring any day to be a day of total fire ban or any days to be days of total fire ban, a person shall not on that day or any of those days –

- (a) light, or cause to be lit, or maintain or use, a fire in the open air on any land for any purpose, unless that fire is excluded from the ban; or
- (b) use or cause to be used in the open air on any land any machine or apparatus

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contrary to any prohibition or restriction  
in the declaration.

Penalty: Fine not exceeding 200 penalty units.

**72. Power of officers of Fire Service on days of total fire ban**

- (1) . . . . .
- (2) Where an officer of the Fire Service finds a fire burning on a day of total fire ban (not being a fire excluded from the ban) in a part of the State to which a declaration under section 70 relates, he may, for the purpose of extinguishing the fire or preventing it from spreading, exercise, in addition to the powers conferred on him by any other provision of this Act, such of the powers conferred on the Commission by section 62(1) as he thinks necessary or expedient.
- (3) In the exercise of his powers under this section, an officer of the Fire Service may make or give, either orally or in writing, any order, notice, or direction that could, under section 62, be made or given by the Commission.

**73. Power to enter on neighbouring lands and extinguish fires**

- (1) A person who finds a fire burning within one and a half kilometres of any land of which he is the owner or occupier, being a fire –
  - (a) that is burning on a day declared to be a day of total fire ban in the part of the

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State where that land is situated and is not excluded from the ban; or

- (b) that has been lit or is burning in contravention of this Act –

may, subject to this section, enter onto the land on which the fire is burning, with such assistants and equipment, and do all such acts, as may reasonably be necessary for extinguishing the fire or preventing it from spreading.

- (2) A person shall not enter on land under the authority of subsection (1) on a day other than a day declared to be a day of total fire ban in the part of the State where the land is situated unless he first gives to the brigade chief of the brigade, the headquarters of which is situated nearest to that land, notice of his intention to do so, if it is reasonably practicable for that notice to be given.
- (3) On receipt of a notice under subsection (2), the brigade chief may give to the person proposing to enter the land such directions as the brigade chief considers desirable for the prevention of unnecessary damage and for properly extinguishing the fire or for preventing it from spreading, and that person shall comply in all respects with the directions so given.

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**PART VA – CHARTERS AND PLANS**

*Division 1 – Ministerial charter*

**73A. Interpretation of Part VA**

In this Part, unless the contrary intention appears

–

*corporate plan* means the corporate plan approved under section 73E;

*ministerial charter* means the charter provided under section 73B;

*Stakeholder Minister* has the same meaning as in the *Government Business Enterprises Act 1995*;

*statement of corporate intent* has the meaning given by section 73G;

*Treasurer's Instructions* has the same meaning as in the *Government Business Enterprises Act 1995*.

**73B. Ministerial charter**

- (1) By 31 December 1995, the Minister must provide the Commission with a ministerial charter.
- (2) The Minister may at any time at his or her own discretion or on receipt of the application of the Commission –
  - (a) amend a ministerial charter; or

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- (b) revoke a ministerial charter and substitute another ministerial charter.
- (3) Before or while preparing a ministerial charter or an amendment to a ministerial charter, the Minister must consult with the Stakeholder Minister and the Commission.
- (4) A ministerial charter and any amendment to a ministerial charter is to be in writing and signed by the Minister.
- (5) The Minister is to provide a copy of the ministerial charter and any amendment to it to the Stakeholder Minister.
- (6) A ministerial charter or any amendment to a ministerial charter takes effect on a day specified in it, being a day not earlier than the day on which it is provided to the Commission.

**73C. Contents of ministerial charter**

- (1) A ministerial charter is to specify the broad policy expectations of the Minister for the Commission.
- (2) A ministerial charter may limit the functions and powers of the Commission and the performance and exercise of those functions and powers, but
  - (a) may not prevent the Commission from performing a function it is required to perform or otherwise complying with this or any Act; and

- (b) may not extend the functions and powers of the Commission.

**73D. Compliance with ministerial charter**

The Commission must ensure that the business and affairs of the Commission are conducted in a manner that is consistent with the ministerial charter.

*Division 2 – Plans of Commission*

**73E. Corporate plan**

- (1) In each financial year, the Commission must prepare a corporate plan for the Commission.
- (2) The corporate plan –
  - (a) is to cover a period of not less than 3 financial years commencing on the day it takes effect; and
  - (b) is to contain a summary of the projected financial results of the Commission in respect of the current financial year and each financial year covered by the plan; and
  - (c) is to contain a summary of the financial results of the Commission in respect of the financial year immediately preceding the current financial year; and
  - (d) is to contain the statement of corporate intent; and

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- (e) is to be in a form and contain the information specified by the Minister; and
  - (f) is to be consistent with the ministerial charter.
- (3) The Commission must provide a draft of the corporate plan to the Minister, Stakeholder Minister and Treasurer not later than 90 days before the day on which the corporate plan will take effect.
  - (4) When a draft corporate plan is approved by the Minister it becomes the corporate plan of the Commission.
  - (5) The Minister must approve a corporate plan, prepared in accordance with this section and section 73F, by not later than 30 days before the day on which the corporate plan will take effect.
  - (6) A corporate plan takes effect on the first day of the financial year next commencing after its approval by the Minister.
  - (7) The Commission may prepare an amendment of its corporate plan at any time.
  - (8) An amendment of a corporate plan takes effect when it is approved by the Minister.
  - (9) The Commission must provide a copy of its corporate plan and an amended corporate plan to the Stakeholder Minister and Treasurer within 14 days after the Commission has been notified of its approval by the Minister.



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- (10) Except where the Minister otherwise approves, the Commission must act in accordance with its corporate plan or amended corporate plan.

**73F. Consultation with Portfolio Minister and Stakeholder Minister**

- (1) In the course of preparing the draft corporate plan the Commission must consult –
- (a) in relation to the interests of the State as a whole and the long term objectives of the Commission, with the Minister; and
  - (b) in relation to the financial performance objectives of the Commission, jointly with the Minister and the Stakeholder Minister.
- (2) The Minister may give a direction to the Commission –
- (a) in relation to a long term objective of the Commission; or
  - (b) if the Minister considers the draft corporate plan to be inconsistent with the ministerial charter, in relation to that inconsistency.
- (3) The Minister and the Stakeholder Minister jointly may give a direction to the Commission in relation to the financial performance objectives of the Commission.
- (4) Subject to subsection (5), the Commission must comply with a direction if it is in writing and –

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- (a) in the case of a direction referred to in subsection (2), is signed by the Minister; or
  - (b) in the case of a direction referred to in subsection (3), is signed by both the Minister and Stakeholder Minister.
- (5) A direction has no effect in respect of a contract entered into by the Commission before the direction was given if compliance with the direction would result in the Commission failing to perform the contract.

**73G. Statement of corporate intent**

- (1) The statement of corporate intent of the Commission is a summary of its corporate plan.
- (2) The statement of corporate intent of the Commission must not disclose any information which the Minister considers may, if disclosed –
  - (a) disadvantage or cause damage to the Commission, directly or indirectly; or
  - (b) enable another person, directly or indirectly, to gain an advantage.
- (3) The statement of corporate intent is to be in a form, and contain the information, specified by the Minister.

**73H. Strategic and operating plans**

- (1) The strategic plan of the Commission in force immediately before 1 July 1995 together with its operating plan in force immediately before that day is taken to be a corporate plan that takes effect on that day.
- (2) The Commission must prepare a statement of corporate intent in respect of the corporate plan referred to in subsection (1) in sufficient time to enable it to be included in the annual report in respect of the financial year ending on 30 June 1995.
- (3) In subsection (1), *operating plan* and *strategic plan* have the same meanings as in the *State Authorities Financial Management Act 1990* as in force immediately before 1 July 1995.

**73I. Validity of actions, &c.**

Anything done by or in relation to the Commission is not void or unenforceable only because the Commission has contravened this Part.

**PART VI – FINANCES OF COMMISSION**

***Division 1 – Preliminary***

**74. Interpretation of Part VI**

- (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires –

***assessed annual value*** means assessed annual value as defined in the *Valuation of Land Act 2001*;

***composite brigade rating district*** means a rating district that is serviced by composite brigades;

***composite brigade rating district land*** means the land comprising a composite brigade rating district;

***exempted class of general insurance*** means –

- (a) motor vehicle comprehensive insurance;
- (b) compulsory third party insurance;
- (c) motor vehicle third party property damage insurance;
- (d) houseowners and householders insurance or any fire insurance cover of a dwelling;
- (e) crop insurance;
- (f) livestock insurance;

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- (g) burglary insurance;
- (h) plate glass insurance;
- (i) guarantee insurance;
- (j) personal accident insurance;
- (k) employers' liability insurance;
- (l) public liability insurance;
- (m) product liability insurance;
- (n) professional indemnity insurance;
- (o) loan, mortgage, and lease insurance;
- (p) marine hull insurance;
- (q) all risks/baggage insurance;
- (r) engineering and machine breakdown insurance;
- (s) engineering loss of profits insurance; or
- (t) pluvius insurance;

***financial year*** means the period of 12 months commencing on 1 July in any year;

***fire service contribution*** means the amount that a local council may collect from its ratepayers to make up the contribution that the local council is required to make

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towards the operating costs of brigades under Division 3 of this Part;

***general insurance*** means insurance other than life insurance;

***general land*** means land that is not within a rating district;

***inspector*** means an inspector referred to in section 77F;

***insurance company*** means –

- (a) a body corporate, partnership, association, underwriter or other person that or who, whether in Tasmania or elsewhere, issues or undertakes liability under policies of risk insurance against the loss of, or damage to, property in Tasmania; or
- (b) an agent of a body corporate, partnership, association, underwriter or person referred to in paragraph (a);

***land*** means a parcel of land that is shown as being separately valued in the valuation list prepared under the *Valuation of Land Act 2001*;

***minimum assessed annual value***, in relation to any rating district land or general land for a financial year, means the minimum assessed annual value of that land for that

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financial year as determined by the Commission after it has complied with section 80(1) and (3);

***minimum fire service contribution***, in relation to any rating district land or general land for a financial year, means the minimum fire service contribution payable in respect of that land for that financial year as prescribed or calculated under section 79B;

***net assessed annual value*** –

- (a) in relation to any rating district land – means the total assessed annual value, obtained from the Valuer-General, of that land less the total assessed annual value of such part of that land as the Commission is notified, pursuant to section 80(2), is wholly exempted from rating under section 87 of the *Local Government Act 1993*; or
- (b) in relation to any general land – means the total assessed annual value, obtained from the Valuer-General, of that land less the total assessed annual value of such part of that land as the Commission is notified, pursuant to section 80(2), is wholly exempted from rating under

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section 87 of the *Local Government Act 1993*;

***permanent brigade rating district*** means a rating district that is serviced by permanent brigades;

***permanent brigade rating district land*** means the land comprising a permanent brigade rating district;

***prescribed classes of insurance*** means the following classes of general insurance –

- (a) fire insurance;
- (b) loss of profits insurance;
- (c) contractors' risk insurance;
- (d) . . . . .
- (e) marine cargo insurance;
- (f) . . . . .
- (g) boiler explosion insurance;
- (h) any other class of commercial and industrial insurance having a fire insurance content, other than an exempted class of general insurance;

***quarter*** means the period of 3 months commencing on 1 July, 1 October, 1 January or 1 April in a financial year;



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***rating district*** means a part of the State that the Commission has, by notice published in the *Gazette* under section 74A, declared to be a rating district for the purposes of this Part;

***rating district land*** means the land comprising a rating district;

***volunteer brigade rating district*** means a rating district that is serviced by volunteer brigades;

***volunteer brigade rating district land*** means the land comprising a volunteer brigade rating district.

- (2) For the purposes of this Part, ***operating costs***, in relation to the operation of a brigade, means the costs incurred by the Commission in servicing the brigade and ensuring that it is maintained at an appropriate level of operational efficiency and readiness including, in particular –
- (a) the costs of paying salaries, wages, allowances and expenses to the members of the brigade other than the administrative costs of paying those salaries, wages, allowances and expenses; and
  - (b) the costs of buying and maintaining equipment, land and buildings for use by the brigade; and
  - (c) the costs of making payments on account of principal and of interest and other

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charges required to be made by the Commission in respect of money borrowed by it for the purpose of purchasing equipment, land or buildings for use by the brigade; and

- (d) the costs of paying –
  - (i) workers compensation insurance premiums in respect of the members of the brigade; and
  - (ii) rates and charges in respect of land occupied by the brigade; and
- (e) the costs of paying expenses incurred by the members of the brigade in the exercise or performance of their powers or functions as members of that brigade; and
- (f) such part of the overall infrastructure costs of the Fire Service as the Commission determines is attributable to the maintenance and operation of the brigade.

**74A. Declaration of rating districts**

- (1) The Commission, by notice published in the *Gazette*, may declare a part of the State to be a rating district for the purposes of this Part.
- (2) A notice under subsection (1) is to –
  - (a) confer a name on the rating district; and

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- (b) specify whether the rating district created by the notice is a permanent brigade rating district, volunteer brigade rating district or composite brigade rating district; and
  - (c) describe that rating district by reference to a plan in the Central Plan Register.
- (3) For the purposes of subsection (2)(c) –
- (a) the Commission must cause a plan of each proposed rating district to be lodged in the Central Plan Office; and
  - (b) the Surveyor-General, if satisfied that the plan is in accordance with the *Survey Co-ordination Act 1944*, must register the plan in the Central Plan Register.
- (4) The Commission, on declaring a part of the State to be a rating district, must immediately give a notice containing particulars of the declaration to each local council affected by the declaration.
- (5) A notice under subsection (1) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

***Division 2 – . . . . .***

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***Division 2A – General provision relating to defraying of  
operating costs of all brigades***

**77A. Sources of contributions towards operating costs of all brigades**

The operating costs of all brigades shall be defrayed out of contributions to be paid to the Commission –

- (a) by insurance companies as provided in Division 2B;
- (b) by the Treasurer as provided in Division 2C; and
- (c) by local councils as provided in Division 3.

***Division 2B – Provisions relating to contributions payable by  
insurance companies towards operating costs of brigades***

**77B. Returns required to be lodged by insurance companies**

- (1) An insurance company must, not later than 14 days after the end of each month, furnish the Commission with a return in accordance with this section.

Penalty: Fine not exceeding 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

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- (2) The return is to –
- (a) be in an approved form; and
  - (b) contain such particulars as the Commission requires of the premium income that is payable to the company for prescribed classes of insurance during that month; and
  - (c) contain a declaration by an officer of the company that, according to the company's books and to the best of the officer's knowledge and belief, the return contains a true account and statement of the matters referred to in it.

**77C. Contributions payable by insurance companies**

- (1) The insurance companies, for the financial year commencing on 1 July 1995 and for each subsequent financial year, must contribute the prescribed amount towards the operating costs of brigades, being operating costs that are included in the Commission's estimates for the relevant financial year and approved by the Minister.
- (2) For the purposes of subsection (1), the prescribed amount, in respect of a financial year to which that subsection applies, is taken to be 10%, or if another percentage is prescribed by the regulations, that other percentage, of the total premium income payable to insurance companies in respect of the prescribed classes of insurance during that financial year, which in either case is to be exclusive of any goods and

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services tax paid in respect of the relevant premium.

- (3) For the purposes of subsection (2), the total premium income payable to insurance companies does not include any premium payable to insurance companies in respect of the prescribed classes of insurance of property of a prescribed person or body.

77D. . . . .

**77E. Payment of contributions**

- (1) The contributions that are required by this Division to be paid by an insurance company in a financial year are to be paid to the Commission by monthly instalments.
- (2) An insurance company must, not later than 14 days after the end of each month, pay to the Commission an amount equal to the prescribed percentage of the total premium income payable to that insurance company in respect of the prescribed classes of insurance during that month.

Penalty: Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

- (3) For the purposes of subsection (2) –

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- (a) the prescribed percentage is taken to be 10% or, if another percentage is prescribed by the regulations, that other percentage which in either case is to be exclusive of any goods and services tax paid in respect of the relevant premium; and
- (b) the total premium income payable to the insurance company does not include any premium payable to the insurance company in respect of the prescribed classes of insurance of property of a prescribed person or body.

**77F. Inspectors**

- (1) The Chief Officer may, by warrant under his hand, authorise an authorised officer appointed under the *Taxation Administration Act 1997* and any person who is for the time being an officer of the Fire Service to be an inspector to exercise the powers conferred on inspectors by this Division.
- (2) The Chief Officer shall be deemed to be an inspector and may exercise the powers conferred on inspectors by this Division.

**77G. Powers, &c., of inspectors**

- (1) For the purposes of this Division, an inspector, on production of his warrant of authorization as such, may at any reasonable time and with such assistants as he considers necessary –

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- (a) enter and remain in any premises at which, or at which he reasonably suspects, an insurance company is, or has been, carrying on business in relation to any of the prescribed classes of insurance;
  - (b) request any person found in or on any premises at which, or at which he reasonably suspects, an insurance company is, or has been, carrying on business in relation to any of the prescribed classes of insurance –
    - (i) to produce any record which relates to, or which the inspector reasonably suspects relates to, the carrying on of such a business and which, at the time of the request, is in the possession or under the control of that person; and
    - (ii) to answer any question with respect to any such record or the carrying on of such a business; and
  - (c) inspect, or take copies of, or make notes in respect of, any record referred to in this subsection or any part of any such record.
- (2) Whenever the Chief Officer exercises a power conferred by subsection (1) in his capacity as an inspector, it shall be sufficient for the purposes



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of that subsection if he produces evidence of his appointment as Chief Officer.

- (3) A person must not –
- (a) prevent or attempt to prevent an inspector from exercising any power conferred on the inspector by subsection (1); or
  - (b) hinder or obstruct an inspector in the exercise of any such power; or
  - (c) fail to comply with a request of an inspector under subsection (1)(b).

Penalty: Fine not exceeding 500 penalty units.

- (4) A person is not guilty of an offence under subsection (3)(c) by reason of his failure to answer any question referred to in subsection (1)(b)(ii) if he proves to the satisfaction of the court before which he is prosecuted for the offence that he did not know, and could not with reasonable diligence have ascertained, the answer to the question.
- (5) A person is not excused from answering any question if required to do so under subsection (1)(b) on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the information provided by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (3) or section 77H.

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- (6) Where an answer to a question referred to in subsection (1)(b)(ii) or any information whatever is given to an inspector by an officer of a corporation within the meaning of the Corporations Act which is carrying on or has carried on business in relation to any of the prescribed classes of insurance, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Division, binding on and admissible in evidence against the corporation, unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.
- (7) The provisions of subsection (6) are in addition to any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

**77GA. Insurance records**

- (1) In this section,  

*insurance policies* means insurance policies, for prescribed classes of insurance, that an insurance company issues or undertakes liability for.
- (2) An insurance company must keep such records relating to its insurance policies as the Commission, by written notice to the company, requires for the purposes of monitoring compliance with this Division.

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Penalty: Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

- (3) An insurance company must, on request, furnish the Commission with a record or a copy of or extract from a record kept under subsection (2) within 21 days after receipt of the request or within such longer period as the Commission, within the 21 days, allows.

Penalty: Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

**77H. False or misleading statements**

- (1) Subject to subsection (3), a person who, in the declaration to a return under section 77B, makes a statement or representation that is false or misleading in a material particular is guilty of an offence and is liable on summary conviction to a fine not exceeding 500 penalty units.
- (2) Subject to subsection (3), a person who makes an answer to a question put to him pursuant to section 77G(1)(b)(ii) by an inspector that is false or misleading in a material particular is guilty of an offence and is liable on summary conviction to a fine not exceeding 500 penalty units.

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- (3) It is a defence to a charge under subsection (1) or (2) if it is proved that, at the time the statement, representation, or answer was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

**77I. Offences by bodies corporate**

- (1) Where an offence against this Division is committed by a body corporate, every person concerned in the management of that body corporate shall be deemed also to have committed the offence and may be convicted of the offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.
- (2) A person referred to in subsection (1) may be convicted of an offence under that subsection whether or not the body corporate is charged with or convicted of the offence.

**77J. Recovery of unpaid contributions**

The Commission may recover from an insurance company in a court of competent jurisdiction as a debt due to the Commission any instalment of a contribution that the insurance company is required to pay to it under section 77E and that remains unpaid after the expiration of the period fixed for its payment under that section.

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***Division 2C – Provisions relating to contribution payable by the Treasurer towards operating costs of brigades***

**77K. Statement required to be lodged by Registrar of Motor Vehicles**

- (1) The Registrar of Motor Vehicles shall, not later than 1 April in each year, lodge with the Commission a written statement giving the amount that the Registrar of Motor Vehicles estimates that the Registrar will, during the relevant financial year, receive for fees payable for the registration and renewal of registration of motor vehicles (other than motor cycles) pursuant to the *Vehicle and Traffic Act 1999*.
- (2) In subsection (1), ***relevant financial year*** means the financial year beginning on 1st July in the year in which a statement is required by that subsection to be lodged with the Commission.

**77L. Contributions payable by Registrar of Motor Vehicles**

- (1) The Registrar of Motor Vehicles, for the financial year commencing on 1 July 2000 and for each subsequent financial year, must contribute the prescribed amount towards the operating costs of brigades, being operating costs that are included in the Commission's estimates for the relevant financial year and approved by the Minister.
- (2) The Registrar of Motor Vehicles shall, at least monthly, pay to the Commission one-twelfth of

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the prescribed amount that he is required to contribute under subsection (1).

- (3) For the purposes of this section, the ***prescribed amount*** means an amount calculated in accordance with the following formula:

$$I \times V$$

where –

***I*** is the rounded indexed amount;

***V*** is the total number of motor vehicles (other than motor cycles) in respect of which, during the relevant financial year, fees for registration or renewal of registration under the *Vehicle and Traffic Act 1999* and the regulations made under that Act, if any, have been paid.

- (4) For the purposes of this section –

***Consumer Price Index*** means the Consumer Price Index: All Groups Index for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth;

***December quarter***, in relation to a financial year, means the months of October, November and December in that financial year;

***indexed amount*** –

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- (a) for the financial year commencing on 1 July 1995 – is the indexed amount calculated in accordance with this section as in force immediately before the commencement of the *Fire Service Reform Act 1995*; and
- (b) for a subsequent financial year – is the amount that bears the same proportion to the indexed amount for the financial year immediately preceding that subsequent financial year as the Consumer Price Index for the December quarter immediately preceding that subsequent financial year bears to the Consumer Price Index for the December quarter before that;

***rounded indexed amount***, in relation to a financial year, means –

- (a) where the indexed amount for that financial year is an amount that is a number of dollars only, that indexed amount; or
- (b) where the indexed amount for that financial year is an amount containing dollars and a number of cents, the indexed amount rounded to the nearest dollar in accordance with subsection (5).

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- (5) An amount which is dollars and a number of cents is rounded to the nearest dollar by –
- (a) where the number of cents is 50 or more, increasing that amount to the next whole dollar; or
  - (b) where the number of cents is less than 50, taking those cents off that amount.

***Division 3 – Provisions relating to contributions payable by local councils towards operating costs of brigades***

**78. Application of Division**

- (1) Except as provided in subsection (2), this Division does not apply to or in respect of –
- (a) land owned by a local council; or
  - (b) land owned by the Crown in right of this State; or
  - (ba) Aboriginal land, within the meaning of the *Aboriginal Lands Act 1995*, which is unoccupied or occupied principally for Aboriginal cultural purposes; or
  - (bb) land owned, vested in or occupied by a GBE that is not specified in Schedule 8 to the *Government Business Enterprises Act 1995*; or
  - (bc) State forest; or
  - (bd) Commonwealth land to which a fire protection services agreement applies; or



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- (c) the town of Savage River; or
  - (d) unimproved land, in any ownership, not exceeding 10 square metres in area; or
  - (e) a jetty that is –
    - (i) separately valued in the valuation list prepared under the *Valuation of Land Act 2001*; and
    - (ii) made entirely or mainly from non-combustible material; and
    - (iii) no more than 10 metres long; or
  - (f) a slipway that is separately valued in the valuation list prepared under the *Valuation of Land Act 2001*.
- (2) This Division does apply to and in respect of land referred to in subsection (1)(a), (b) or (bb) if the land, or any part of it, is let or sublet to a private tenant.
- (3) For the avoidance of doubt, a State-owned company is taken to be a private tenant for the purposes of this section.
- (4) In this section –
- exempt tenant*, of land in a municipal area, means a tenant that the Commission, in its discretion and on the written application of the local council of the municipal area, has certified is occupying the land for –

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- (a) a benevolent, charitable or philanthropic purpose; or
- (b) a non-profit community or non-profit sporting purpose;

***fire protection services agreement*** means an agreement between the Commission and the Commonwealth under which the Commission undertakes to provide fire protection services in respect of specified Commonwealth land in this State in consideration of the Commonwealth making a contribution towards the operating costs of brigades;

***GBE*** means a Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*;

***private tenant***, of land in a municipal area, means a tenant other than –

- (a) the Crown in right of the Commonwealth or in right of any State or Territory; or
- (b) a local council; or
- (c) a single authority or joint authority within the meaning of the *Local Government Act 1993*; or

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- (d) a State authority specified in Part 2 of Schedule 1 to the *State Service Act 2000*; or
- (e) an exempt tenant;

***State-owned company*** means a company incorporated under the Corporations Act that is controlled by the Crown in right of this State, by a GBE or statutory authority, or by another company that is so controlled;

***statutory authority*** means a body or authority, whether incorporated or not, that is established or constituted by or under an Act or under the Royal Prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority.

**79. Contributions payable by local councils**

- (1) The local councils in the State, for the financial year commencing on 1 July 1995 and for each subsequent financial year, must contribute an amount determined in accordance with this Division towards the operating costs of brigades, being operating costs that are included in the Commission's estimates for the relevant financial year and approved by the Minister.
- (2) The Commission, for a financial year to which subsection (1) applies, must provide for the

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recovery from councils of such an amount as will be sufficient to cover the operating costs of brigades for that year, as approved by the Minister, less the prescribed amount.

- (3) For the purposes of subsection (2) *the prescribed amount* means the aggregate of the following amounts:
- (a) the contribution towards the operating costs of brigades required to be made for the relevant financial year by insurance companies under Division 2B;
  - (b) the contribution towards the operating costs of brigades required to be made for the relevant financial year by the Treasurer under Division 2C;
  - (c) any contribution towards the operating costs of brigades made or expected to be made in respect of the relevant financial year by the Commonwealth;
  - (d) any money received or expected to be received by the Commission in respect of the relevant financial year from its marketing activities.

79A. . . . .

**79B. Minimum fire service contribution**

- (1) In this section,

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***financial year*** means a financial year after the financial year ending on 30 June 2000.

- (2) The minimum fire service contribution that each local council is to collect for a financial year in respect of a rateable parcel of permanent brigade rating district land, composite brigade rating district land, volunteer brigade rating district land or general land in its municipal area is an amount calculated in accordance with the following formula:

$$a = b \times \frac{c}{d}$$

where –

- a*** is the amount of the minimum fire service contribution for the financial year calculated to the nearest cent and then rounded to the nearest dollar in accordance with subsection (4); and
- b*** is the minimum fire service contribution for the financial year immediately preceding the financial year, calculated to the nearest cent; and
- c*** is the CPI figure for the December quarter immediately preceding the financial year; and
- d*** is the CPI figure for the December quarter immediately preceding the December quarter referred to in the preceding paragraph defining “*c*” for the purposes of the formula in this section.

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(3) For the purposes of this section –

*CPI* means the Consumer Price Index: All Groups for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth; and

*December quarter*, in relation to a financial year, means the months of October, November and December in that financial year.

(4) An amount which is dollars and a number of cents is rounded to the nearest dollar by –

(a) where the number of cents is 50 or more, increasing that amount to the next whole dollar; or

(b) where the number of cents is less than 50, taking those cents off that amount.

**80. Commission to obtain assessed annual value of land**

(1) The Commission, on or before 30 September in each year, must obtain from the Valuer-General

–

(a) the total of the assessed annual values of all the properties which as at 1 July in that year had an assessed annual value greater than the minimum assessed annual value in each of the following categories of land:

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- (i) permanent brigade rating district land;
  - (ii) composite brigade rating district land;
  - (iii) volunteer brigade rating district land;
  - (iv) general land; and
- (b) the total of the assessed annual values of all the properties which, as at 1 July in that year, had an assessed annual value equal to or less than the minimum assessed annual value in each of the following categories of land:
- (i) permanent brigade rating district land;
  - (ii) composite brigade rating district land;
  - (iii) volunteer brigade rating district land;
  - (iv) general land; and
- (c) the total number of properties which, as at 1 July in that year, had an assessed annual value equal to or less than the minimum assessed annual value in—
- (i) each permanent brigade rating district; and

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- (ii) each composite brigade rating district; and
  - (iii) each volunteer brigade rating district; and
  - (iv) general land.
- (2) A local council, on or before 30 September in each year, must notify the Commission of the total assessed annual value of–
- (a) all the permanent brigade rating district land in its municipal area; and
  - (b) all the composite brigade rating district land in its municipal area; and
  - (c) all the volunteer brigade rating district land in its municipal area; and
  - (d) all the general land in its municipal area–
- which, as at 1 July in that year, was wholly exempted from rating under section 87 of the *Local Government Act 1993*.
- (3) The Commission, on advice and information supplied by the Valuer-General, must make such adjustments to the net assessed annual value and the assessed annual value of land in different municipal areas as may be necessary to avoid inequalities arising from differences in the dates on which the valuations of that land came into force.
- (4) A local council, on or before 30 September in each year, must –



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- (a) reconcile its own records as to the assessed annual values (and overall number) of properties of each grade in its municipal area with the Valuer-General's assessment notices for the same municipal area; and
- (b) give the Commission a copy of that reconciliation in an approved form.

(5) In this section –

*grade*, of property, means its grade according to whether its assessed annual value is –

- (a) greater than the minimum assessed annual value; or
- (b) equal to the minimum assessed annual value; or
- (c) less than the minimum assessed annual value.

**81. Contributions to be made by local councils**

- (1) The contribution required to be made by a local council for a financial year (in this section referred to as “**the contribution year**”) in respect of each category of land in its municipal area is an amount calculated in accordance with the following formula:

$$a = \frac{b}{c} \times d + e$$

where –

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*a* is the amount of the contribution; and

*b* is the total leviable value of all land of that particular category within the local council's municipal area for the contribution year and the 5 financial years immediately preceding the contribution year; and

*c* is the total leviable value of all land of that particular category in the State for the contribution year and the 5 financial years immediately preceding the contribution year; and

*d* is the total estimated operating expenses and capital costs, as approved by the Minister, of brigades within that particular category of land in the State, less –

(a) such portion of the prescribed amount under section 79(3) as relates to the same category of land; and

(b) the sum of all the minimum fire service contributions that the Commission estimates will be payable in respect of the contribution year in the State as regards the same category of land; and

*e* is the sum of all the minimum fire service contributions that the Commission estimates will be payable for the

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contribution year in the council's municipal area as regards that particular category of land.

(2) In this section –

*category*, of land, means its category according to whether it is –

- (a) permanent brigade rating district land; or
- (b) composite brigade rating district land; or
- (c) volunteer brigade rating district land; or
- (d) general land;

*leviable value*, of land, means its net assessed annual value (being net assessed annual value greater than minimum assessed annual value), adjusted by the Commission pursuant to section 80(3).

**81A. Allowable rate of annual increase or decrease in contribution**

- (1) This section applies if, for any council, the amount of the contribution calculated under section 81 for any category of land for a financial year (*the council's new contribution*) increases or decreases by more than the allowed percentage relative to the amount of the contribution so calculated for the immediately

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preceding financial year (*the council's previous contribution*).

- (2) The council's new contribution is to be adjusted so that it does not exceed or, as the case may be, fall short of the council's previous contribution by more than the allowed percentage.
- (3) The excess or shortfall (being the amount by which the council's new contribution exceeded or, as the case may be, fell short of the council's previous contribution by more than the allowed percentage) is to be reallocated across all other councils, for the same category of land, in accordance with the formula in section 81.
- (4) In this section –

*adjustment rate* means –

- (a) 5%; or
- (b) if another percentage is prescribed, that other percentage (instead of 5%);

*allowed percentage* means the total (Statewide) percentage increase or decrease for the relevant category of land for the relevant financial year relative to the immediately preceding financial year, plus the adjustment rate (in the case of an increase) or minus the adjustment rate (in the case of a decrease).

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**81B. Commission to notify local councils of contribution**

The Commission must, not later than 30 April in each year, notify each local council of the contribution that the council is required to make in relation to the permanent brigade rating district land, composite brigade rating district land, volunteer brigade rating district land and general land in its municipal area for the immediately following financial year.

**81C. Collection by local councils of contribution**

- (1) A local council must collect the amount of the contribution that it is notified under section 81B it is required to make for a financial year in respect of permanent brigade rating district land, composite brigade rating district land, volunteer brigade rating district land and general land in its municipal area from the persons who, under Part 9 of the *Local Government Act 1993*, are liable for the payment of rates in respect of that land for that financial year.
- (2) An amount collected from a person by a council under subsection (1) in respect of any parcel of land is called a fire service contribution.
- (3) If the assessed annual value of a rateable parcel of land in a local council's municipal area is greater than the land's minimum assessed value, the fire service contribution that the council must collect for that land is to be calculated in accordance with the following formula:

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$$a = \left[ \frac{(b - c) \times [d - (e \times f)]}{g - (h \times c)} \right] + f$$

where –

*a* is the amount of the fire service contribution to be collected in respect of the rateable parcel of land; and

*b* is the assessed annual value of the rateable parcel of land; and

*c* is the minimum assessed annual value of land for the rating district in which the rateable parcel of land is located; and

*d* is the total fire service contribution that the local council is required to collect for the rateable parcels of land in that rating district; and

*e* is the total number of the rateable parcels of land in that rating district; and

*f* is the minimum fire service contribution; and

*g* is the combined total assessed annual value of all of the rateable parcels of land in that rating district that have an assessed annual value greater than the minimum assessed annual value; and

*h* is the total number of parcels of land in that rating district that have an assessed annual value greater than the minimum assessed annual value.

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- (4) If the assessed annual value of a rateable parcel of land in a local council's municipal area does not exceed the land's minimum assessed annual value, the fire service contribution that the council must collect for that land is the minimum fire service contribution.
- (5) A council may collect the fire service contribution (for the rateable parcels of land in its municipal area) under the *Local Government Act 1993*.
- (6) Notwithstanding subsection (5), the minimum fire service contribution that a council relying on that subsection must collect for a financial year (for a rateable parcel of land in its municipal area) is the minimum fire service contribution within the meaning of section 79B.

**81D. Method of collection and administration**

- (1) A local council may collect a fire service contribution in such manner as the local council considers appropriate and, without limiting the local council's discretion under this subsection, it may collect the fire service contribution in conjunction with, and in the same manner as, general rates made by it under section 90 of the *Local Government Act 1993*.
- (2) If a local council collects a fire service contribution in conjunction with general rates, it may include the demand for the contribution in the relevant rates notice, indicating in that notice what part or proportion of the total amount being

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collected under the notice is attributable to the fire service contribution.

- (3) For the purpose of subsection (2), the fire service contribution may be referred to in the rates notice as a fire service contribution, fire service rate or Tasmania Fire Service contribution.
- (4) Sections 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135 and 136 of the *Local Government Act 1993* apply to a fire service contribution that is collectable by a local council under this section as if the references to rates in those sections were references to fire service contributions.

**82. 2010 transitional doubts removal**

- (1) To avoid doubt, the amendments of this Division made by the *Fire Service Amendment Act 2009* –
  - (a) apply only in respect of the financial years following the transition year; and
  - (b) do not affect the calculation or collection of contributions under section 79 for the transition year.
- (2) In this section –

*transition year* means the financial year ending on 30 June 2010.

83 - 90. . . . .



**91. Quarterly returns and payments of contributions**

- (1) A local council must –
  - (a) by 14 October, 14 January and 14 April in each financial year pay to the Commission one-quarter of the total amount of the contribution that the council is notified under section 81B it is required to make for that financial year, less one-quarter of the prescribed collection fee; and
  - (b) by 14 June in each financial year pay to the Commission the remaining one-quarter of the total amount of the contribution that the local council is notified under section 81B it is required to make for that financial year, less one-quarter of the prescribed collection fee.
- (2) In this section, *prescribed collection fee* means such amount or such proportion of a local council contribution as may be prescribed as the fee to which the local council responsible for making that contribution is entitled to retain for collecting the contribution.

92. . . . .

**92A. Recovery of unpaid contributions**

A contribution that a local council is notified under section 81B it is required to make is a debt

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due to the Commission and is recoverable as such in a court of competent jurisdiction.

93 - 94. . . . .

**95. Pensioner rebates**

A person to whom a local council has, pursuant to section 4 of the *Local Government (Rates and Charges Remissions) Act 1991*, remitted rates and charges payable for a financial year is entitled to the prescribed rebate of any fire service contribution that, but for this section, the person would be required to pay under this Division for that financial year in relation to the land to which the rates and charges remission relates.

96 - 100. . . . .

***Division 4 – Government contribution to the Commission***

**101. Government contributions with respect to certain expenditure incurred by the Commission, &c.**

The Treasurer must pay to the Commission, out of money appropriated by the Parliament for the purpose, such amount as the Treasurer determines is appropriate towards defraying the operating costs of the Commission.

***Division 5 – Borrowing powers***

**102. Borrowing debentures or inscribed stock**

- (1) Subject to this section, the Commission, with the consent of the Treasurer, may borrow on the security of its revenues such sums of money as it may require for the purposes of this Act.
  
- (2 - 3) . . . . .
  
- (4) Money borrowed by the Commission under this section may be so borrowed –
  - (a) by the issue of debentures payable to the bearer with interest coupons attached;
  - (b) by the creation and issue of inscribed stock; or
  - (c) in such other manner as may be prescribed or as the Treasurer may approve.
  
- (5) Debentures and inscribed stock issued or created under this section –
  - (a) shall, with all interest thereon, be charged and secured on the revenues of the Commission;
  - (b) shall bear interest at such rate, and be redeemable at such date and at such place, as the Commission may, with the approval of the Treasurer, determine;

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- (c) may, with the consent of the holder of the debenture or the registered owner of the stock, as the case may be, be paid off at any time before the due date for repayment, at not more than the face value of the debenture, or stock; and
  - (d) whether original or not, shall rank *pari passu* in point of charge without any preference or priority one over another.
- (6) Interest secured by any debentures or inscribed stock issued or created pursuant to this section shall be payable half-yearly on days and at places fixed by the Commission.
- (7) The Commission may, at the request of the holder of any debenture or of the registered owner of any inscribed stock issued or created under this section, instead issue to him stock or debentures, as the case may be, in respect of the same loan, and of the same amount, and of the same currency and bearing the same interest.
- (8) The due payment of money borrowed on the security of the Commission's revenues pursuant to this section, and the interest in respect of that money, is guaranteed by the State, and any liability of the Crown arising by virtue of this subsection is payable out of the Public Account, which, to the extent necessary, is appropriated accordingly without any authority other than this section.
- (9 - 10) . . . . .

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- (11) Any trustee of a trust, unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust money in his hands in any debentures or inscribed stock issued or created pursuant to this section, and the investment shall be deemed to be an investment authorized by the *Trustee Act 1898*.
- (12) Debentures or inscribed stock issued or created pursuant to this section shall be a lawful investment for any money which a body incorporated by or under any Act is authorized or directed to invest, in addition to any other investments expressly provided for the investment of that money.
- (13) No notice of any trust, whether express, implied, or constructive, shall be received by the Commission or by an officer of the Commission in relation to any debentures or inscribed stock issued or created pursuant to this section.
- (14) This section, so far as it is relevant and with the necessary modifications, applies to any debentures issued by a fire brigade board before the commencement of this section in the same way as it applies to debentures issued by the Commission under this section.

**103. Temporary borrowing on overdraft**

The Commission may, for the purpose of obtaining temporary accommodation, obtain advances by overdraft on its current account at an authorised deposit-taking institution approved by the Treasurer.

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***Division 6 – Miscellaneous***

**104. Grants to councils or owners of land**

- (1) The Commission may, from time to time, make a grant to a local council for the purchase of premises and approved special equipment for use by a brigade operating within that council's municipal area.
- (1A) Subject to subsection (1B), the Commission may, from time to time, make a grant to the owner of land for the purchase by that owner of equipment which has been approved by the Commission for use by that owner in connection with fire-fighting operations in the area in which the land is situated.
- (1B) The amount of a grant made by the Commission under subsection (1A) shall not exceed 50 per cent of the amount paid by the owner of land for the purchase of equipment referred to in that subsection.
- (2) In subsection (1), ***approved special equipment*** means equipment the purchase of which has been approved by the Commission on the ground that it is necessary for the efficient operation of a brigade.

**105. Expenses of Council and Committees**

The expenses incurred in each financial year by the Council and Fire Management Area Committees in the performance of their

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functions shall be defrayed out of the funds provided by the Commission.

106. . . . .

**107. Expenditure outside Act**

The Chief Officer may, in any financial year, expend out of the funds of the Commission any sum of money for any purpose approved by the Minister, notwithstanding that that expenditure may not be authorized under any other provision of this Act.

**107A. Effect of *Financial Agreement Act 1994***

Where the Treasurer, under section 5 (1) of the *Financial Agreement Act 1994*, requires the Commission to do or refrain from doing anything for the purpose of implementing the Agreement, within the meaning of that Act, the Commission must comply with that requirement.

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**PART VIA – REPORTS AND FINANCIAL  
STATEMENTS**

**107B. Interpretation of Part VIA**

In this Part, unless the contrary intention appears

—

*annual report* means the annual report prepared under section 107G;

*Australian Accounting Standards* means Statements of Accounting Standards issued jointly by the National Councils of the Australian Society of Certified Practising Accountants and The Institute of Chartered Accountants in Australia or their successors;

*corporate plan* means the corporate plan approved under section 73E;

*financial statements* means the financial statements prepared under section 107D;

*Stakeholder Minister* has the same meaning as in the *Government Business Enterprises Act 1995*;

*statement of corporate intent* has the meaning given by section 73G;

*Treasurer's Instructions* has the same meaning as in the *Government Business Enterprises Act 1995*.



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**107C. Accounting records**

The Commission must –

- (a) keep such accounting records as correctly record and explain its transactions (including any transactions as trustee) and financial position; and
- (b) keep those records in a manner that –
  - (i) allows true and fair accounts of the Commission to be prepared from time to time; and
  - (ii) allows its accounts to be conveniently and properly audited or reviewed; and
  - (iii) subject to any contrary written direction given by the Minister to the Commission, complies with Australian Accounting Standards; and
  - (iv) complies with any written directions given by the Minister to the Commission.

**107D. Financial statements**

- (1) The Commission is to prepare and forward to the Auditor-General a copy of its financial statements for each financial year in accordance with the *Audit Act 2008*.
- (2) . . . . .

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- (3) The financial statements must –
  - (a) comply with any directions given under subsection (4); and
  - (b) . . . . .
  - (c) be signed or certified as specified in such a direction.
- (4) The Treasurer may give written directions to the Commission in respect of the form and contents of the financial statements as he or she considers appropriate.

107E - 107F. . . . .

**107G. Annual report**

- (1) The Commission must prepare for the Commission an annual report for each financial year.
- (2) The annual report is to include the following information and documents:
  - (a) the statement of corporate intent which relates to the corporate plan that takes effect at the beginning of the next financial year;
  - (b) the financial statements of the Commission for the financial year to which the annual report relates;

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- (c) a copy of the opinion of the Auditor-General in respect of the financial statements received under section 19 of the *Audit Act 2008*;
  - (d) a report on the performance of the Commission during the financial year to which the annual report relates compared with the performance indicators specified in the corporate plan;
  - (e) a report on the operations of the Commission during the financial year to which the annual report relates;
  - (f) . . . . .
  - (g) the details of any direction given under section 73F;
  - (h) any other information that the Minister by written notice provided to the Commission requires to be included;
  - (i) any other information that the Commission considers is appropriate or necessary to properly inform the Minister and Parliament as to the performance and progress of the Commission during the financial year to which the annual report relates.
- (3) For the purposes of subsection (2)(a), *next financial year* means the financial year immediately following the financial year in respect of which the annual report is prepared.

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- (4) The Commission must provide the annual report to the Minister, the Stakeholder Minister and the Auditor-General.
- (5) Section 36 of the *State Service Act 2000* does not apply in respect of the Commission.

**107H. Tabling of annual report**

- (1) The Minister must lay a copy of the annual report before each House of Parliament within 4 months after the end of the financial year to which the annual report relates.
- (2) Where the Minister is unable to comply with subsection (1) for any reason other than that a House of Parliament is not sitting at the expiration of the period specified in that subsection, he or she must, before the expiration of that period, lay before each House of Parliament a statement specifying the reasons for the failure to comply with that subsection and an estimate of the day by which a copy of the annual report will be ready to lay before each House of Parliament.
- (3) Where the Minister is unable to lay a copy of the annual report before a House of Parliament within the period specified in subsection (1) or by the day specified in a statement referred to in subsection (2) because either House of Parliament is not sitting at the expiration of that period or on that day, the Minister must –
  - (a) immediately after the expiration of that period or that day, forward a copy of the

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annual report to the Clerk of that House of Parliament; and

- (b) within the next 7 sitting days of that House, lay a copy of the annual report before that House.

**107I. Quarterly reports**

- (1) The Commission must prepare a report on the operations of the Commission for each of the first 3 quarters of a financial year.
- (2) A quarterly report must be provided to the Minister and Stakeholder Minister –
  - (a) within 30 days after the end of the quarter; or
  - (b) if another period after the end of the quarter is agreed between the Commission, Minister and Stakeholder Minister, within the agreed period.
- (3) A quarterly report must include the information required to be given in the report by the Minister by written notice provided to the Commission.

**107J. Minister may require information**

- (1) The Minister, at his or her discretion or on the request of the Treasurer or the Stakeholder Minister, may require the Commission to provide to the Minister specified in the requirement, information relating to the affairs,

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or the performance and exercise of the functions and powers, of the Commission.

- (2) The Commission must comply with a requirement made under subsection (1).

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**PART VII – MISCELLANEOUS**

**108. Directions, &c., given by Minister**

- (1) A direction, notice or requirement given or made by the Minister under Part VA or VIA may adopt either wholly or partly and with or without modification, and either specifically or by reference, any Treasurer's Instructions, within the meaning of the *Government Business Enterprises Act 1995*, whenever issued.
- (2) The Commission must comply with a direction, notice or requirement given to, or made in respect of, it by the Minister under Part VA or VIA.

**109. Charges for services at fires**

- (1) The Commission may by notice published in the *Gazette* fix a scale of charges for the services rendered by brigades at fires, and, where any services are so rendered by a brigade, a charge, determined in accordance with those scales, is payable to the Commission under this section.
- (2) Subject to a determination made under subsection (5), the following persons are, for the purposes of this section, the persons liable to pay any charge that is payable under this section in respect of a fire:
  - (a) the owner of any property that was destroyed or damaged in the fire;

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- (b) where the fire occurred in any structure (whether or not the structure was destroyed in the fire), the owner, and the occupier of that structure and the owner of any property in, on, or attached to, that structure.
- (3) Notwithstanding subsection (2), a charge is not payable under this section by an owner or occupier of any land or structure who is liable to pay to a local council an amount, in respect of that land or structure, towards the contribution that the local council is notified under section 81B it is required to make unless –
  - (a) it is otherwise provided in this Act; or
  - (b) that owner or occupier has been convicted of an offence against this or any other Act, or of a crime, relating to the fire.
- (3A) Notwithstanding subsection (2), a charge is not payable under this section by –
  - (a) a person who has entered into a contract of insurance with an insurance company within the meaning of Part VI in relation to a prescribed class of insurance within the meaning of that Part, being a contract in force at the time when services are rendered by a brigade in respect of fire that has destroyed or damaged any property to which that contract relates; or
  - (b) if the services were rendered in relation to a motor vehicle (other than a motor



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cycle) that was, when the services were rendered, registered under the *Vehicle and Traffic Act 1999* –

unless it is otherwise provided in this Act or unless that person or registered operator has been convicted of an offence under this Act or any other Act, or of a crime, relating to the fire.

- (4) Where, by virtue of subsection (2), 2 or more persons would, but for this subsection, be liable in respect of any one charge, the Commission may determine that one or more of those persons shall be the person liable in respect of the whole or any part of that charge.
- (5) Where it appears to the Commission that the collection of a charge that has been imposed under this section would cause undue hardship on, or would be unjust or unfair to, the person on whom it is imposed, the Commission may waive the whole or any part of the charge.
- (6) In this section, *owner*, used in relation to any property, includes any person having possession of that property.

**109A. False alarms**

- (1) Subject to subsection (4), the Commission may make a charge for the attendance of a brigade at premises in response to a call arising out of a false alarm.

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- (2) For the purposes of this section, a false alarm is the activation of an automatic fire alarm system that is caused by reasons other than fire.
- (3) The charge referred to in subsection (1) is payable –
  - (a) in the case of activation of the fire alarm system due to the failure of a person to notify the appropriate brigade at which the alarm system is connected of testing or maintenance work being, or about to be, carried out on the system, by the person testing, maintaining or working on the system; or
  - (b) in any other case, by the subscriber for the fire alarm system.
- (4) Where a brigade responds to a call that is determined by an officer of the Fire Service to be a false alarm, the officer –
  - (a) if the false alarm is determined by the officer to have been caused by the failure of –
    - (i) a person to notify the appropriate brigade at which the fire alarm system is connected of testing or maintenance work being, or about to be, carried out on the system; or
    - (ii) the owner of the premises at which the brigade attended in response to the false alarm to

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notify the appropriate brigade at which the alarm system is connected of work practices carried out on those premises that may result in a false alarm being transmitted to the brigade; or

- (b) if the false alarm is determined by the officer to have been caused by any reason, other than a reason specified in paragraph (a), and it is the third false alarm caused by a reason, other than a reason specified in that paragraph and is recorded by the brigade from the same system within a period of 60 days –

must provide a report in writing to the Chief Officer concerning the circumstances relating to the false alarm, and the Chief Officer or a person nominated by the Chief Officer is to determine whether or not a charge should be made under subsection (1).

- (5) Where the Chief Officer or a person nominated by the Chief Officer determines that a charge should be made under this section the amount of the charge shall be calculated in accordance with the scale of charges fixed by the Commission pursuant to section 8A as if the attendance of the brigade were carried out pursuant to that section.

**110. Power to use water for fires and drills, &c., without charge**

- (1) The Commission and any brigade is, at all times –

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- (a) to have the right to use, free of charge, all reticulated water mains, water plugs, valves, pipes, and works or water supply vested in, or under the control of, any regulated entity, local authority or other public body, and of all water in any dam, tank or well belonging to any person, for the purpose of extinguishing any fire; and
  - (b) to have the reasonable use, free of charge, of any of those reticulated water mains, water plugs, valves, pipes, and works or water supply, for the purpose of any drill, demonstration, practice or competition carried out by the Commission or a brigade.
- (2) For the purposes of subsection (1), *regulated entity* has the same meaning as in the *Water and Sewerage Industry Act 2008*.

**111. Damage caused by members of Fire Service**

Any damage to property caused –

- (a) by a member of the Fire Service in the lawful execution of any power conferred by this Act; or
- (b) by any member of an industry brigade or a fire-fighting crew employed by the Forestry corporation assisting that member of the Fire Service –

shall be deemed to be damage by fire, within the meaning of a policy of insurance against fire, covering the property so damaged, notwithstanding anything in that policy to the contrary.

**112. Removal of debris after a fire**

- (1) Where a fire occurs in any premises, the owner of the premises shall remove any debris or flammable material which may be in or on such premises and which constitutes a fire hazard or a danger to life or property.
- (2) Where the owner of any premises fails to comply with subsection (1), the Commission may, by notice in writing delivered to the owner, require him, within 12 hours or such longer period as it considers necessary, to remove the debris or flammable material referred to in that subsection and if the owner fails or neglects to comply with the terms of the notice the Commission may –
  - (a) cause the debris or flammable material to be removed; and
  - (b) recover in any court of competent jurisdiction as a debt due to the Commission the expenses actually incurred in removing the debris or flammable material and in employing watchmen, if necessary, to protect the premises until the debris or flammable material is removed.

**113. Owner of property to give information**

- (1) On being requested to do so by an officer of the Fire Service, the owner of –
  - (a) any property that is destroyed or damaged in a fire;
  - (b) any property in or at which a fire occurred; or
  - (c) any property in, on, or attached to any structure in, or in any property in, on, or attached to which, a fire occurred –

shall give that officer such particulars as he may require with respect to the circumstances of the fire.

- (2) A person who refuses to comply with any request under subsection (1) or who gives any information that he knows to be false in a material particular in respect of such a request is guilty of an offence and liable to a fine not exceeding 2.5 penalty units.
- (3) In this section, *owner of any property* includes a person having possession of that property.

**114. Power of agents to deduct payments made for owners**

A person who is acting as the agent of the owner of any land or premises may –

- (a) deduct from any money held by him for the owner any amount necessarily or

properly incurred and paid by him under this Act in respect of the land or premises; or

- (b) recover in any court of competent jurisdiction from the owner the amount so incurred and paid.

**115. Power of trustees, &c.**

The trustee, executor, or administrator of an estate that owns any land or premises may apply any of the trust funds in his hands in defraying any amount necessarily or properly incurred by him under this Act as trustee, executor, or administrator in respect of the land or premises.

**116. Service of notices**

- (1) Except as otherwise provided in this Act, a notice required or authorized by this Act to be served on or given to any person may be so served or given –
  - (a) by delivering it personally to that person;
  - (b) by leaving it for him at his usual or last-known place of residence or business with some person who is apparently over the age of 16 years and who apparently resides at that place of residence or is employed at that place of business;
  - (c) by sending it by certified mail addressed to him at his usual or last-known place of residence or business; or

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- (d) in such other manner as may be prescribed.
- (2) A notice required or authorized to be served on or given to the owner or occupier of any land or premises may be addressed to him as the owner or occupier of that land or those premises without further name or description.

**117. Orders, notices, &c., made by Commission**

An order, notice, or direction made or given by the Commission under this Act is sufficiently authenticated if it is signed on behalf of the Commission by the Chief Officer, and an order, notice, or direction purporting to have been so signed shall, in the absence of evidence to the contrary, be deemed to have been made or given in accordance with a resolution of the Commission.

**118. Evidence as to certain matters**

- (1) In proceedings for an offence alleged to have been committed under this Act or for the recovery of any amount alleged to be due under this Act, an averment in a complaint that –
  - (a) any land or premises is, or was at any time, situated in or outside an operational district;
  - (b) any person is, or was at any time, the owner or occupier of any land or premises;



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- (c) any person is, or was at any time, the agent of the owner or occupier of any land or premises; or
- (d) any person is, or was at any time, the owner or person in charge of any property –

is, until the contrary is established, *prima facie* evidence of those matters.

- (2) Where, in any proceedings for an offence alleged to have been committed under this Act, it is necessary to prove that any report or recommendation was made to the Commission, evidence that that report or recommendation was so made may be given in those proceedings by the production of a document that –
  - (a) purports to be a copy of that report or recommendation; and
  - (b) includes a certificate purporting to be signed by the Chief Officer –
    - (i) stating that the document is a true copy of that report or recommendation; and
    - (ii) specifying the date on which that report or recommendation was made to the Commission.
- (3) In any proceedings –
  - (a) a certificate purporting to be signed by the Chief Officer certifying that a day

specified in the certificate was a day of total fire ban under section 70 is evidence of the matter certified; and

- (b) a certificate purporting to be signed by the Chief Officer certifying that a period specified in the certificate was a fire permit period under section 61 is evidence of the matter certified.

**119. Recovery and appropriation of charges**

- (1) A charge payable to the Commission under this Act may be recovered in a court of competent jurisdiction as a debt due to the Commission.
- (2) All charges recovered by the Commission shall be applied in and towards defraying its expenses under this Act.

**120. Assistance to officers**

- (1) A person shall not, either directly or indirectly, prevent a person who is willing to assist a member of the Fire Service in fire-fighting operations from so assisting at the request of the member, or hinder, impede, or obstruct him when so assisting, or when proceeding to a place for the purpose of so assisting.

Penalty: Fine not exceeding 26 penalty units or imprisonment for 6 months.

- (2) . . . . .

**121. Liability of Commission, &c.**

- (1) Where any person dies or sustains injury or damage and the death, injury, or damage is wholly or partly attributable to –
- (a) the failure of the Commission or a brigade or an officer, fire-fighter, employee, or agent of the Commission or a brigade to perform or properly perform any function imposed on it or on him by or under this Act;
  - (b) the improper exercise by the Commission or a brigade, or by any officer, fire-fighter, employee, or agent of the Commission or a brigade, of any power conferred on it or on him by or under this Act; or
  - (c) the contravention by the Commission or a brigade or any officer, fire-fighter, employee, or agent of the Commission or a brigade, of any provision of this Act or the regulations, being a provision that prohibits, whether conditionally or unconditionally, the Commission, brigade, officer, fire-fighter, employee, or agent from doing any act –

the Commission shall, except as provided in subsection (2) and subject to the defences and other incidences ordinarily applicable in proceedings in tort, be liable in tort in respect of the death, injury, or damage, but no such brigade, officer, fire-fighter, employee, or agent

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shall be so liable unless it is proved by or on behalf of the plaintiff that the brigade, officer, fire-fighter, employee, or agent in failing to perform or properly perform a function referred to in paragraph (a), in the improper exercise of a power referred to in paragraph (b), or in contravening a provision referred to in paragraph (c), acted, or, as the case may be, failed to act, in bad faith.

- (2) Subject to subsection (4), the Commission is not liable for any death, injury, or damage if the death, injury, or damage is attributable wholly or partly to any act or failure to act by a brigade or an officer, fire-fighter, employee, or agent of the Commission or a brigade if the act or failure to act occurred in the course of, or was directly connected with, any operation specified in subsection (3) unless it is proved that the brigade or the officer, fire-fighter, employee, or agent of the Commission or a brigade acted, or, as the case may be, failed to act, in bad faith.
- (3) The operations referred to in subsection (2) are those directed to extinguishing, or preventing the spread of, a fire or reducing the risk of a fire occurring, or to the training of persons in the carrying out of any of those operations.
- (4) Nothing in subsection (2) affects any liability of the Commission under the *Workers Rehabilitation and Compensation Act 1988* or any duty of the Commission at common law towards any member of the Fire Service.

- (5) Every member of a brigade is taken to be a member of the Fire Service for the purposes of this section whether or not the person receives any remuneration as such member.

**122. Failure to perform functions**

Where –

- (a) a member of the Fire Service –
- (i) fails properly to perform a function imposed, or improperly exercises a power conferred, on him under this Act; or
  - (ii) contravenes a provision of this Act, being a provision applicable to him; and
- (b) no penalty is, whether in or under this, or any other Act, specifically provided in respect of that failure, improper exercise, or contravention –

that member shall not be criminally liable in respect of that failure, improper exercise, or contravention, but nothing in this subsection prevents him from being dealt with in accordance with the *State Service Act 2000* for a breach of discipline relating to that failure, improper exercise, or contravention.

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**123. Powers of entry of members of Fire Service**

- (1) A member of the Fire Service authorized by the Commission for the purpose may enter any land or premises for the purpose of determining whether the requirements of this Act are being, or have been, complied with in relation to any matter arising, or that he suspects of having arisen, on any land or premises.
- (2) A member of the Fire Service authorized to enter any land or premises under subsection (1) may take with him such persons as he considers necessary to effect the purpose for which the entry is made.

**124. Powers of members of Fire Service to demand name and address**

- (1) A member of the Fire Service authorized by the Commission for the purpose may demand the name and address of any person whom he has reason to suspect of having committed an offence against any of the provisions of this Act.
- (2) A person who refuses to give his name or address, or who gives a name and address that is intended to mislead the member of the Fire Service making the demand, is guilty of an offence against this Act.

**125. Power of police officer to arrest without warrant in certain cases**

- (1) A police officer may arrest without warrant a person whom he finds committing a prescribed offence or whom he has reasonable grounds for believing to have committed such an offence.
- (2) In this section, *prescribed offence* means an offence under –
  - (a) section 68(2);
  - (b) section 69;
  - (c) section 71;
  - (d) section 120; and
  - (e) section 128(2)(g) and section 128(2)(h).

126. . . . .

**127. Recognition of meritorious service**

The Commission may award a member of the Fire Service who has rendered conspicuous or meritorious service such form of recognition as the Commission thinks fit.

**128. Offences and penalties**

- (1) A person shall not –

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- (a) wilfully obstruct, hinder or interfere with a member of the Fire Service who is performing any function or exercising any power under this Act; or
- (b) injure, damage, or interfere with, any building, materials, or appliances belonging to the Commission;
- (ba) except as may be provided by the General Fire Regulations, install, maintain or repair any fire protection equipment unless the person holds a permit issued in accordance with those regulations;
- (c) remain on any land or in any premises where there is or has recently been a fire, after being order to quit the premises by an officer of the Fire Service or a police officer;
- (d) retain possession of any property of the Commission after an officer of the Fire Service has requested the person to deliver up the property;
- (e) cover up or close any fireplug so as to render its position difficult to locate, or injure any fireplug;
- (f) obliterate or remove any mark used to indicate the position of any fireplug;
- (g) tamper or interfere with any fire-alarm or other signalling apparatus;



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- (h) give an alarm of fire without believing there to be a fire;
- (i) wilfully drive any vehicle over a fire hose; or
- (j) wilfully drive any vehicle within such distance of the place of any fire or of any apparatus in use at any fire as may interfere with the operations of any brigade or the use of that apparatus.

Penalty: Fine not exceeding 26 penalty units or imprisonment for 6 months.

- (2) A person who –
  - (a) is the owner or occupier of land and, on becoming aware of the existence of a fire on that land, fails to take reasonable measures to prevent the escape of the fire from that land;
  - (b) ignites, uses, or carries when ignited, so as to endanger another person's land or any Crown land, any flammable material;
  - (c) lights a fire, or causes a fire to be lit, in the open air, or leaves any such fire unextinguished, without taking such reasonable precautions as may be necessary or as may be prescribed, for preventing the spread of the fire;
  - (d) fails, without reasonable excuse, to comply with an order, notice, direction, or requirement given under this Act by

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the Commission, the Chief Officer, an officer, a fire-fighter, a forest officer, a person employed in the responsible Department in relation to the *Hydro-Electric Corporation Act 1995* or in the responsible Department in relation to the *National Parks and Reserves Management Act 2002*, or a police officer;

- (e) during a fire permit period, lights a fire or causes a fire to be lit on land of which he is not the owner or occupier except with the authority of the owner or occupier of the land or, in the case of unoccupied Crown land during a fire permit period, except pursuant to, and in accordance with the conditions of, a permit granted to him by a forest officer;
- (f) during a fire permit period, causes any ignited material to be within 6 metres of
  - (i) any ripened agricultural crop (whether standing, cut, or baled) or any stubble;
  - (ii) any stack of, or building containing, hay, straw, chaff, flax, or grain, or other flammable material produced from the cutting or rooting up of an agricultural crop;

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- (iii) any stack of cut or sawn timber;  
or
- (iv) any broadcast cut scrub, brush, or  
similar vegetation;
- (g) during a fire permit period or on a day of  
total fire ban, drops, throws down, or  
leaves, in an open space, any match,  
tobacco, cigar, or cigarette that has at any  
time been alight without having first  
extinguished the match, tobacco, cigar,  
or cigarette; or
- (h) destroys, damages, or interferes with any  
works executed or carried out by the  
Commission or a brigade under or for the  
purposes of this Act –

is guilty of an offence against this Act.

- (3) For the purposes of subsection (2)(f) hay shall be  
regarded as an agricultural crop.
- (4) A person who commits an offence referred to in  
subsection (2) is liable, if the offence is  
committed –
  - (a) on a day of total fire ban, to a fine not  
exceeding 100 penalty units or  
imprisonment for 12 months; or
  - (b) during a fire permit period, to a fine not  
exceeding 50 penalty units or  
imprisonment for 6 months.

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- (5) A person who is guilty of an offence against this Act for which no specific penalty is prescribed is liable to a fine not exceeding 26 penalty units.
- (6) Where a person is convicted of an offence against this Act, having at any time previously been convicted of the same offence, he is liable to a penalty that is double the penalty prescribed by this Act in relation to that offence.

**129. Proceedings to be heard by magistrate**

Proceedings in respect of an offence against this Act shall be heard and determined by a magistrate sitting alone.

**130. Identification to be produced in certain cases**

- (1) A member of the Fire Service who is empowered by this Act to enter any land or premises in particular circumstances must, before entering the land or premises in those circumstances, produce a document of identification as such member.
- (2) Subsection (1) does not apply if the member of the Fire Service –
  - (a) has reasonable cause to believe that there is a fire on the land or premises; or
  - (b) is dressed in the authorized uniform of the Fire Service.

**130A. Provisions relating to employment**

- (1) The salaries, wages, and allowances payable to all persons appointed or employed pursuant to this Act shall be payable by the Commission.
- (2) For the purposes of the *Workers Rehabilitation and Compensation Act 1988* and the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*, the Commission shall be deemed to be the employer of all persons appointed or employed pursuant to this Act.

**131. Application of *Acts Interpretation Act 1931* to notices published in *Gazette***

Where under this Act any power is conferred on the Commission to publish a notice in the *Gazette*, section 22 of the *Acts Interpretation Act 1931* applies to such a notice as if it were an instrument referred to in that section.

**132. Regulations**

- (1) The Governor may, on the recommendation of the Commission, make regulations for the purposes of this Act.
- (2) Without limiting subsection (1), the regulations may –
  - (a) require, in prescribed cases, a burner, incinerator, furnace, or other engine or appliance for the burning of wood waste or other flammable materials that is used or installed in or on premises used as a

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sawmill or factory, and any chimney, smoke-stack, exhaust-pipe, or other outlet used in connection with such a burner, incinerator, furnace, or other engine or appliance, to be equipped, as prescribed, with a prescribed device for arresting sparks;

- (b) require internal combustion engines to comply with prescribed requirements with regard to the emission of sparks or exhaust material likely to cause fires or to be equipped with specified devices for the arrest, suppression, or prevention of the emission of any such sparks or materials;
- (c) prohibit the use of anything referred to in paragraph (a) or (b) that is not equipped as prescribed or does not comply with prescribed requirements;
- (d) regulate, or prohibit the lighting, maintenance, or use in the open air of fires for the purpose of burning or destroying flammable materials or any rubbish or waste produced on any premises or deposited in any place, and prescribe the precautions to be taken by a person by whom such a fire is lit, maintained, or used for any such purpose;
- (e) prescribe the requirements to be complied with, or authorize the Commission or such persons as may be

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prescribed to give directions as to the requirements to be complied with, in respect of the disposal of flammable materials resulting from the operations of a sawmill, factory, or other prescribed premises;

- (f) regulate or prohibit the operation of engines, motors, or machines (whether stationary or fixed on, or used for the propulsion of, a vehicle), or of any equipment, apparatus, or device in the operation of which combustion takes place or sparks or other materials are, or may be, emitted that are likely to cause fires, either generally or during fire permit periods or on days of total fire ban;
- (g) provide for, and regulate, the inspection by prescribed persons of any of the things referred to in paragraph (a), (b), or (f);
- (h) regulate or prohibit the dumping of live coals and other flammable materials from locomotives and other engines that are operated by solid fuel and generally regulate and control the method of operating any such locomotives and engines so as to prevent, or reduce the risk of, the outbreak of fires resulting from the operation of them;
- (i) require, either generally or in prescribed cases or during prescribed periods or on

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prescribed days, any person who desires to light a fire in the open air to give such notice as may be prescribed to such other person as may be prescribed;

- (j) generally regulate the making of applications for, and the granting of, permits under this Act authorizing the lighting of fires; and
  - (k) declare that any specified provisions of this Act do not apply to, or in relation to, any engine or appliance for the burning of waste or other flammable material used or installed on premises used as a sawmill or factory where the engine or appliance has been approved by the Commission and complies with the prescribed conditions, and provide for and regulate the granting, duration, suspension, and cancellation of certificates of approval and certificates of exemption in relation to engines and appliances so exempted.
- (3) Without limiting subsection (1), the regulations may –
- (a) regulate the keeping of the accounts, and the receipt and disbursement of money, by the Commission;
  - (b) regulate and control fire demonstrations and competitions;
  - (c) provide for and regulate the establishment and maintenance of



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salvage corps and industry fire brigades and prescribe the charges to be made in respect of services rendered by salvage corps and industry fire brigades;

(d - e) . . . . .

(f) provide for the payment of a special allowance or gratuity to any person in respect of voluntary or special services rendered by him to a brigade or group of brigades;

(g - m) . . . . .

(n) regulate the methods of training of members of brigades and groups of brigades and of other members of the Fire Service; and

(o) prescribe the uniforms to be worn by members of brigades and groups of brigades and by other members of the Fire Service when on duty.

(4) Regulations made with respect to the matters mentioned in subsections (2) and (3) may –

(a) make it an offence to contravene or fail to comply with any specified provision of the regulations and impose a fine not exceeding 26 penalty units for any such offence;

(b) make differing provisions for differing circumstances and cases and make

provision for exemptions from any of the requirements of the regulations; and

- (c) confer, in relation to any of the requirements or other provisions of the regulations, powers and discretions on the Commission or the holder of a prescribed office.

**133. General Fire Regulations**

- (1) The Governor may, on the recommendation of the Commission, make regulations, to be called the “General Fire Regulations” for the protection of life and property from fire and, for that purpose, those regulations may –

- (a) . . . . .
- (b) require the alteration of existing premises to provide for the reasonable means of prevention of fire, minimising of fire risk, protection of life and property from fire, and the prescribed ways and means of escape;
- (c - d) . . . . .
- (e) require that ways and means of escape in premises shall always be usable without unreasonable hindrance;
- (f) . . . . .
- (g) require that premises or a room with prescribed characteristics within

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premises shall not be used for a prescribed purpose;

- (h) require the maintenance and testing in premises of water mains, cisterns, taps, automatic sprinklers, buckets of water, buckets of sand, stirrup pumps, fire extinguishers, and other things and devices to extinguish, check the spread of, or give warning of, fire;
- (i) require the preparation, publication, and practice of schemes for the evacuation of buildings in the event of fire occurring in or in the vicinity of the building;
- (j) where the occupier of premises changes the use or contents of the premises or part of the premises so that the danger from fire is increased to other premises or parts of the same premises, require that occupier –
  - (i) to make such structural alterations to the premises; or
  - (ii) to install such fire detection or fire prevention devices –as the Commission considers necessary to ensure that the danger is not greater than it was before the change;
- (k) authorize a member of the Fire Service to enter buildings and inspect and test any fire protection or fire prevention device installed in the premises;

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- (l) prohibit the interference with or removal or obstruction of any fire protection or fire prevention device installed in the premises, except where an authorized member of the Fire Service isolates, or causes to be isolated, an alarm system or part of an alarm system that contains a fault for the purpose of enabling that fault to be rectified;
  - (m) prescribe the conduct to be followed by persons in places where fires are likely to break out;
  - (n) require that a petrol tank vehicle, acid tank vehicle, or vehicle carrying liquefied energy gas or cylinders of flammable gas in cities and towns shall be parked only as prescribed; and
  - (o) prescribe the routes to be taken by vehicles referred to in paragraph (n) when proceeding through cities and towns.
- (1A) The General Fire Regulations may prescribe or provide for any matters that they are authorised by this Act to prescribe or provide for.
- (2) The General Fire Regulations may –
- (a) confer, in relation to the requirements or other provisions of the General Fire Regulations, powers and discretions on the Commission or Chief Officer or on the holder of a specified office;

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- (b) make it an offence to contravene or fail to comply with any specified provision of the regulations and impose a fine not exceeding 52 penalty units and a daily fine not exceeding one penalty unit;
  - (c) provide for the making of rules by an occupier for the purposes of subsection (1)(m) and that such rules, when approved as prescribed, shall have the force of regulations made under this section;
  - (d) be general or in respect of specified types, classes, or descriptions of premises; and
  - (e) incorporate by reference any of the standard rules, codes, and specifications of the Standards Association of Australia, the British Standards Institute, or any like authority.
- (3) The General Fire Regulations shall not be inconsistent with –
- (a) the *Dangerous Goods (Road and Rail Transport) Act 2010*; or
  - (b) the *Explosives Act 2012*; or
  - (ba) the *Heavy Vehicle National Law (Tasmania) Act 2013*; or
  - (c) the *Public Health Act 1997*; or
  - (d) the *Traffic Act 1925*; or

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- (e) the *Vehicle and Traffic Act 1999*; or
- (f) the *Work Health and Safety Act 2012*; or
- (g) any Act relating to building –

and the regulations and by-laws made under any of those Acts, but if the General Fire Regulations are inconsistent with any such regulations or by-laws made before or after the second commencement day, the General Fire Regulations shall, to the extent of that inconsistency, be void.

(4) . . . . .

**133A. Appeals against provisions of General Fire Regulations**

A person aggrieved by a requirement imposed on the person by a person exercising a power under any provision of the General Fire Regulations made pursuant to section 133 relating to existing premises may appeal to the Tasmanian Civil and Administrative Tribunal.

**133B. Savings and transitional provisions**

Schedule 5A has effect.

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**SCHEDULE 1 – PROVISIONS WITH RESPECT TO  
THE MEMBERSHIP AND MEETINGS OF THE  
COMMISSION**

Section 7

**1. Interpretation**

In this Schedule, *appointed member* means a member of the Commission appointed by the Governor.

**2. Term of office**

- (1) An appointed member holds office as a member of the Commission for a term of 3 years, unless he sooner vacates office under this Schedule.
- (2) The Governor may remove an appointed member of the Commission from office if he is satisfied that that member –
  - (a) has become incapable of carrying out his duties;
  - (b) has misconducted himself in the performance of the duties of his office;
  - (c) has, without leave of the Commission, been absent from 3 or more consecutive meetings of the Commission;
  - (d) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded or entered into an arrangement with his creditors; or

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- (e) has been convicted in this State of a crime or an offence that is punishable by imprisonment for a term of 12 months or more, or has been convicted of a crime or an offence which would, if committed in this State, be a crime or an offence so punishable, or has been convicted, whether in this State or elsewhere, of a crime or offence for which he has been sentenced to imprisonment.
- (3) Where an appointed member of the Commission dies or ceases to hold office otherwise than by reason of the effluxion of time, the Governor may appoint a person to fill the office for the remainder of the term for which the vacating member was so appointed.
- (4) An appointed member may, by instrument in writing under his hand addressed to the Governor, apply to resign from office, and he vacates that office on the acceptance of the application by the Governor.

**3. Remuneration of members**

The appointed members of the Commission shall be paid such remuneration and allowances as the Governor may determine, but no remuneration shall be paid pursuant to this clause to a member of the Commission who is a State Service officer or State Service employee, except with the approval of the Head of the State Service Agency in which the officer or employee is employed.



#### **4. Meetings of Commission**

- (1) The chairperson of the Commission shall convene a meeting of the Commission on not less than one occasion in each month and on such other occasions as the Minister may direct.
- (2) The chairperson of the Commission shall preside at all meetings of the Commission at which he is present.
- (3) In the absence of the chairperson from a meeting of the Commission, the members present shall elect one of their number to preside at the meeting.
- (4) Four members constitute a quorum of the Commission.
- (5) A question arising at a meeting of the Commission shall be determined by a majority of the votes of the members present and entitled to vote at the meeting and, in the event of an equality of votes, the chairperson or other member presiding at the meeting may exercise a second or casting vote and, if that right is not exercised, the matter stands adjourned to the next meeting of the Commission.
- (6) Subject to this clause, the Commission may regulate its own proceedings in such manner as it thinks fit.

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**SCHEDULE 2 – . . . . .**

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**SCHEDULE 3 – . . . . .**

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**SCHEDULE 4 – . . . . .**

**SCHEDULE 5 – PROVISIONS WITH RESPECT TO  
THE MEMBERSHIP AND MEETINGS OF THE  
COUNCIL**

Section 14

**1. Interpretation**

In this Schedule, *appointed member* means a member of the Council referred to in paragraph (a), (e), (g), (h), (i) or (j) of section 14(2).

**2. Term of office**

- (1) An appointed member holds office as a member of the Council for a term of 3 years, unless he sooner vacates office under this Schedule.
- (2) The Governor may remove an appointed member of the Council from office if he is satisfied that member –
  - (a) has become incapable of carrying out his duties;
  - (b) has misconducted himself in the performance of the duties of his office;
  - (c) has, without leave of the Council, been absent from 3 or more consecutive meetings of the Council;
  - (d) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded or entered into an arrangement with his creditors; or

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- (e) has been convicted in this State of a crime or an offence that is punishable by imprisonment for a term of 12 months or more, or has been convicted of a crime or an offence which would, if committed in this State, be a crime or an offence so punishable, or has been convicted, whether in this State or elsewhere, of a crime or offence for which he has been sentenced to imprisonment.
- (3) Subject to subclause (4), where an appointed member of the Council dies or ceases to hold office otherwise than by reason of the effluxion of time, the Governor may appoint a person to fill the office for the remainder of the term for which the vacating member was so appointed.
- (4) The Governor may remove from office a member of the Council appointed on the nomination of an organization referred to in paragraph (h), (i) or (j) of section 14(2) if he is satisfied, having regard to the information supplied by the organization or the bodies that nominated the member, that the member is no longer qualified to represent that organization or those bodies on the Council and the Governor may appoint a person nominated by the relevant nominating organization or bodies to fill the office for the remainder of the term for which the member removed from office was appointed.
- (5) An appointed member may, by instrument in writing under his hand addressed to the Governor, apply to resign from office, and he

vacates that office on the acceptance of the application by the Governor.

**3. Remuneration of members**

The members of the Council shall be paid such remuneration and allowances as the Governor may determine, but no remuneration shall be paid pursuant to this section to a member of the Council who is a State Service officer or State Service employee, except with the approval of the Head of the State Service Agency in which the officer or employee is employed.

**4. Meetings of Council**

- (1) The chairperson of the Council must convene a meeting of the Council at least once in each 3 month period.
- (2) Notwithstanding subclause (1), the chairperson of the Council shall convene a meeting of the Council when required to do so by 3 or more members of the Council.
- (3) The chairperson of the Council shall preside at all meetings of the Council at which he is present and has a deliberative vote.
- (4) . . . . .
- (5) In the absence of the chairperson from a meeting of the Council, the members present shall elect one of their number to preside at the meeting.

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- (6) Five members constitute a quorum of the Council.
- (7) A question arising at a meeting of the Council shall be determined by a majority of the votes of the members present and voting on the question and, in the event of an equality of votes, the chairperson or other member presiding at the meeting may exercise a second or casting vote and, if that right is not exercised, the matter stands adjourned to the next meeting of the Council.
- (8) Subject to this clause, the Council may regulate its own proceedings in such manner as it thinks fit.



**SCHEDULE 5A – SAVINGS AND TRANSITIONAL  
PROVISIONS**

Section 133B

**1. Interpretation**

In this Schedule, unless the contrary intention appears –

*Amended Act* means this Act as amended by the *Fire Service Reform Act 1995*;

*commencement day* means the day on which the *Fire Service Reform Act 1995* commences;

*Former Act* means this Act as in force immediately before the commencement day.

**2. Delegation**

Any function or power of the Commission that, immediately before the commencement day, was delegated to the State Fire Commissioner under section 9 of the Former Act is, on that day, a function or power of the Commission that is delegated to the Chief Officer.

**3. Brigades**

A brigade established under the Former Act and subsisting immediately before the commencement day is, on that day, taken to have

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been established as a brigade under section 26 of the Amended Act.

**4. Urban fire brigade districts and country fire brigade districts**

- (1) An urban fire brigade district declared under section 27 of the Former Act, or a country fire brigade district declared under section 32A of the Former Act, and subsisting immediately before the commencement day is taken to be a rating district declared under section 74A of the Amended Act.
- (2) The Commission, by notice published in the *Gazette* within 60 days of the commencement day, must –
  - (a) confer a name on the rating district; and
  - (b) specify whether the rating district is a permanent brigade rating district, volunteer brigade rating district or composite brigade rating district.
- (3) The Commission, as soon as practicable after the commencement day, must cause a plan of the rating district to be lodged in the Central Plan Office.
- (4) The Surveyor-General, if satisfied that the plan is in accordance with the *Survey Co-ordination Act 1944*, must register the plan in the Central Plan Register.

**5. Groups of brigades**

A group of brigades formed under section 33 of the Former Act and subsisting immediately before the commencement day is, on that day, taken to be a group of brigades formed under section 33 of the Amended Act.

**6 - 7. . . . .**

**8. Contributions to operating costs of brigades**

The contributions required to be paid towards the operating costs of all brigades by insurance companies, the Treasurer and local councils for the financial year ending on 30 June 1995 are, notwithstanding the amendment of this Act by the *Fire Service Reform Act 1995*, to be determined in accordance with the Former Act and the Former Act continues to apply to those contributions as if the Former Act were still in force.

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**SCHEDULE 6 – . . . . .**

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**SCHEDULE 7 – . . . . .**

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**SCHEDULE 8 – . . . . .**

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**NOTES**

The foregoing text of the *Fire Service Act 1979* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 5 November 2021 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Fire Service Act 1979</i>	No. 35 of 1979	19.7.1979 ss. 1 and 2 1.11.1979 remaining provisions
<i>Fire Service Amendment Act 1979</i>	No. 71 of 1979	1.11.1979 (ss. 6 and 7 and Sched. 1) 14.12.1979 (rest of Act)
<i>Fire Service Act 1979</i>	No. 35 of 1979	1.3.1980 ss. 79, 80 and 81
<i>Fire Service Amendment Act 1980</i>	No. 8 of 1980	1.3.1980 (ss. 4 and 8) 30.4.1980 (rest of Act)
<i>Fire Service Act 1979</i>	No. 35 of 1979	1.7.1980 Div.3 of Pt. VI (except ss. 79, 80 and 81), Div. 4 of Pt. VI and s. 104
<i>Fire Service Amendment Act (No. 2) 1980</i>	No. 50 of 1980	2.9.1980
<i>Fire Service Amendment Act 1981</i>	No. 12 of 1981	15.4.1981 (rest of Act) 22.4.1981 (ss. 5 - 8, 14, 31, and 33)
<i>Fire Service Amendment Act (No. 3) 1981</i>	No. 74 of 1981	16.12.1981
<i>Companies and Securities Legislation (Miscellaneous Amendments) Act 1982</i>	No. 9 of 1982	1.7.1982
<i>Retirement Benefits Act 1982</i>	No. 10 of 1982	1.7.1982

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Act	Number and year	Date of commencement
		(s. 95(1) and Sched. 8, Pt. I)
<i>Fire Service Amendment Act (No. 2) 1981</i>	No. 73 of 1981	1.8.1982
<i>Retirement Benefits Act 1982</i>	No. 10 of 1982	(s. 95(2) and Sched. 8, Pt. II)
<i>Fire Service Amendment Act 1983</i>	No. 22 of 1983	2.8.1983
<i>Housing and Construction Act (Repeal) Act 1983</i>	No. 24 of 1983	18.8.1983
<i>Fire Service Amendment Act (No. 2) 1983</i>	No. 61 of 1983	16.12.1983
<i>Tasmanian Development (Miscellaneous Provisions) Act 1983</i>	No. 88 of 1983	1.3.1984
<i>Fire Service Amendment Act 1984</i>	No. 34 of 1984	11.7.1984
<i>Fire Service Amendment Act (No. 2) 1984</i>	No. 81 of 1984	1.12.1984
<i>Local Government (City of Launceston Reorganization) Consequential Amendments Act 1985</i>	No. 31 of 1985	8.5.1985
<i>Statute Law Revision Act 1985</i>	No. 51 of 1985	23.5.1985
<i>Local Government (Rates and Charges) Consequential Amendments) Act 1985</i>	No. 10 of 1985	1.7.1985
<i>Fire Service Amendment Act 1986</i>	No. 60 of 1986	1.7.1985 (ss. 8, 11, 14 and 17)
<i>Tasmanian State Service (Miscellaneous Amendments) Act 1984</i>	No. 29 of 1984	1.12.1985
<i>Fire Service Amendment Act 1986</i>	No. 60 of 1986	4.8.1986 (rest of Act)
<i>Fire Service Amendment Act 1987</i>	No. 79 of 1987	1.1.1988
<i>Fire Service Amendment (Contribution Rates) Act 1988</i>	No. 64 of 1988	22.12.1988
<i>Fire Service Amendment (Charges for Services) Act 1990</i>	No. 2 of 1990	16.5.1990
<i>Fire Service Amendment Act 1990</i>	No. 3 of 1990	16.5.1990 (rest of Act) 1.7.1990 (ss. 7 (1) (c), (d), (e), 7 (2), 8, 9, 10, 11, 13, 14, 17, 18, 21, 23)
<i>Administrative Arrangements (Miscellaneous Amendments) Act 1990</i>	No. 5 of 1990	1.7.1990
<i>Liquor and Accommodation Act 1990</i>	No. 44 of 1990	1.4.1991



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Act	Number and year	Date of commencement
<i>Public Land (Administration and Forests) Act 1991</i>	No. 42 of 1991	4.12.1991
<i>Statute Law Revision Act 1991</i>	No. 46 of 1991	18.12.1991
<i>Fire Service Amendment (False Alarms) Act 1992</i>	No. 38 of 1992	10.12.1992
<i>Fire Service Amendment (Membership of Commission) Act 1993</i>	No. 2 of 1993	20.4.1993
<i>Fire Service Amendment Act 1993</i>	No. 6 of 1993	20.4.1993
<i>Wellington Park Act 1993</i>	No. 59 of 1993	1.11.1993
<i>Fire Service Amendment (Penalties) Act 1993</i>	No. 101 of 1993	23.12.1993
<i>Land Acquisition (Consequential Amendments) Act 1993</i>	No. 24 of 1993	1.1.1994
<i>Local Government (Building and Miscellaneous Provisions) Act 1993</i>	No. 96 of 1993	17.1.1994
<i>Fire Service Amendment (Miscellaneous) Act 1994</i>	No. 18 of 1994	17.3.1994
<i>Forestry Amendment (Forestry Corporation) Act 1994</i>	No. 25 of 1994	1.7.1994
<i>State Fire Commission Superannuation Scheme Act 1994</i>	No. 75 of 1994	1.6.1995
<i>Government Business Enterprises (Consequential Amendments) Act 1995</i>	No. 20 of 1995	1.7.1995
<i>Workplace Health and Safety (Consequential Amendments) Act 1995</i>	No. 14 of 1995	16.8.1995
<i>Workers Rehabilitation and Compensation Reform (Consequential Amendments) Act 1996</i>	No. 42 of 1996	16.8.1995
<i>Fire Service Reform Act 1995</i>	No. 29 of 1995	17.10.1995
<i>Aboriginal Lands Act 1995</i>	No. 98 of 1995	6.12.1995
<i>Local Government Amendment Act 1995</i>	No. 88 of 1995	1.1.1996
<i>Environmental Management and Pollution Control (Consequential Amendments) Act 1996</i>	No. 37 of 1996	25.1.1996
<i>Fire Service Order 1996</i>	S.R. 1996, No. 127	25.9.1996
<i>Hydro-Electric Corporation (Consequential and Miscellaneous Provisions) Act 1996</i>	No. 61 of 1996	17.12.1996
<i>Statute Law Revision Act 1996</i>	No. 63 of 1996	17.12.1996
<i>Fire Service Amendment Act 1997</i>	No. 40 of 1997	14.11.1997
<i>Electricity Companies Act 1997</i>	No. 69 of 1997	22.12.1997
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	22.5.1998
<i>Dangerous Goods Act 1998</i>	No. 6 of 1998	1.1.1999

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Act	Number and year	Date of commencement
<i>Financial Sector Reform (Tasmania) (Miscellaneous Amendments) Act 1999</i>	No. 74 of 1999	1.1.2000
<i>Forestry Amendment (Miscellaneous) Act 1999</i>	No. 30 of 1999	1.1.2000
<i>Fire Service Amendment Act 1999</i>	No. 72 of 1999	1.7.2000
<i>Children, Young Persons and Their Families and Youth Justice (Consequential Repeals and Amendments) Act 1998</i>	No. 2 of 1998	1.7.2000
<i>National Taxation Reform (Commonwealth-State Relations) Miscellaneous Amendments Act 2000</i>	No. 21 of 2000	1.7.2000
<i>Regional Forest Agreement (Land Classification) Consequential Amendments Act 2000</i>	No. 55 of 2000	14.7.2000
<i>Vehicle and Traffic (Transitional and Consequential) Act 1999</i>	No. 90 of 1999	14.8.2000
<i>Superannuation (Miscellaneous and Consequential Amendments) Act 2000</i>	No. 103 of 2000	13.12.2000
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Fire Service Amendment Act 2001</i>	No. 37 of 2001	1.7.2001
<i>Corporations (Consequential Amendments) Act 2001</i>	No. 42 of 2001	15.7.2001
<i>Valuation of Land Act 2001</i>	No. 102 of 2001	28.6.2002
<i>Magistrates Court (Administrative Appeals Division) (Consequential Amendments) Act 2001</i>	No. 73 of 2001	1.7.2002
<i>National Parks and Wildlife Separation (Consequential Amendments) Act 2002</i>	No. 64 of 2002	31.12.2002
<i>Statute Law Revision Act 2003</i>	No. 9 of 2003	16.4.2003
<i>Financial Management and Audit Amendment Act 2003</i>	No. 42 of 2003	4.7.2003
<i>Building (Consequential Amendments) Act 2003</i>	No. 26 of 2003	1.7.2004
<i>Liquor and Accommodation Amendment Act 2004</i>	No. 24 of 2004	1.1.2005
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act 2006</i>	No. 3 of 2006	26.6.2006
<i>Fire Service Amendment Act 2005</i>	No. 36 of 2005	1.7.2006
<i>Fire Service Amendment Act (No. 2)</i>	No. 79 of 2005	1.7.2006

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Act	Number and year	Date of commencement
2005		
<i>Fire Service Amendment Act 2007</i>	No. 57 of 2007	13.12.2007
<i>Environmental Management and Pollution Control (Environment Protection Authority) (Consequential Amendments) Act 2007</i>	No. 76 of 2007	1.7.2008
<i>Audit (Consequential Amendments) Act 2008</i>	No. 50 of 2008	1.3.2009
<i>Dangerous Goods and Substances (Transitional and Consequential Provisions) Act 2005</i>	No. 52 of 2005	1.7.2009
<i>Water and Sewerage Industry (Consequential and Transitional) Act 2008</i>	No. 52 of 2008	1.7.2009
<i>Fire Service Amendment Act 2009</i>	No. 48 of 2009	1.9.2009
<i>Audit (Consequential Amendments) Act 2008</i>	No. 50 of 2008	1.7.2010
<i>Dangerous Goods (Road and Rail Transport) Act 2010</i>	No. 16 of 2010	1.1.2011
<i>Fire Service Amendment Act 2011</i>	No. 3 of 2011	1.7.2011
<i>Fire Service Amendment (Bushfire-Prone Areas) Act 2011</i>	No. 32 of 2011	25.10.2011
<i>Asbestos-Related Diseases (Occupational Exposure) Compensation (Consequential Amendments) Act 2011</i>	No. 28 of 2011	31.10.2011
<i>Building Amendment Act 2012</i>	No. 20 of 2012	28.11.2012
<i>Work Health and Safety (Transitional and Consequential Provisions) Act 2012</i>	No. 2 of 2012	1.1.2013
<i>Explosives Act 2012</i>	No. 4 of 2012	1.1.2013
<i>Fire Service Amendment Act 2012</i>	No. 33 of 2012	30.4.2013
<i>Forest Management (Consequential Amendments) Act 2013</i>	No. 50 of 2013	11.12.2013
<i>Heavy Vehicle National Law (Tasmania) Act 2013</i>	No. 30 of 2013	10.2.2014
<i>Building (Consequential Amendments) Act 2016</i>	No. 12 of 2016	1.1.2017
<i>Fire Service Amendment Act 2017</i>	No. 3 of 2017	31.3.2017
<i>Education (Consequential Amendments) Act 2016</i>	No. 47 of 2016	10.7.2017
<i>Financial Management (Consequential and Transitional Provisions) Act 2017</i>	No. 4 of 2017	1.7.2019
<i>Tasmanian Civil and Administrative Tribunal (Consequential</i>	No. 18 of 2021	5.11.2021

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Act	Number and year	Date of commencement
<i>Amendments) Act 2021</i>		
<i>Fire Service Amendment (Fire Infringement Notices) Act 2016</i>	No. 8 of 2016	not commenced

**TABLE OF AMENDMENTS**

Provision affected	How affected
Section 2	Amended by No. 71 of 1979, s. 4 and No. 12 of 1981, s. 34 and Sched. 1
Section 3	Amended by No. 12 of 1981, s. 4 and s. 34 and Sched. 1, No. 73 of 1981, s. 4, No. 29 of 1984, s. 3 and Sched. 1, No. 34 of 1984, s. 4, No. 51 of 1985, s. 4 and Sched. 2, Pt. II, No. 3 of 1990, s. 4, No. 5 of 1990, s. 3 and Sched. 1, No. 42 of 1991, s. 128, No. 25 of 1994, s. 45 and Sched. 3, No. 29 of 1995, s. 4, No. 30 of 1999, s. 15, No. 21 of 2000, s. 8, No. 55 of 2000, Sched. 1, No. 86 of 2000, Sched. 1, No. 37 of 2001, s. 4, No. 57 of 2007, s. 4, No. 33 of 2012, s. 4 and No. 50 of 2013, Sched. 1
Section 6	Amended by No. 29 of 1995, s. 5
Section 7	Amended by No. 29 of 1995, s. 6, S.R. 1996 No. 127, No. 3 of 2017, s. 4 and No. 4 of 2017, Sched. 1
Section 7A	Inserted by No. 3 of 2017, s. 5
Section 8	Amended by No. 60 of 1986, s. 4, No. 24 of 1993, s. 3 and Sched. 1, No. 59 of 1993, s. 81, No. 29 of 1995, s. 7 and No. 33 of 2012, s. 5
Section 8A	Inserted by No. 2 of 1990, s. 4
Section 9	Substituted by No. 29 of 1995, s. 8
Section 10	Amended by No. 5 of 1990, s. 3 and Sched. 1, No. 29 of 1995, s. 9 and No. 86 of 2000, Sched. 1
Section 10A	Repealed by No. 5 of 1990, s. 3 and Sched. 1
Section 11	Amended by No. 71 of 1979, s. 5 and No. 29 of 1995, s. 10
Section 12	Repealed by No. 29 of 1995, s. 11
Section 13	Repealed by No. 29 of 1995, s. 11
Section 14	Substituted by No. 29 of 1995, s. 12
Section 15	Substituted by No. 29 of 1995, s. 12 and No. 33 of 2012, s. 6
Section 16	Amended by No. 31 of 1985, sched. 1, No. 46 of 1991, sched. 2 Repealed by No. 29 of 1995, s. 13
Section 17	Amended by No. 12 of 1981, s. 6, No. 46 of 1991, sched. 2 Substituted by No. 29 of 1995, s. 14 Amended by No. 33 of 2012, s. 7
Section 18	Amended by No. 12 of 1981, s. 7 Substituted by No. 29 of 1995, s. 14 Amended by No. 55 of 2000, Sched. 1, No. 64 of 2002,

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Provision affected	How affected
	Sched. 1 and No. 33 of 2012, s. 8
Section 19	Amended by No. 71 of 1979, sched. 1, No. 12 of 1981, s. 8 Repealed by No. 29 of 1995, s. 15
Section 20	Substituted by No. 29 of 1995, s. 16 and No. 33 of 2012, s. 9
Section 21	Repealed by No. 29 of 1995, s. 17 Substituted by No. 33 of 2012, s. 9
Part II, Div. 3	Heading substituted by No. 29 of 1995, s. 18
Section 22	Repealed by No. 29 of 1995, s. 19
Section 23	Repealed by No. 29 of 1995, s. 19
Section 24	Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 46 of 1991, s. 4 and Sched. 2, No. 29 of 1995, s. 20, No. 86 of 2000, Sched. 1 and No. 103 of 2000, Sched. 1
Section 24A	Repealed by No. 29 of 1984, s. 3 and Sched. 1
Part III, Div. 1	Heading substituted by No. 29 of 1995, s. 21
Section 25	Repealed by No. 29 of 1995, s. 22
Section 26	Substituted by No. 29 of 1995, s. 23 Amended by No. 86 of 2000, Sched. 1
Section 27	Substituted by No. 29 of 1995, s. 23
Section 28	Repealed by No. 29 of 1995, s. 24
Section 29	Amended by No. 12 of 1981, s. 11, No. 44 of 1990, s. 225 and Sched. 3, No. 18 of 1994, s. 4, No. 29 of 1995, s. 25, No. 6 of 1998, s. 47, No. 37 of 2001, Sched. 1, No. 9 of 2003, Sched. 1, No. 24 of 2004, s. 34, No. 52 of 2005, Sched. 1 and No. 4 of 2012, Sched. 3
Section 30	Amended by No. 12 of 1981, s. 12 Substituted by No. 29 of 1984, sched. 1 Amended by No. 5 of 1990, sched. 1 Repealed by No. 29 of 1995, s. 26
Section 31	Repealed by No. 29 of 1995, s. 28
Section 32	Repealed by No. 29 of 1995, s. 28
Section 32A	Inserted by No. 3 of 1990, s. 5 Repealed by No. 29 of 1995, s. 28
Section 33	Amended by No. 34 of 1984, s. 6, No. 29 of 1995, s. 33 and No. 57 of 2007, s. 5
Section 34	Substituted by No. 34 of 1984, s. 7 Repealed by No. 29 of 1995, s. 30
Section 35	Amended by No. 71 of 1979, sched. 1 Substituted by No. 29 of 1995, s. 31
Part III, Div. 2	Heading renumbered by No. 29 of 1995, s. 32 Heading repealed by No. 29 of 1995, s. 27
Section 36	Amended by No. 71 of 1979, s. 7 and Sched. 1, No. 12 of 1981, s. 34 and Sched. 1 Subsection (6) omitted by No. 60 of 1986, s. 5 Subsection (8) omitted by No. 60 of 1986, s. 5 Subsection (9) omitted by No. 60 of 1986, s. 5 Amended by No. 101 of 1993, sched. 1, No. 29 of 1995, s. 33

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Provision affected	How affected
	Subsection (3) substituted by No. 29 of 1995, s. 33
	Subsection (4) substituted by No. 29 of 1995, s. 33
	Subsection (5) substituted by No. 29 of 1995, s. 33
	Subsection (7) substituted by No. 29 of 1995, s. 33
	Amended by No. 37 of 2001, Sched. 1
	Repealed by No. 57 of 2007, s. 6
Section 37	Amended by No. 101 of 1993, s. 4 and Sched. 1
Section 38	Repealed by No. 29 of 1995, s. 34
Section 39	Amended by No. 29 of 1995, s. 35
Section 40	Amended by No. 29 of 1995, s. 36, No. 42 of 1996, s. 3 and Sched. 1 and No. 28 of 2011, s. 18
Section 41	Amended by No. 2 of 1990, s. 5, No. 29 of 1995, s. 37, No. 42 of 1996, s. 3 and Sched. 1 and No. 28 of 2011, s. 19
Section 42	Amended by No. 29 of 1995, s. 39
Section 43	Amended by No. 29 of 1984, s. 3 and Sched. 1 and No. 25 of 1994, s. 45 and Sched. 3
Section 44	Amended by No. 61 of 1996, s. 15
Section 45	Amended by No. 29 of 1995, s. 39, No. 55 of 2000, Sched. 1 and No. 64 of 2002, Sched. 1
Section 46	Repealed by No. 29 of 1995, s. 40
Section 47	Amended by No. 12 of 1981, s. 14 and No. 29 of 1995, s. 41
Section 48	Amended by No. 101 of 1993, s. 4 and Sched. 1, No. 29 of 1995, s. 42 and No. 57 of 2007, s. 7
Section 49	Amended by No. 22 of 1983, s. 5, No. 60 of 1986, s. 6, No. 101 of 1993, s. 4 and Sched. 1, No. 29 of 1995, s. 43 and No. 57 of 2007, s. 8
Section 50	Amended by No. 5 of 1990, s. 3 and Sched. 1, No. 44 of 1990, s. 225 and Sched. 3, No. 29 of 1995, s. 44, No. 2 of 1998, Sched. 2, No. 9 of 2003, Sched. 1, No. 24 of 2004, s. 35 and No. 47 of 2016, s. 11
Section 51	Amended by No. 101 of 1993, s. 4 and Sched. 1, No. 6 of 1998, s. 47, No. 52 of 2005, Sched. 1, No. 16 of 2010, Sched. 1 and No. 4 of 2012, Sched. 3
Section 52	Amended by No. 37 of 1996, s. 3 and Sched. 1 and No. 76 of 2007, Sched. 1
Section 53	Amended by No. 18 of 1994, s. 5 and No. 61 of 1996, s. 15
Section 54	Substituted by No. 29 of 1995, s. 45 Repealed by No. 33 of 2012, s. 10
Section 55	Amended by No. 60 of 1986, s. 7, No. 59 of 1993, s. 81 Substituted by No. 29 of 1995, s. 45 Repealed by No. 33 of 2012, s. 10
Section 56	Amended by No. 29 of 1995, s. 46 and No. 73 of 2001, Sched. 1
Section 58	Amended by No. 22 of 1983, s. 6 and No. 29 of 1995, s. 47
Section 60	Amended by No. 61 of 1996, s. 5 Substituted by No. 69 of 1997, Sched. 3
Section 60A	Inserted by No. 32 of 2011, s. 4

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Provision affected	How affected
Section 60B	Inserted by No. 32 of 2011, s. 4
Section 60C	Inserted by No. 32 of 2011, s. 4
Section 60D	Inserted by No. 32 of 2011, s. 4
Section 60E	Inserted by No. 32 of 2011, s. 4
Section 60F	Inserted by No. 32 of 2011, s. 4
Section 60G	Inserted by No. 32 of 2011, s. 4
Section 60H	Inserted by No. 32 of 2011, s. 4
Section 60I	Inserted by No. 32 of 2011, s. 4
Section 63	Amended by No. 101 of 1993, s. 4 and Sched. 1, No. 29 of 1995, s. 48 and No. 63 of 1996, s. 4
Section 64	Amended by No. 29 of 1995, s. 49
Section 65	Substituted by No. 29 of 1995, s. 50 Amended by No. 55 of 2000, Sched. 1, No. 64 of 2002, Sched. 1 and No. 33 of 2012, s. 11
Section 65A	Inserted by No. 29 of 1995, s. 51 Amended by No. 55 of 2000, Sched. 1 and No. 64 of 2002, Sched. 1
Section 65B	Inserted by No. 29 of 1995, s. 51 Amended by No. 33 of 2012, s. 12
Section 66	Amended by No. 101 of 1993, s. 4 and Sched. 1, No. 25 of 1994, sched. 3, No. 29 of 1995, s. 52, No. 37 of 1996, s. 3 and Sched. 1, No. 55 of 2000, Sched. 1, No. 64 of 2002, Sched. 1 and No. 57 of 2007, s. 9
Section 67	Amended by No. 25 of 1994, s. 45 and Sched. 3, No. 29 of 1995, s. 53, No. 55 of 2000, Sched. 1 and No. 64 of 2002, Sched. 1
Section 68	Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1, No. 101 of 1993, sched. 2, No. 25 of 1994, s. 45 and Sched. 3, No. 29 of 1995, s. 54, No. 61 of 1996, s. 15, No. 63 of 1996, s. 4, No. 55 of 2000, Sched. 1 and No. 64 of 2002, Sched. 1
Section 69	Amended by No. 101 of 1993, s. 4 and Sched. 1
Section 70	Amended by No. 101 of 1993, s. 4 and Sched. 1 and No. 29 of 1995, s. 55
Section 71	Amended by No. 101 of 1993, s. 4 and Sched. 1
Section 72	Amended by No. 29 of 1995, s. 56
Section 73	Amended by No. 29 of 1995, s. 57
Part VA	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73A	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73B	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73C	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73D	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73E	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73F	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73G	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73H	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 73I	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 74	Substituted by No. 12 of 1981, s. 15

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Provision affected	How affected
	Amended by No. 74 of 1981, s. 4, No. 34 of 1984, s. 8, No. 3 of 1990, s. 7, No. 29 of 1995, s. 58, No. 72 of 1999, s. 4, No. 102 of 2001, Sched. 2 and No. 48 of 2009, s. 4
Section 74A	Inserted by No. 29 of 1995, s. 59
Part VI, Div. 2	Repealed by No. 29 of 1995, s. 60
Section 75	Repealed by No. 20 of 1995, s. 3 and Sched. 1
Section 76	Repealed by No. 20 of 1995, s. 3 and Sched. 1
Section 77	Repealed by No. 29 of 1995, s. 60
Part VI, Div. 2,	Repealed by No. 29 of 1995, s. 60
Part VI, Div. 2A	Inserted by No. 12 of 1981, s. 17
Section 77A	Inserted by No. 12 of 1981, s. 17
	Amended by No. 29 of 1995, s. 61
Part VI, Div. 2B	Inserted by No. 12 of 1981, s. 17
Section 77B	Inserted by No. 12 of 1981, s. 17
	Subsection (1) substituted by No. 34 of 1984, s. 9
	Amended by No. 6 of 1993, s. 4, No. 101 of 1993, s. 4 and Sched. 1
	Substituted by No. 72 of 1999, s. 5
	Amended by No. 57 of 2007, s. 10
Section 77C	Inserted by No. 12 of 1981, s. 17
	Amended by No. 74 of 1981, s. 5, No. 3 of 1990, s. 9, No. 6 of 1993, s. 5, No. 29 of 1995, s. 62 and No. 21 of 2000, s. 9
Section 77D	Repealed by No. 74 of 1981, s. 6
	Inserted by No. 12 of 1981, s. 17
Section 77E	Inserted by No. 12 of 1981, s. 17
	Amended by No. 74 of 1981, s. 7
	Subsection (2) substituted by No. 74 of 1981, s. 7
	Amended by No. 6 of 1993, s. 6
	Subsection (2A) inserted by No. 6 of 1993, s. 6
	Amended by No. 101 of 1993, s. 4 and Sched. 1, No. 72 of 1999, s. 6
	Subsection (3) omitted by No. 72 of 1999, s. 6
	Substituted by No. 21 of 2000, s. 10
Section 77F	Inserted by No. 12 of 1981, s. 17
	Amended by No. 29 of 1995, s. 63 and No. 3 of 2006, s. 16
Section 77G	Inserted by No. 12 of 1981, s. 17
	Amended by No. 9 of 1982, s. 7 and Sched. 10, No. 101 of 1993, s. 4 and Sched. 1, No. 29 of 1995, s. 64, No. 72 of 1999, s. 7 and No. 42 of 2001, Sched. 1
Section 77GA	Inserted by No. 72 of 1999, s. 8
Section 77H	Inserted by No. 12 of 1981, s. 17
	Amended by No. 101 of 1993, s. 4 and Sched. 1 and No. 72 of 1999, s. 9
Section 77I	Inserted by No. 12 of 1981, s. 17
Section 77J	Inserted by No. 12 of 1981, s. 17
Part VI, Div. 2C	Inserted by No. 12 of 1981, s. 17
Section 77K	Inserted by No. 12 of 1981, s. 17



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Provision affected	How affected
	Amended by No. 29 of 1995, s. 65 and No. 90 of 1999, Sched. 1
Section 77L	Inserted by No. 12 of 1981, s. 17 Amended by No. 3 of 1990, s. 10, No. 81 of 1994, s. 4, No. 29 of 1995, s. 66 and No. 90 of 1999, Sched. 1
Part VI, Div. 3	Heading amended by No. 29 of 1995, s. 67
Section 78	Amended by No. 8 of 1980, s. 7, No. 60 of 1986, s. 8 Substituted by No. 29 of 1995, s. 68 Amended by No. 98 of 1995, s. 42 and Sched. 5 Substituted by No. 36 of 2005, s. 4
Section 79	Amended by No. 79 of 2005, s. 4 and No. 3 of 2011, s. 4 Substituted by No. 12 of 1981, s. 19 Amended by No. 61 of 1983, s. 3, No. 34 of 1984, s. 10, No. 3 of 1990, s. 71, No. 6 of 1993, s. 8
Section 79A	Substituted by No. 29 of 1995, s. 69 Inserted by No. 3 of 1990, s. 12 Substituted by No. 29 of 1995, s. 70 Amended by No. 40 of 1997, s. 4 Subsection (2) substituted by No. 40 of 1997, s. 4 Subsection (3) omitted by No. 40 of 1997, s. 4 Subsection (4) omitted by No. 40 of 1997, s. 4
Section 79B	Amended by No. 72 of 1999, s. 10 Repealed by No. 48 of 2009, s. 5 Inserted by No. 29 of 1995, s. 71 Amended by No. 40 of 1997, s. 5 Subsection (2) substituted by No. 40 of 1997, s. 5 Subsection (3) omitted by No. 40 of 1997, s. 5 Subsection (4) omitted by No. 40 of 1997, s. 5
Section 80	Substituted by No. 72 of 1999, s. 11 Substituted by No. 8 of 1980, s. 8 Amended by No. 12 of 1981, sched. 1, No. 61 of 1983, s. 4, No. 64 of 1988, s. 4, No. 3 of 1990, s. 13, No. 6 of 1993, s. 9 Substituted by No. 29 of 1995, s. 72
Section 81	Amended by No. 48 of 2009, s. 6 Substituted by No. 8 of 1980, s. 8 Amended by No. 12 of 1981, sched. 1, No. 64 of 1988, s. 5, No. 3 of 1990, s. 14, No. 6 of 1993, s. 10 Substituted by No. 29 of 1995, s. 72 and No. 48 of 2009, s. 7
Section 81A	Inserted by No. 8 of 1980, s. 8 Amended by No. 12 of 1981, sched. 1, No. 64 of 1988, s. 6, No. 3 of 1990, s. 15 Repealed by No. 29 of 1995, s. 73 Substituted by No. 48 of 2009, s. 7
Section 81B	Inserted by No. 8 of 1980, s. 8 Amended by No. 12 of 1981, sched. 1, No. 61 of 1983, s. 5, No. 3 of 1990, s. 15

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Provision affected	How affected
Section 81C	Substituted by No. 29 of 1995, s. 74
	Amended by No. 48 of 2009, s. 8
	Inserted by No. 8 of 1980, s. 8
	Amended by No. 61 of 1983, s. 6, No. 34 of 1984, s. 11, No. 10 of 1985, sched. 1, No. 3 of 1990, s. 16
Section 81D	Substituted by No. 29 of 1995, s. 74
	Amended by No. 17 of 1996, No. 72 of 1999, s. 12, No. 37 of 2001, s. 5 and No. 48 of 2009, s. 9
	Inserted by No. 8 of 1980, s. 8
Section 82	Amended by No. 61 of 1983, s. 7, No. 60 of 1986, s. 9, No. 3 of 1990, s. 18
	Substituted by No. 29 of 1995, s. 74
	Amended by No. 24 of 1983, sched. 1, No. 88 of 1983, sched. 1, No. 10 of 1985, sched. 1
	Substituted by No. 60 of 1986, s. 10
Section 83	Repealed by No. 29 of 1995, s. 75
	Inserted by No. 48 of 2009, s. 10
Section 84	Repealed by No. 60 of 1986, s. 11
Section 85	Repealed by No. 10 of 1985, s. 3 and Sched. 1
Section 86	Repealed by No. 29 of 1995, s. 75
	Amended by No. 12 of 1981, s. 22
Section 87	Repealed by No. 29 of 1995, s. 75
	Amended by No. 10 of 1985, sched. 1
Section 88	Repealed by No. 29 of 1995, s. 75
	Amended by No. 24 of 1983, sched. 1, No. 88 of 1983, sched. 1
Section 89	Substituted by No. 60 of 1986, s. 72
	Repealed by No. 29 of 1995, s. 75
	Amended by No. 12 of 1981, s. 23, No. 10 of 1985, sched. 1
Section 90	Repealed by No. 29 of 1995, s. 75
	Amended by No. 10 of 1985, sched. 1
Section 91	Repealed by No. 29 of 1995, s. 75
	Amended by No. 8 of 1980, s. 9, No. 64 of 1988, s. 7, No. 6 of 1991, s. 10
Section 92	Substituted by No. 29 of 1995, s. 76
	Amended by No. 10 of 1985, sched. 1
	Repealed by No. 29 of 1995, s. 77
Section 92A	Inserted by No. 8 of 1980, s. 10
	Substituted by No. 29 of 1995, s. 78
Section 93	Repealed by No. 29 of 1995, s. 79
Section 94	Repealed by No. 29 of 1995, s. 79
Section 95	Substituted by No. 12 of 1981, s. 25
	Amended by No. 60 of 1986, s. 13
	Substituted by No. 29 of 1995, s. 80
Section 96	Repealed by No. 12 of 1981, s. 26
Section 97	Repealed by No. 12 of 1981, s. 27
Section 98	Repealed by No. 29 of 1995, s. 81

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Provision affected	How affected
Section 99	Substituted by No. 10 of 1985, sched. 1 Repealed by No. 29 of 1995, s. 81
Section 100	Repealed by No. 29 of 1995, s. 81
Part VI, Div. 4	Heading substituted by No. 29 of 1995, s. 82
Section 101	Substituted by No. 29 of 1995, s. 83
Section 102	Amended by No. 29 of 1995, s. 84 and No. 4 of 2017, Sched. 1
Section 103	Amended by No. 74 of 1999, Sched. 2
Section 104	Amended by No. 12 of 1981, s. 30 and No. 29 of 1995, s. 85
Section 105	Amended by No. 29 of 1995, s. 86 and No. 33 of 2012, s. 13
Section 106	Repealed by No. 29 of 1995, s. 87
Section 107	Amended by No. 29 of 1995, s. 88
Section 107A	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Part VIA,	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 107B	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 107C	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 107D	Inserted by No. 20 of 1995, s. 3 and Sched. 1 Amended by No. 42 of 2003, Sched. 1 and No. 50 of 2008, Sched. 2
Section 107E	Inserted by No. 20 of 1995, s. 3 and Sched. 1 Repealed by No. 42 of 2003, Sched. 1
Section 107F	Inserted by No. 20 of 1995, s. 3 and Sched. 1 Amended by No. 50 of 2008, Sched. 1 Repealed by No. 50 of 2008, Sched. 2
Section 107G	Inserted by No. 20 of 1995, s. 3 and Sched. 1 Amended by No. 86 of 2000, Sched. 1, No. 42 of 2003, Sched. 1 and No. 50 of 2008, Sched. 1
Section 107H	Inserted by No. 20 of 1995, s. 3 and Sched. 1 Amended by No. 42 of 2003, Sched. 1
Section 107I	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 107J	Inserted by No. 20 of 1995, s. 3 and Sched. 1
Section 108	Substituted by No. 20 of 1995, s. 3 and Sched. 1
Section 109	Amended by No. 22 of 1983, s. 7, No. 60 of 1986, s. 14, No. 29 of 1995, s. 89 and No. 90 of 1999, Sched. 1
Section 109A	Inserted by No. 64 of 1988, s. 8 Amended by No. 2 of 1990, s. 6, No. 38 of 1992, s. 4 and No. 29 of 1995, s. 90
Section 110	Substituted by No. 52 of 2008, Sched. 1
Section 111	Substituted by No. 64 of 1988, s. 9 Amended by No. 5 of 1990, s. 3 and Sched. 1, No. 25 of 1994, s. 45 and Sched. 3, No. 29 of 1995, s. 91 and No. 37 of 2001, Sched. 1
Section 113	Amended by No. 101 of 1993, s. 4 and Sched. 1 and No. 29 of 1995, s. 92
Section 117	Amended by No. 29 of 1995, s. 93
Section 118	Amended by No. 3 of 1990, s. 19 and No. 29 of 1995, s. 94

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Provision affected	How affected
Section 119	Amended by No. 64 of 1988, s. 10 and No. 2 of 1990, s. 7
Section 120	Amended by No. 101 of 1993, s. 4 and Sched. 1 and No. 29 of 1995, s. 95
Section 121	Amended by No. 60 of 1986, s. 16, No. 29 of 1995, s. 96 and No. 42 of 1996, s. 3 and Sched. 1
Section 122	Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 29 of 1995, s. 97 and No. 86 of 2000, Sched. 1
Section 123	Amended by No. 29 of 1995, s. 98
Section 124	Amended by No. 29 of 1995, s. 99
Section 126	Repealed by No. 29 of 1995, s. 100
Section 127	Substituted by No. 29 of 1995, s. 101
Section 128	Amended by No. 8 of 1980, s. 12, No. 29 of 1984, s. 3 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1, No. 101 of 1993, s. 4 and Sched. 1, No. 18 of 1994, s. 6, No. 29 of 1995, s. 102, No. 61 of 1996, s. 5, No. 37 of 2001, s. 6 and No. 64 of 2002, Sched. 1
Section 130	Amended by No. 29 of 1995, s. 103
Section 130A	Inserted by No. 29 of 1984, s. 3 and Sched. 1 Amended by No. 29 of 1995, s. 104, No. 42 of 1996, s. 3 and Sched. 1 and No. 28 of 2011, s. 20
Section 132	Amended by No. 71 of 1979, s. 7 and Sched. 1, No. 22 of 1983, s. 8, No. 29 of 1984, s. 3 and Sched. 1, No. 101 of 1993, s. 4 and Sched. 1, No. 75 of 1994, s. 9, No. 29 of 1995, s. 105 and No. 37 of 2001, Sched. 1
Section 133	Amended by No. 71 of 1979, s. 7 and Sched. 1, No. 8 of 1980, s. 13, No. 12 of 1981, s. 32, No. 73 of 1981, s. 6, No. 34 of 1984, s. 12, No. 96 of 1993, s. 252 and Sched. 1, No. 101 of 1993, s. 4 and Sched. 1, No. 14 of 1995, sched. 1, No. 14 of 1995, s. 3 and Sched. 1, No. 29 of 1995, s. 106, No. 61 of 1996, s. 5, No. 6 of 1998, s. 47, No. 37 of 2001, s. 7, No. 9 of 2003, Sched. 1, No. 52 of 2005, Sched. 1, No. 16 of 2010, Sched. 1, No. 2 of 2012, s. 35, No. 4 of 2012, Sched. 3 and No. 30 of 2013, Sched. 1
Section 133A	Inserted by No. 79 of 1987, s. 4 Amended by No. 29 of 1995, s. 107 Subsection (2) substituted by No. 29 of 1995, s. 107 Amended by No. 26 of 2003, Sched. 1, No. 20 of 2012, s. 121, No. 12 of 2016, Sched. 1 Substituted by No. 18 of 2021, s. 90
Section 134	Repealed by No. 29 of 1995, s. 108
Section 135	Repealed by No. 29 of 1995, s. 108
Section 136	Repealed by No. 29 of 1995, s. 108
Section 137	Repealed by No. 29 of 1995, s. 108
Section 138	Repealed by No. 74 of 1981, s. 8
Schedule 1	Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 5 of 1990, s. 3 and Sched. 1, No. 2 of 1993, s. 5, No. 29 of 1995, s. 109 and No. 86 of 2000, Sched. 1

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Provision affected	How affected
Schedule 2	Repealed by No. 5 of 1990, s. 3 and Sched. 1
Schedule 3	Repealed by No. 29 of 1984, s. 3 and Sched. 1
Schedule 4	Repealed by No. 29 of 1984, s. 3 and Sched. 1
Schedule 5	Amended by No. 50 of 1980, s. 4, No. 12 of 1981, s. 33, No. 29 of 1984, s. 3 and Sched. 1, No. 29 of 1995, s. 110, No. 17 of 1996 and No. 86 of 2000, Sched. 1
Schedule 5,	Amended by No. 29 of 1995, s. 110
Schedule 5	Amended by No. 29 of 1995, s. 110
Schedule 5A	Amended by No. 33 of 2012, s. 14
Schedule 6	Repealed by No. 29 of 1995, s. 111
Schedule 7	Repealed by No. 12 of 1981, s. 34 and Sched. 1
Schedule 8	Repealed by No. 29 of 1995, s. 112

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