



Australian Capital Territory

Emergencies Act 2004

A2004-28

Republication No 3

Effective: 1 September 2004 – 22 December 2004

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Act not amended

(republiation for commenced provisions)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Emergencies Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 September 2004. It also includes any amendment, repeal or expiry affecting the republished law.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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Emergencies Act 2004

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Australian Capital Territory

Emergencies Act 2004

An Act about emergencies and fire and ambulance incidents, and for other purposes

Chapter 1 Preliminary

1 Name of Act

This Act is the *Emergencies Act 2004*.

2 Commencement

- (1) This Act (other than schedule 3, parts 3.1 and 3.2 and amendments 3.47 and 3.48) commences on a day fixed by the Minister by written notice.
- (2) Schedule 3, part 3.1 (Building Act 2004) and part 3.2 (Building Regulations 2004) commence on the later of—
 - (a) the commencement of this Act; and
 - (b) the commencement of the *Building Act 2004*.
- (3) Schedule 3, amendments 3.47 and 3.48 commence on the commencement of the *Environment Legislation Amendment Act 2004*.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Objects of Act

The objects of this Act are—

- (a) to protect and preserve life, property and the environment; and

- (b) to provide for effective emergency management; and
- (c) to provide for the effective and cohesive management by the emergency services authority of the state emergency service, the ambulance service, the fire brigade and the rural fire service; and
- (d) to recognise the value to the community of all emergency service members, including volunteer members.

4 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*land management agreement*—see the *Land (Planning and Environment) Act 1991*, dictionary.' means that the term 'land management agreement' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

5 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

6 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

Chapter 1 Preliminary

Section 6

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Chapter 2 The authority and commissioner

Part 2.1 Emergency services authority

7 Establishment of authority

- (1) The ACT Emergency Services Authority is established.
- (2) The authority—
 - (a) is a corporation; and
 - (b) may have a seal.
- (3) The emergency services commissioner is the authority.

8 Powers of authority

- (1) The authority has all the powers of an individual.

Examples

- 1 to enter into a contract
- 2 to own and dispose of property
- 3 to sue and be sued
- 4 to act as a trustee

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The authority also has all the powers of a corporation.

Part 2.2 Functions of authority

9 Authority functions

- (1) The authority is responsible for the overall strategic direction and management of the emergency services.

Note A chief officer of an emergency service is responsible for the general management and control of the service (see s 28 (3) (a), s 29 (3) (a), s 30 (3) (a) and s 31 (3) (a)).

- (2) The authority is also responsible for community education and improving community preparedness for emergencies.

- (3) The authority has the functions given to the authority under this Act and any other Territory law.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

- (4) In the exercise of the authority's functions, the authority must—
- (a) seek to give the emergency services a strong, cohesive, strategic and operational direction; and
 - (b) seek to ensure delivery of high-quality and effective service to the community by each of the emergency services; and
 - (c) seek to improve the operational effectiveness and flexibility of the emergency services; and
 - (d) recognise the value of the individual emergency services; and
 - (e) recognise the importance of all emergency service members, including volunteer members, to the services and the community; and

- (f) recognise the diverse needs of the community, including people with special needs; and

Examples of people with special needs

- 1 the frail aged
- 2 people with a disability
- 3 people in hospital

- (g) emphasise community education and preparedness for emergencies; and

- (h) provide common planning, administrative and logistic support for the emergency services (including common communications and emergency coordination centres); and

Example

common risk management planning

- (i) ensure that members of the emergency services and volunteers are properly equipped, trained and prepared; and
- (j) establish an emergency coordination centre for the ACT.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

10 Authority to advise Minister

The authority must advise the Minister on the overall capability and preparedness of the emergency services including prevention activities by the services.

11 Asking bushfire council's advice

- (1) The authority must ask for, and consider, the bushfire council's advice before exercising a function relating to bushfires prescribed under the regulations.
- (2) The authority may ask for the bushfire council's advice in relation to the exercise of any other function relating to bushfires.

12 Authority may make guidelines

- (1) The authority may, in writing, make guidelines for the organisation and operation of the authority and the strategic operation of each of the emergency services (the *authority guidelines*).
- (2) The authority guidelines are a notifiable instrument except to the extent that the authority considers it is in the public interest that it not be notifiable.

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

- (3) Any part of the authority guidelines that is not notified under the Legislation Act must be given to the appropriate Legislative Assembly committee.
- (4) The authority guidelines may make provision in relation to—
 - (a) areas of the emergency services to be operated jointly; and
 - (b) operation of joint areas of the emergency services; and
 - (c) planning and conduct of joint operations of the emergency services; and
 - (d) anything else in relation to the organisation and operation of the authority, and the strategic organisation and operation of each of the emergency services, that the authority considers appropriate.

Examples

- 1 guidelines for the operation of a joint communications area for the services
- 2 guidelines for joint operations
- 3 guidelines for joint response to a major building collapse
- 4 guidelines for ending appointments of volunteer members (including application of the rules of natural justice)

Note 1 An Act that authorises the making of a statutory instrument (eg guidelines) also authorises an instrument to be made with respect to any matter required or permitted to be prescribed under the authorising law or that is necessary or convenient to be prescribed for carrying out or giving effect to the authorising law (see Legislation Act, s 44).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) The authority guidelines may apply, adopt or incorporate a law or instrument as in force from time to time.

Note The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

- (6) The chief officer of an emergency service may recommend amendments of the authority guidelines to the authority.

- (7) For this section:

appropriate Legislative Assembly committee means the standing committee of the Legislative Assembly nominated, in writing, by the Speaker.

13 Delegations by authority

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

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

Part 2.3 Operations of authority

14 Authority to comply with directions

The authority must comply with any directions given to the authority under this Act or another Territory law.

Note The authority may be given directions by the Minister under s 15.

15 Ministerial directions to authority

- (1) The Minister may give a written direction to the authority about the exercise of its functions.
- (2) Before giving a direction, the Minister must—
 - (a) tell the authority about the proposed direction; and
 - (b) give the authority reasonable opportunity to comment on the proposed direction; and
 - (c) consider any comment made by the authority.
- (3) The Minister must—
 - (a) present a copy of a direction to the Legislative Assembly within 6 sitting days after the day it is given to the authority; and
 - (b) if the copy would not be presented to the Legislative Assembly under paragraph (a) within 14 days after the day it is given to the authority—give copies of the direction to the Speaker for the members of the Legislative Assembly within the 14 days.
- (4) If subsection (3) is not complied with, the direction is taken to have been revoked at the end of the period within which the copy of the direction should have been presented or given to the Speaker.

- (5) A direction is a notifiable instrument.

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

16 Reports by authority to Minister

- (1) The authority must give the Minister a report, or information about its operations, required by the Minister.
- (2) A report under this section must be prepared in the form (if any) that the Minister requires.
- (3) This section is in addition to any other provision about the giving of reports or information by the authority.

17 Authority's annual report

A report prepared by the authority under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include—

- (a) a copy of any direction given to the authority under this Act or another Territory law during the year; and
- (b) a statement by the authority about action taken during the year to give effect to any direction given to the authority (whether before or during the year).

Part 2.4 Emergency services commissioner

18 Appointment of commissioner

- (1) The Executive must appoint a person to be the ACT Emergency Services Commissioner.

Note 1 For the making of appointments generally, see Legislation Act, pt 19.3.

Note 2 A power to appoint a person to a position includes power to appoint a person to act in the position (see Legislation Act, s 209).

- (2) An appointment must be for a term of not longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 (1) (c)).

- (3) An appointment is a notifiable instrument.

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

19 Functions of commissioner

- (1) The commissioner has the following functions:

- (a) to promote the objects of the Act;
- (b) to ensure the authority exercises its functions in a proper, effective and efficient way.

- (2) The commissioner may exercise any other function given to the commissioner under this Act or another Territory law.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

20 Commissioner's employment conditions

The commissioner's conditions of appointment are the conditions agreed between the Executive and the commissioner, subject to any determination under the *Remuneration Tribunal Act 1995*.

21 Ending commissioner's appointment

- (1) The Executive must end the appointment of the commissioner if the Executive becomes aware that the commissioner has at any time been convicted, in Australia or elsewhere, of an offence punishable by imprisonment for at least 1 year.
- (2) The Executive may end the appointment of the commissioner—
 - (a) for misbehaviour; or
 - (b) for physical or mental incapacity, if the incapacity affects the exercise of the commissioner's functions; or
 - (c) if the commissioner becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (d) in accordance with the commissioner's employment conditions.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

Part 2.5 Authority staff, volunteers and consultants

22 Authority staff

- (1) The staff of the authority are to be employed under the *Public Sector Management Act 1994*.
- (2) A member of an emergency service is a member of the staff of the authority.

Note The *Public Sector Management Act 1994*, s 24 provides that the chief executive officer of an instrumentality has all the powers of a chief executive under the Act in relation to staff members who are public servants. Under that Act, s 3, def **chief executive officer**, the chief executive officer of an instrumentality is the person who has responsibility for managing its affairs.

- (3) To remove any doubt, this Act does not prevent the making of an instrument under the *Public Sector Management Act 1994*, section 13 (Constitution of administrative units)—
 - (a) establishing the authority as an administrative unit; and
 - (b) placing the commissioner as chief executive in control of the administrative unit.
- (4) If an instrument mentioned in subsection (3) is in force—
 - (a) the *Public Sector Management Act 1994* and all other Territory laws apply to the commissioner as if—
 - (i) the commissioner were, for all purposes, a chief executive under that Act; and
 - (ii) all other necessary changes, and any other changes prescribed under the regulations, were made; and

- (b) the following sections have effect despite anything in that Act:
- (i) section 18 (Appointment of commissioner);
 - (ii) section 20 (Commissioner's employment conditions);
 - (iii) section 21 (Ending commissioner's appointment).

23 Agreement for use of other government staff etc

The authority may enter into an agreement with the chief executive of an administrative unit to make use, either full-time or part-time, of—

- (a) the services of an officer or employee of the unit; or
- (b) the facilities of the unit, including equipment and contractors.

24 Appointment of volunteer members

- (1) The chief officer of a service may appoint a person as a volunteer member of the service.
- (2) The chief officer may end the appointment at any time in accordance with the authority guidelines for the service.

25 Volunteer appointments in accordance with guidelines

- (1) The appointment of a person as a volunteer member of a service must be in accordance with the authority guidelines for the service.
- (2) Without limiting subsection (1), the appointment of a volunteer may be made to—
 - (a) an operational unit in the service; and
 - (b) a rank in the service.
- (3) Before appointing a volunteer member of the rural fire service to a senior rank of the service, the chief officer (rural fire service) must consult with the bushfire council.

- (4) In this section:

operational unit includes a brigade.

senior rank, for the rural fire service, means a senior rank under the authority guidelines for the service.

26 Casual volunteers

- (1) A person in charge of an activity that is part of an operation in which an emergency service is taking part may—
- (a) ask someone else to take part in the activity without remuneration or reward; or
 - (b) agree to someone else taking part in the activity without remuneration or reward.

Example

A member of the ambulance service may ask a volunteer to hold equipment.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A person who takes part in an activity under this section is a *casual volunteer* for this Act.
- (3) Subsection (2) does not apply to a member of an emergency service or a member of a support unit or a specialist acting under a cooperative arrangement.
- (4) The Legislation Act, part 19.3 does not apply in relation to a casual volunteer.

Note The Legislation Act, pt 19.3 deals with appointments generally.

- (5) In this section:

specialist—see section 175.

support unit—see section 175.

27 Authority consultants

- (1) The authority may engage consultants.
- (2) However, the authority must not enter into a contract of employment under this section.

Chapter 3 Chief officers

Part 3.1 Chief officers—appointments and responsibilities

28 Chief officer—ambulance service

- (1) The authority may appoint a public servant to be the chief officer of the ambulance service (the *chief officer (ambulance service)*).

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) However, the authority may appoint a person under subsection (1) only if the person has the management, professional and technical expertise to exercise the chief officer's functions.
- (3) The chief officer (ambulance service) is responsible for—
- (a) the general management and control of the ambulance service; and
 - (b) matters relating to the professional and technical expertise of the ambulance service; and

Example

training and professional standards

- (c) community awareness about pre-hospital medical emergencies.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

29 Chief officer—fire brigade

- (1) The authority may appoint a public servant to be the chief officer of the fire brigade (the *chief officer (fire brigade)*).

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) However, the authority may appoint a person under subsection (1) only if the person has the management, professional and technical expertise to exercise the chief officer's functions.
- (3) The chief officer (fire brigade) is responsible for—

- (a) the general management and control of the fire brigade; and
- (b) matters relating to the professional and technical expertise of the fire brigade; and

Example

training and professional standards

- (c) operational planning for fire in the built-up area, including fire preparedness and control; and
- (d) operational planning, in consultation with the chief officer (rural fire service), for fire in the bushfire abatement zone, including fire preparedness and control; and
- (e) fire response in built-up areas; and
- (f) community awareness about fire prevention and preparedness in the city area.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

30 Chief officer—rural fire service

- (1) The authority may, after consulting with the bushfire council, appoint a public servant to be the chief officer of the rural fire service (the *chief officer (rural fire service)*).

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) However, the authority may appoint a person under subsection (1) only if the person has the management, professional and technical expertise to exercise the chief officer's functions.

- (3) The chief officer (rural fire service) is responsible for—

- (a) the general management and control of the rural fire service; and
- (b) matters relating to the professional and technical expertise of the rural fire service; and

Example

training and professional standards

- (c) operational planning, in consultation with the chief officer (fire brigade), for fire outside the city area, including fire preparedness and control; and
- (d) fire response in rural areas; and
- (e) community awareness about fire prevention and preparedness outside the city area.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

31 Chief officer—SES

- (1) The authority may appoint a public servant to be the chief officer of the SES (the *chief officer (SES)*).

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

- (2) However, the authority may appoint a person under subsection (1) only if the person has the management, professional and technical expertise to exercise the chief officer's functions.
- (3) The chief officer (SES) is responsible for—
 - (a) the general management and control of the SES; and
 - (b) matters relating to the professional and technical expertise of the SES; and

Example

training and professional standards

- (c) community awareness about storm, flood and civil defence preparedness.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

32 Deputy chief officers

- (1) The authority may appoint a public servant to be the deputy chief officer of a service.
- (2) However, the authority may appoint a person under subsection (1) only if the person has the management, professional and technical expertise to exercise the deputy chief officer's functions.

- (3) A deputy chief officer of a service acts in the position of chief officer of the service—
- (a) during all vacancies in the position; and
 - (b) during all periods when the chief officer cannot for any reason exercise the functions of the position.

Note The Legislation Act, div 19.3.2A deals with standing acting arrangements.

- (4) Before appointing a person as the deputy chief officer (rural fire service), the authority must consult with the bushfire council.

Part 3.2 Chief officers—functions and powers

33 Functions of chief officers

- (1) The chief officer of an emergency service has the functions given to the chief officer under this Act and any other Territory law.
- (2) The chief officer of an emergency service has all the functions given to the service under this Act.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

34 General powers of chief officers

- (1) The chief officer of an emergency service may, for the protection or preservation of life, property or the environment—
 - (a) with any necessary assistance and force, enter land; or
 - (b) close a street or road to traffic; or
 - (c) bring equipment onto land or into a structure or vehicle; or
 - (d) open a container, or dismantle equipment, using any necessary or reasonable force; or
 - (e) remove, dismantle, demolish or destroy a structure or vehicle; or
 - (f) contain an animal or substance; or
 - (g) remove or destroy an animal, a substance or vegetation; or
 - (h) turn off, disconnect or shut down a motor or equipment; or
 - (i) control, shut off or disconnect a supply of fuel, gas, electricity, water or anything else; or

- (j) use a supply of water without charge; or
- (k) give directions to regulate or prohibit the movement of people, animals or vehicles; or
- (l) evacuate people or animals from an area to another place; or
- (m) require a person to give reasonable assistance to a member of an emergency service.

(2) A power under this section must, if practicable, be exercised in accordance with the authority guidelines.

(3) In this section:

equipment includes a vehicle.

land includes any structure or vehicle on the land.

35 Directions by chief officer to service members

- (1) The chief officer of an emergency service may, in the exercise of the chief officer's functions, give directions to emergency service members or any entity acting for the service.
- (2) A direction by the chief officer (ambulance service) may be about the provision of medical treatment (a *medical treatment direction*).
- (3) A direction by the chief officer of an emergency service (other than a medical treatment direction) must, if practicable, be in accordance with any direction of the authority and the authority guidelines.
- (4) A medical treatment direction must, if practicable, be in accordance with the medical treatment standards.

36 Chief officers to advise authority

- (1) The chief officer of an emergency service must advise the authority on the capability of the service.

- (2) The chief officer of an emergency service must report to the authority on the capability of the service if the authority asks.

37 Taking part in joint operations

The chief officer of an emergency service must ensure that members of the service are available to take part in joint operational activities.

38 Standards and protocols for the services

- (1) The chief officer of an emergency service may, in writing, determine standards and protocols about anything relating to the operation of the service that is not inconsistent with the authority guidelines.

Example

The chief officer (fire brigade) may determine standards about member's duties that are not inconsistent with the guidelines.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The chief officer (ambulance service) may also determine standards and protocols for medical treatment provided by the ambulance service (the *medical treatment standards*).

39 Delegations by chief officers

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

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

Chapter 4 The emergency services

Part 4.1 The ambulance service

40 Establishment of ambulance service

The ACT Ambulance Service is established.

41 Functions of ambulance service

- (1) The main function of the ambulance service is to provide ambulance services.
- (2) The ambulance service has the following additional functions:
 - (a) to undertake assistance operations to support other entities in the exercise of their functions under this Act;

Example

assisting police officers or fire brigade members in dealing with any incident or emergency

- (b) any other function prescribed under the regulations.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) In exercising its functions, the ambulance service may—
 - (a) provide medical treatment and pre-hospital or post-hospital patient care; or
 - (b) transport patients by ambulance; or
 - (c) transport patients by medical rescue aircraft.

42 Constitution of ambulance service

The ambulance service consists of—

- (a) the chief officer (ambulance service); and
- (b) the deputy chief officer (ambulance service); and
- (c) other ambulance service members; and
- (d) any volunteer members.

Part 4.2 The fire brigade

Division 4.2.1 Fire brigade

43 Establishment of fire brigade

The ACT Fire Brigade is established.

44 Functions of fire brigade

- (1) The main function of the fire brigade is to protect and preserve life, property and the environment from fire in built-up areas.
- (2) In exercising the function, the fire brigade is responsible for—
 - (a) operational planning for fire in the built-up area, including fire preparedness; and
 - (b) operational planning, in consultation with the rural fire service, for fire in the bushfire abatement zone, including fire preparedness; and
 - (c) fire response in built-up areas.
- (3) The fire brigade has the following additional functions:
 - (a) to respond to and deal with hazardous material incidents;
 - (b) to respond to rescue incidents;
 - (c) to respond to chemical, biological and radiological incidents;
 - (d) to undertake assistance operations to support other entities in the exercise of their functions under this Act;

Example

assisting police officers or ambulance service members in dealing with any incident or emergency

(e) any other function prescribed under the regulations.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) The fire brigade may also—
- (a) respond to a fire in a rural area; and
 - (b) provide first response to any other incident to which another emergency service may respond under this Act, if the emergency service is unavailable.

45 Constitution of fire brigade

The fire brigade consists of—

- (a) the chief officer (fire brigade); and
- (b) the deputy chief officer (fire brigade); and
- (c) other members of the fire brigade; and
- (d) any volunteer members.

46 Ranks for fire brigade members

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

Division 4.2.2 Community fire units

47 Establishment of community fire units

The chief officer (fire brigade) may establish community fire units and decide the areas for which they are established.

48 Appointment of members of units

- (1) The chief officer (fire brigade) may appoint a person as a member of a community fire unit.
- (2) The chief officer may end the appointment at any time in accordance with the authority guidelines.

49 Objects and functions of community fire units

- (1) The object of a community fire unit is to assist people in the area for which the unit is established to learn how to—
 - (a) assist with defensive protection of property from fire; and
 - (b) use equipment for fire prevention work and firefighting.
- (2) The functions of a community fire unit are to—
 - (a) undertake fire prevention work; and
 - (b) assist with firefighting during a fire emergency; and
 - (c) assist with recovery operations after a fire emergency.
- (3) A community fire unit must exercise its functions—
 - (a) only in the area for which the unit is established; and
 - (b) in accordance with the standards and protocols for the fire brigade; and
 - (c) under the direction of the chief officer (fire brigade).

50 Training and equipment for community fire units

The chief officer (fire brigade) must provide a community fire unit with training and equipment to enable the unit to exercise its functions.

Part 4.3 The rural fire service

51 Establishment of rural fire service

The ACT Rural Fire Service is established.

52 Functions of rural fire service

- (1) The main function of the rural fire service is to protect and preserve life, property and the environment from fire in rural areas.
- (2) In exercising the function, the rural fire service is responsible for—
 - (a) operational planning, in consultation with the fire brigade, for fire outside the city area, including fire preparedness; and
 - (b) fire response in rural areas, other than a fire that is in a building and at which a member of the fire brigade is present.
- (3) The rural fire service has the following additional functions:
 - (a) to undertake assistance operations to support other entities in the exercise of their functions under this Act;

Example

assisting members of the fire brigade at a fire that is in a building in a rural area

- (b) any other function prescribed under the regulations.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

53 Constitution of rural fire service

The rural fire service consists of—

- (a) the chief officer (rural fire service); and

- (b) the deputy chief officer (rural fire service); and
- (c) other rural fire service members; and
- (d) rural fire service volunteer members.

54 Rural fire brigades

- (1) The authority must, after consulting with the bushfire council, determine the number of rural fire brigades for the rural fire service.
- (2) A determination is a notifiable instrument.

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

- (3) The authority may establish rural fire brigades.

55 Ranks for rural fire service members

The chief officer (rural fire service) may give members of the rural fire service various ranks in accordance with the standards and protocols for the rural fire service.

Part 4.4 The state emergency service (SES)

56 Establishment of SES

The ACT State Emergency Service (the *SES*) is established.

57 Functions of SES

(1) The main function of the SES is to undertake planning and response operations for storms and floods.

(2) The SES has the following additional functions:

(a) to undertake civil defence planning and civil defence operations;

(b) to undertake assistance operations to support other entities in the exercise of their functions under this Act;

Example

assisting police officers, or fire brigade or ambulance service members in dealing with any incident or emergency

(c) to undertake assistance operations to support other entities in relation to searches;

Example

assisting Airservices Australia with a search and rescue service operation under the *Air Services Act 1995* (Cwlth)

(d) to provide support for community organisations to the extent that the chief officer (SES) considers would assist the training of members of the service;

(e) to undertake any other operation that the chief officer (SES) considers would benefit the community;

- (f) to undertake an operation prescribed under the regulations.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

58 Constitution of SES

The SES consists of—

- (a) the chief officer (SES); and
- (b) the deputy chief officer (SES); and
- (c) other SES members; and
- (d) SES volunteer members.

59 SES operational units

- (1) The authority must determine the number of operational units for the SES.
- (2) A determination is a notifiable instrument.
Note A notifiable instrument must be notified under the Legislation Act.
- (3) The chief officer (SES) may establish operational units for the SES.

Part 4.5 **Other approved providers**

60 **Definitions for pt 4.5**

In this part:

ambulance services means the provision of medical treatment and pre-hospital patient care, and includes the transport of a patient by ambulance or medical rescue aircraft.

emergency services means—

- (a) response operations for storms and floods; or
- (b) assistance operations in relation to emergencies and searches.

firefighting services means—

- (a) services for the protection of life, property and the environment from fire; or
- (b) response operations for hazardous material incidents or chemical, biological or radiological incidents.

rescue services means response operations for rescue incidents, including the release or removal to a safe place of any person, animal or property trapped or endangered because of fire, accident, hazardous material incident, explosion or similar event.

response operation means a coordinated response to an incident to which an emergency service may respond under this Act.

61 Approval of person to provide services

A person may apply to the Minister for approval to provide ambulance, emergency, firefighting or rescue services.

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

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

62 Decision about approval

- (1) The Minister must, in writing, approve the applicant to provide the services to which the application relates, or refuse to do so.
- (2) Before deciding the application, the Minister must consult with the authority.
- (3) In deciding the application, the Minister must consider—
 - (a) the public interest; and
 - (b) the impact of approval on community health and safety; and
 - (c) the impact of approval on the preservation of life, property and the environment.
- (4) The Minister may impose conditions on an approval.

Examples

- 1 conditions about quality standards for service delivery
- 2 conditions about training
- 3 conditions about uniforms
- 4 conditions limiting the extent or range of services to be provided

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) An approval is a notifiable instrument.

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

63 Offence to provide emergency services without approval

- (1) A person commits an offence if—
- (a) the person is not approved by the Minister under this part to provide emergency, ambulance, firefighting or rescue services; and
 - (b) the person provides emergency, ambulance, firefighting or rescue services.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
- (a) the Minister approves the person to provide ambulance, emergency, firefighting or rescue services; and
 - (b) the person provides ambulance, emergency, firefighting or rescue services for which they are not approved.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply to—
- (a) a doctor in relation to the provision of medical treatment, or pre-hospital care to a patient, in the course of, or as an incident of, conducting a medical practice; or
 - (b) an entity in relation to the provision of first aid; or
 - (c) a person who, acting without expectation of payment or other consideration, comes to the aid of a person who is apparently—
 - (i) injured or at risk of being injured; or
 - (ii) is in another way in need of emergency assistance; or

- (d) a person who, acting without expectation of payment or other consideration, does something to reduce, or attempt to reduce, the effects of an emergency before the arrival of an emergency service; or
- (e) a Commonwealth or State agency.

Examples

- 1 firefighting services provided by the Defence Force
- 2 search and rescue services provided under the *Air Services Act 1995* (Cwlth)

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Part 4.6 Services from outside ACT

64 Interstate and overseas emergency services

- (1) This section applies if an interstate or overseas emergency service responds to an emergency or incident in the ACT.
- (2) A member of the interstate or overseas emergency service has the functions of the chief officer of an emergency service in relation to the emergency or incident if—
 - (a) the member has charge of other members of the interstate or overseas emergency service; and
 - (b) no-one else present is, under this Act, in charge of the operations at the emergency or incident.

Note **Function** includes authority, duty and power (see Legislation Act, dict, pt 1).

- (3) If another person present at the emergency or incident is, under this Act, in charge of the operations, a member of the interstate or overseas emergency service must—
 - (a) comply with any direction given by the person in relation to the emergency or incident; and
 - (b) place any equipment in the member's charge at the disposal of the person.

Examples

- 1 An interstate fire brigade is at a fire in a built-up area and no-one else present is, under this Act, in charge of the firefighting operations. The member of the interstate fire brigade in charge of the brigade will have the functions of the chief officer (fire brigade) in relation to the fire.

- 2 An overseas fire brigade is at a fire in a rural area and members of the rural fire service are also at the fire. The overseas fire brigade must follow the directions of the person in charge of the rural fire service members and allow the rural fire service to use the brigade's equipment.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) This section is subject to any cooperative arrangement that applies to the interstate or overseas emergency service.
- (5) In this section:

incident means a fire, an ambulance incident, a rescue or search incident, a hazardous material incident or any other incident to which, under this Act, an emergency service may respond.

Chapter 5 Fire management

Part 5.1 Interpretation for ch 5

65 What is a built-up area and a *rural area*?

- (1) The authority may, in writing, declare an area to be a built-up area.
- (2) Before making a declaration, the authority must consult with the chief officer (fire brigade) and the chief officer (rural fire service).
- (3) A declaration is a notifiable instrument.

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

- (4) An area in the ACT is a *rural area* if it is not within an area declared to be a built-up area.

Note 1 The fire brigade is responsible for fire response in built-up areas. The rural fire service has this responsibility for rural areas.

Note 2 Certain offences apply to owners of land in rural areas (see div 5.6.2 (Controlled activities and offences relating to fire)).

66 What is the *city area*?

- (1) The *city area* means—
 - (a) any area that is a built-up area; and
 - (b) any area in a bushfire abatement zone.

Note 1 The fire brigade is responsible for operational planning for fire in the built-up area and, in consultation with the rural fire service, for operational planning for fire in the bushfire abatement zone. The rural fire service is responsible for operational planning, in consultation with the fire brigade, for fire in areas outside the city area.

Note 2 A bushfire abatement zone may include rural areas.

Part 5.2 Fire response and control

67 Fires in built-up area

- (1) This section applies in relation to a fire in a built-up area.
- (2) For the purpose of extinguishing or preventing the spread of the fire, the chief officer (fire brigade) may—
 - (a) control and direct members of an emergency service; and
 - (b) direct a person to leave any land or premises on fire or near the fire; and
 - (c) remove to any place the chief officer considers appropriate anything that the chief officer considers is interfering with, or may interfere with, the fire control operation; and
 - (d) do anything else the chief officer considers appropriate, for example—
 - (i) severing or pulling down a fence; or
 - (ii) burning grass or other vegetation.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) Subsection (2) is in addition to anything the chief officer (fire brigade) may do under section 34 (1) (General powers of chief officers) or another Territory law.

Note Under s 34 (1), the chief officer has a number of general powers including to enter land, shut off a power or water supply, demolish or destroy a structure or remove or destroy an animal.

- (4) The chief officer (fire brigade) may do anything mentioned in subsection (2) at, immediately after, or in anticipation of the spread of, the fire.

- (5) For the protection of life or property or to control or extinguish the fire, a member of the fire brigade or a police officer may do anything the chief officer (fire brigade) may do under an applicable provision or another Territory law without being directed or given authority by the chief officer if—
- (a) the thing is done in accordance with the authority guidelines for the fire brigade; or
 - (b) it is not practicable for a direction or authority to be obtained.
- (6) For the application of subsection (5) to a member of the fire brigade or a police officer in relation to an applicable provision or another Territory law, the law applies to the member or police officer as if a reference to the chief officer (fire brigade) were a reference to the member or police officer.
- (7) In this section:
- applicable provision* means—
- (a) this section; or
 - (b) section 34 (1) (General powers of chief officers); or
 - (c) section 69 (Securing area at or after fire).

fire includes a fire the chief officer (fire brigade) has reasonable grounds for believing may exist.

68 Fires in rural areas

- (1) This section applies in relation to a fire in a rural area.
- (2) For the purpose of extinguishing or preventing the spread of the fire, the chief officer (rural fire service) may—
- (a) control and direct members of an emergency service; and
 - (b) direct a person to leave any land or premises on fire or near the fire; and

- (c) remove to any place the chief officer considers appropriate anything the chief officer considers is interfering with, or may interfere with, the fire control operation; and
- (d) do anything else the chief officer considers appropriate, for example—
 - (i) severing or pulling down a fence; or
 - (ii) burning grass or other vegetation.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) Subsection (2) is in addition to anything the chief officer (rural fire service) may do under section 34 (1) (General powers of chief officers) or another Territory law.

Note Under s 34 (1), the chief officer has a number of general powers including to enter land, shut off a power or water supply, demolish or destroy a structure or remove or destroy an animal.

- (4) The chief officer (rural fire service) may do anything mentioned in subsection (2) at, immediately after, or in anticipation of the spread of, the fire.
- (5) If the chief officer (rural fire service) removes stock from land, the chief officer must, as soon as practicable, tell the owner of the land about the removal.
- (6) If the chief officer (rural fire service) severs or pulls down a fence on land, the chief officer must, as soon as practicable—
 - (a) temporarily repair the fence; and
 - (b) tell the owner of the land about the temporary repair.

- (7) For the protection of life or property or to control or extinguish the fire, a member of the rural fire service, a member of the fire brigade or a police officer may do anything the chief officer (rural fire service) may do under an applicable provision or another Territory law without being directed or given authority by the chief officer, if—
- (a) the thing is done in accordance with the authority guidelines for the rural fire service; or
 - (b) it is not practicable for a direction or authority to be obtained.
- (8) For the application of subsection (7) to a member of the rural fire service, a member of the fire brigade or a police officer in relation an applicable provision or another Territory law, the law applies to the member or police officer as if a reference to the chief officer (rural fire service) were a reference to the member or police officer.
- (9) In this section:
- applicable provision* means—
- (a) this section; or
 - (b) section 34 (1) (General powers of chief officers); or
 - (c) section 69 (Securing area at or after fire).
- fire* includes a fire that the chief officer (rural fire service) has reasonable grounds for believing may exist.

69 Securing area at or after fire

- (1) The chief officer (fire brigade) may do anything the chief officer considers necessary to make premises safe at or immediately after a fire.

Examples

shoring up, pulling down or destroying a wall or structure that is damaged or made insecure

- (2) The chief officer (rural fire service) may do anything the chief officer considers necessary to make premises safe at or immediately after a fire in a rural area, other than a fire that is in a building if a member of the fire brigade is present.

Note 1 The rural fire service may assist the fire brigade in the exercise of its functions in relation to fires in buildings in rural areas.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An amount of expenses incurred by the chief officer in doing anything mentioned in subsection (1) may be recovered by the Territory as a debt owing to the Territory by the owner of the premises.

- (4) In this section:

owner, of a wall or structure, includes the occupier of the land on which the wall or structure is situated.

Part 5.3 Bushfire prevention

70 Definitions for pt 5.3

In this part:

agency means—

- (a) an administrative unit; or
- (b) a Territory owned corporation; or
- (c) an entity prescribed under the regulations for this definition.

annual report, of an agency, means a report of the agency under the *Annual Reports (Government Agencies) Act 2004*.

71 Authority may declare bushfire abatement zone

- (1) The authority may, after consulting with the conservator and the planning and land authority, declare an area to be a bushfire abatement zone.
- (2) A declaration is a notifiable instrument.

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

72 Strategic bushfire management plan

- (1) The authority must prepare, and give the Minister, a draft strategic bushfire management plan for the ACT.
- (2) In preparing the draft plan, the authority must—
 - (a) consult with the bushfire council; and
 - (b) consider the impact of the plan on any land management agreements and land managers.

- (3) After considering the draft plan, the Minister must, in writing, make a strategic bushfire management plan for the ACT (the *strategic bushfire management plan*).
- (4) The plan is a disallowable instrument.
Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.
- (5) The authority must, in consultation with the bushfire council, monitor the scope and effectiveness of the plan.
- (6) The authority, in consultation with the bushfire council, may recommend amendments of the plan to the Minister.

73 Bushfire management plan committee

- (1) The authority may establish a committee to help the authority prepare the draft strategic bushfire management plan and monitor the scope and effectiveness of the plan.
- (2) The authority must ensure that people with experience in land management and bushfire management are among the committee members.
- (3) The authority may decide—
 - (a) how the committee is to exercise its function; and
 - (b) the procedure to be followed for meetings of the committee.

74 Content of strategic bushfire management plan

- (1) A strategic bushfire management plan must provide a basis for—
 - (a) bushfire hazard assessment and risk analysis; and
 - (b) bushfire prevention, including hazard reduction; and
 - (c) agency and community preparation and response in relation to bushfires.

- (2) The plan must include the following:
- (a) a statement of strategic objectives for the plan;
 - (b) a description of the bushfire environment;
 - Examples**
 - 1 weather
 - 2 topography
 - 3 fuels
 - (c) a summary of known bushfire causes;
 - (d) a risk assessment of factors contributing to bushfires and the spread of bushfires;
 - (e) a list of public assets (including cultural and ecological assets) vulnerable to bushfire;
 - (f) a list of privately-owned assets of public interest vulnerable to bushfire;
 - (g) strategies for prevention of, and preparedness for, bushfires;
 - (h) strategies for access for response and fire management activities;
 - (i) a statement of strategies for research and monitoring of bushfire risk;
 - (j) a statement of strategies for recovery after a bushfire;
 - (k) a statement of resources needed to meet the objectives of the plan;
 - (l) anything else prescribed under the regulations.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The plan may also set out—
- (a) requirements for owners or managers of land for the prevention of, and preparedness for, bushfires; and

Example

location and maintenance of fire trails

- (b) requirements for a bushfire operational plan for—
- (i) unleased Territory land or land occupied by the Territory;
or
- (ii) land in a bushfire abatement zone.

Examples

- 1 prevention activities
- 2 preparedness activities
- 3 performance indicators for activities

- (4) A bushfire management requirement may be for—
- (a) a particular land manager; or
- (b) a particular area of land.

Examples

- 1 the manager of an area of unleased Territory land
- 2 land in a bushfire abatement zone

75 Public consultation for strategic bushfire management plan

- (1) Before making the strategic bushfire management plan, the Minister must prepare a notice (a *consultation notice*)—
- (a) stating that copies of a draft of the plan are available for inspection during a stated period of at least 15 business days at stated places; and

- (b) inviting interested people to give written comments about the draft plan to the authority at a stated address during a stated period of at least 15 business days.
- (2) The consultation notice is a notifiable instrument.
Note A notifiable instrument must be notified under the Legislation Act.
- (3) The Minister must also publish the consultation notice in a daily newspaper circulating generally in the ACT.

76 Assessment of resources and capabilities

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

77 Effect of strategic bushfire management plan

- (1) An owner of land must—
 - (a) as far as practicable, ensure that the land is managed in accordance with the strategic bushfire management plan; and
 - (b) comply with any bushfire management requirement for the land.
- (2) The manager of an area of unleased Territory land or land occupied by the Territory must—
 - (a) as far as practicable, ensure that the area is managed in accordance with the strategic bushfire management plan; and
 - (b) comply with any bushfire management requirement for the manager or the land.

- (3) The strategic bushfire management plan has no effect to the extent to which it is inconsistent with any plan of management in force under the *Land (Planning and Environment) Act 1991*, division 5.7 (Public land) in relation to an area of unleased Territory land or land occupied by the Territory.

78 Bushfire operational plans—Territory land

- (1) The manager of an area of unleased Territory land or land occupied by the Territory must make, in writing, a bushfire operational plan for the land in accordance with the strategic bushfire management plan.
- (2) Before making the bushfire operational plan, the manager must consult with the bushfire council.
- (3) The manager must, in consultation with the bushfire council, review the bushfire operational plan at intervals of not more than 2 years.
- (4) This section does not apply to an area of land that is exempt from its operation under the strategic bushfire management plan.
- (5) If the area, or part of the area, is in a bushfire abatement zone—
- (a) section 79 applies to the area, or part of the area, as if a reference to the owner were a reference to the manager; and
 - (b) the bushfire operational plan for the area, or part of the area, may be included in the plan under this section.

79 Bushfire operational plans—bushfire abatement zone

- (1) This section applies if the strategic bushfire management plan sets out requirements for a bushfire operational plan for a bushfire abatement zone.
- (2) The owner of an area of land in a bushfire abatement zone must give the authority a draft bushfire operational plan for the area in accordance with the strategic bushfire management plan.

- (3) The authority may approve the draft bushfire operational plan for the area or approve the draft plan for the area with stated amendments.
- (4) The owner must review the bushfire operational plan and give the authority a draft updated bushfire operational plan at intervals of not more than 2 years.
- (5) This section does not apply to an area of land to which a land management agreement that is consistent with the strategic bushfire management plan applies.

80 Review of strategic bushfire management plan

- (1) The Minister must, in consultation with the bushfire council, comprehensively review the strategic bushfire management plan at intervals of not more than 5 years.
- (2) The review must have regard to the 10-year period after the date of the review.

81 Directions by Minister to manager of land

- (1) The Minister may give a written direction to the manager of an area of unleased Territory land or land occupied by the Territory in relation to compliance with a bushfire management requirement for the area or a bushfire operational plan for the area.
- (2) The manager must comply with the direction.

82 Directions by authority to owner of land

- (1) The authority may, in writing, direct an owner of land to comply with a bushfire management requirement, or bushfire operational plan, applying to the area.
- (2) Unless the authority is satisfied that there are urgent circumstances, the authority must consult with the conservator before giving the direction.

- (3) The authority may, in consultation with the conservator, make guidelines for giving directions under this section in urgent circumstances.

83 Failure to comply with direction

- (1) A person commits an offence if the person fails to comply with a direction given to the person under section 82.

Maximum penalty: 50 penalty units

- (2) An offence against this section is a strict liability offence.

Note Inspectors have powers in relation to compliance with the strategic bushfire management plan and bushfire operational plans (see div 5.5.3 (Inspectors)).

84 Fire fuel reduction

The chief officer (rural fire service) may, at any time in accordance with the strategic bushfire management plan and the *Environment Protection Act 1997*, light a controlled fire in a rural area for the purpose of reducing the risk of bushfire or the spread of bushfire.

85 Annual reports of agencies

- (1) An annual report of an agency must give an account of the operations of the agency in relation to the strategic bushfire management plan (including any bushfire operational plan approved under the plan) for each area of unleased Territory land, or land occupied by the Territory, used by the agency or someone on behalf of the agency.
- (2) The account must include the information the Minister directs in writing.
- (3) The annual report of an agency for a financial year in which a direction under section 81 (Directions by Minister to manager of land) is given to the manager of the agency must include particulars

of the direction and the measures taken to give effect to it during that year.

Part 5.4 Fire prevention—premises

Division 5.4.1 Notices and directions for premises

86 Notices for premises

- (1) This section applies if the chief officer (fire brigade) believes, on reasonable grounds, that any of the following is or is likely to present a risk (from fire or other hazard) to public safety or to the safety of people who are or are likely to be at premises:

- (a) the premises;
- (b) anything at the premises;
- (c) the lack or inadequacy of fire prevention measures or fire safety systems on or in relation to the premises;
- (d) the use to which the premises are or are likely to be put;
- (e) the number of people likely to be at the premises at any time.

Note 1 **Premises** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

Note 2 **At** premises includes in or on the premises (see dict).

- (2) The chief officer (fire brigade) may issue, for the premises—
- (a) an improvement notice; or
 - (b) an occupancy notice; or
 - (c) a closure notice.
- (3) The chief officer (fire brigade) must give a copy of the notice to—
- (a) the person the chief officer believes, on reasonable grounds, to be the occupier of the premises; and

- (b) if that person is not the owner of the premises—the person the chief officer believes, on reasonable grounds, to be the owner of the premises.

87 Improvement notices

- (1) An improvement notice for premises must state—
 - (a) the action the occupier of the premises must take to reduce the risk (from fire or other hazard) to public safety or to the safety of people who are or are likely to be at the premises, to a level that the chief officer (fire brigade) considers acceptable; and
 - (b) the period during which the action must be taken.
- (2) Before the end of the period stated in the improvement notice, the chief officer (fire brigade) may, on the chief officer's initiative or on application from the occupier of the premises, by written notice given to the occupier, extend the period.

88 Occupancy notices

An occupancy notice for premises must direct the occupier of the premises not to allow more than the number of people stated in the notice to be at the premises at any time.

89 Closure notices

A closure notice for premises must direct the occupier of the premises not to allow anyone other than the occupier to be at the premises except—

- (a) in the course of the person's employment with the occupier; or
- (b) to clean, maintain, repair or alter the premises or anything on them; or
- (c) for this Act.

90 Display of improvement notices etc

- (1) The occupier of premises for which an improvement notice, occupancy notice or closure notice has been given must, while the notice is in force, display a copy of the notice at every entrance to the premises.
- (2) The notice must be displayed in a way that it can be easily read by people outside the premises.

91 Ending of notices for premises

- (1) This section applies if an improvement notice, occupancy notice or closure notice has been given to the occupier of premises.
- (2) The notice ends when the notice is revoked under this section.
- (3) The occupier may ask the chief officer (fire brigade), in writing, for a reinspection of the situation or circumstances that caused the notice to be given if the occupier considers there are no grounds for the notice to continue.
- (4) If the chief officer (fire brigade) is satisfied that there are no grounds for the notice to continue, the chief officer must revoke the notice by written notice given to the occupier.
- (5) Also, the notice is taken to be revoked on the 3rd business day after the day the request for reinspection is received by the chief officer (fire brigade) if—
 - (a) the reinspection is not made within 2 business days after the day the request is received; and
 - (b) the person who made the request is not responsible, completely or partly, for the delay in making the reinspection.

Note For the meaning of *business day*, see Legislation Act, dict, pt 1.

- (6) This section does not prevent an improvement notice, closure notice or occupancy notice being given to the same person in relation to the same situation or circumstance.

92 Direction to provide fire appliance at premises

The chief officer (fire brigade) may, in writing, direct the occupier of premises for the provision or installation of a fire appliance at the premises.

Division 5.4.2 Offences relating to premises

93 Failure to display improvement notice etc

- (1) A person commits an offence if the person—
- (a) has been given an improvement notice, occupancy notice or closure notice; and
 - (b) fails to display the notice in accordance with section 90.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

94 Failure to comply with improvement notice etc

- (1) The occupier of premises commits an offence if the occupier fails to take all reasonable steps to comply with an improvement notice, occupancy notice or closure notice given to the occupier.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

Note Inspectors have powers in relation to enforcement of notices (see div 5.5.3 (Inspectors)).

95 Offences about fire appliances

- (1) The occupier of premises commits an offence if the occupier fails to comply with a direction given to the occupier under section 92 (Direction to provide fire appliance at premises).

Maximum penalty: 50 penalty units.

- (2) The occupier of premises commits an offence if—
- (a) a fire appliance is provided or installed at the premises under a direction under section 92; and
 - (b) the occupier fails to maintain the fire appliance to a reasonable standard.

Maximum penalty: 50 penalty units.

- (3) A person commits an offence if the person removes, destroys, damages or interferes with—

- (a) a fire appliance; or
- (b) a container used for housing or storing fire appliances.

Maximum penalty: 50 penalty units.

- (4) The occupier of premises commits an offence if—

- (a) a fire appliance at the premises has been removed, destroyed or damaged or is defective; and
- (b) the occupier knows or is reckless about whether the fire appliance has been removed, destroyed or damaged or is defective; and
- (c) the occupier fails to repair or replace the fire appliance.

Maximum penalty: 50 penalty units.

- (5) An offence against subsection (1) or (3) is a strict liability offence.

- (6) Strict liability applies to subsection (4) (c).

96 Obstruction of passageway, door etc

- (1) A person commits an offence if—
- (a) the person puts anything in a passageway, stairway or exit that people may use, or intend to use, for escape from premises if there is a fire; and
 - (b) the thing obstructs the passageway, stairway or exit; and
 - (c) the person is reckless about whether the thing obstructs the passageway, stairway or exit.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if the person—
- (a) does something to a door or exit in a passageway or stairway in premises that may prevent people using the door or exit to leave the premises if there is a fire; and
 - (b) is reckless about whether the thing would prevent people using the door or exit to leave the premises if there is a fire.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A person commits an offence if the person fixes a fire door, smoke door or exit door in an open or closed position in a way that is not approved by the chief officer (fire brigade).

Maximum penalty: 50 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.

97 Offence to store etc flammable material to cause danger

A person commits an offence if—

- (a) the person intentionally stores or deposits flammable material at premises; and

- (b) the material is stored or deposited in a way that causes, directly or indirectly, a danger to life or property if there is a fire; and
- (c) the person is reckless about whether the material causes a danger to life or property if there is a fire.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Part 5.5 **Inspectors and investigators**

Division 5.5.1 **Definitions for pt 5.5**

98 **Definitions for pt 5.5**

In this part:

occupier, of land or premises, includes a person in charge of the land or premises.

person in charge, of land or premises, includes—

- (a) a person believed, on reasonable grounds, to be a person in charge of, or the occupier of, the land or premises and a person apparently in charge of, or the occupier of, the land or premises; and
- (b) anyone else in control of the land or premises.

Division 5.5.2 **Appointment and general powers**

99 **Appointment of inspectors**

- (1) The chief officer (fire brigade) and the chief officer (rural fire service) are inspectors for this Act.
- (2) The chief officer (fire brigade) may appoint a member of the fire brigade as an inspector for this Act.
- (3) The chief officer (rural fire service) may appoint a member of the rural fire service as an inspector for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

100 Appointment of investigators

- (1) The chief officer (fire brigade) and the chief officer (rural fire service) are investigators for this Act.
- (2) The chief officer (fire brigade) may appoint a member of the fire brigade as an investigator for this Act.
- (3) The chief officer (rural fire service) may appoint a member of the rural fire service as an investigator for this Act.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

101 General powers of inspectors and investigators

An inspector or investigator who enters land or premises under this part may, for the exercise of a function under this Act, do 1 or more of the following in relation to the land or premises or anything at the land or premises:

- (a) inspect or examine;
- (b) take measurements or conduct tests;
- (c) take samples of water, soil or anything else;
- (d) make sketches, drawings or any other kind of record (including photographs, films, or audio, video or other recordings);
- (e) take onto the land or premises any people, equipment or material the inspector or investigator reasonably needs;
- (f) require the occupier, or anyone at the premises, to give information, answer questions, or produce documents or anything else, reasonably needed;

- (g) require the occupier, or anyone at the premises, to give the inspector or investigator reasonable assistance.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

Note **Premises** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

102 Contravention of requirement by inspector or investigator

A person must take all reasonable steps to comply with a requirement made of the person under section 101 (f) or (g).

Maximum penalty: 50 penalty units.

Division 5.5.3 Inspectors

103 Inspector may enter land

- (1) An inspector may enter land—
- (a) to conduct a compliance audit for the land of—
 - (i) the strategic bushfire management plan (including any bushfire operational plan approved under the plan); or
 - (ii) the parts of a land management agreement that relate to fire fuel management; or
 - (b) if the inspector believes, on reasonable grounds, that section 120 (Fire prevention—obligations of rural land owners or managers) is not being complied with in relation to the land; or
 - (c) if the inspector believes, on reasonable grounds, that a bushfire management requirement, or bushfire operational plan, under the strategic bushfire management plan for the land is not being complied with.

- (2) The inspector must give the owner or manager of the land written notice of the proposed entry stating the time and purpose of the entry.
- (3) The time of the proposed entry must be at least 24 hours after the notice is given.
- (4) However, the inspector must not remain on the land if the inspector does not produce his or her identity card for inspection when asked by the occupier of the land.

104 Inspector may enter premises

- (1) An inspector may, at any time, enter premises—
 - (a) if the inspector believes, on reasonable grounds that there is something at the premises that is, or is likely to be, a danger to life or property if there is a fire; or
 - (b) to find out whether grounds exist for an improvement notice, occupancy notice or closure notice; or
 - (c) to find out whether the premises comply with any relevant fire and safety requirements, maintenance or testing requirements in the building code or any standard applying to the premises under a Territory law.

Note 1 **Premises** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

Note 2 **At** premises includes in or on the premises (see dict).

- (2) For subsection (1) (c) a requirement is relevant if it was a requirement for a certificate of occupancy or regularisation for the premises under the *Building Act 2004*.
- (3) However, the inspector must not remain at the premises if the inspector does not produce his or her identity card for inspection when asked by the occupier of the premises.

105 Enforcement of improvement, occupancy and closure notices

- (1) An inspector may take all reasonable steps to ensure that an improvement notice, occupancy notice or closure notice is complied with.
- (2) Without limiting subsection (1), the inspector may do any of the following if he or she believes on reasonable grounds that a person has contravened the notice:
 - (a) enter the premises using the force and assistance that is necessary and reasonable;
 - (b) prevent a person from entering the premises;
 - (c) remove a person from the premises.
- (3) An amount of expenses incurred by an inspector in doing anything mentioned in subsection (1) may be recovered by the Territory as a debt owing to the Territory by the owner of the premises.

106 Direction to remove flammable material from premises

- (1) If an inspector believes, on reasonable grounds, that flammable material is kept on particular premises in a way that may cause, directly or indirectly, a danger to life or property if there is a fire, the inspector may direct the owner of the premises to take stated action to remove the danger.
- (2) In deciding whether to give the direction, the inspector must consider the following:
 - (a) the amount and kind of flammable material at the premises;
 - (b) climatic conditions affecting the premises and nearby area;
 - (c) the nature, location and use of the premises and nearby premises;

- (d) the possible effect of any fire at the premises and nearby premises;
- (e) the availability of firefighting facilities;
- (f) the action the inspector believes, on reasonable grounds, is necessary to remove the danger;
- (g) the period within which the inspector believes it is necessary for the action to be taken.

Note 1 **Premises** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

Note 2 **At** premises includes in or on the premises (see dict).

- (3) The inspector may also consider any other relevant matter.
- (4) The direction must be in writing and must state—
 - (a) the action the owner must take to remove the danger; and
 - (b) the period (not shorter than 14 days after the day the direction is given to the owner) within which the action must be taken; and
 - (c) that, if the owner fails to comply with the direction, the inspector may arrange for the removal of the danger at the owner's expense; and
 - (d) if the direction requires material to be burnt—that the burning must be done in accordance with this Act and the *Environment Protection Act 1997*.
- (5) The direction must not be inconsistent with the *Environment Protection Act 1997*.

107 **Contravention of direction to remove flammable material from premises**

- (1) This section applies if an inspector believes, on reasonable grounds, that a person has contravened a direction under section 106.

- (2) The inspector may—
 - (a) enter the premises using the force and assistance that is necessary and reasonable; and
 - (b) arrange for the action to be taken that is necessary to remove the danger.
- (3) At least 24 hours before the inspector enters the premises, the inspector must give written notice to the owner and occupier of the premises stating the time and purpose of entry.
- (4) An amount of expenses incurred in taking action under subsection (2) (b) may be recovered by the Territory as a debt owing to the Territory by the owner of the premises.

108 Emergency direction to remove flammable material from premises

- (1) This section applies if an inspector believes, on reasonable grounds, that—
 - (a) a fire emergency applies to particular premises; and
 - (b) flammable material kept at the premises is an immediate and serious danger to life or property if there is a fire; and
 - (c) having regard to the danger, it is not appropriate to give a direction under section 106 (Direction to remove flammable material from premises) to eliminate the danger.
- (2) The inspector may—
 - (a) enter the premises using the force and assistance that is necessary and reasonable; and
 - (b) either—
 - (i) direct the occupier to take stated action; or
 - (ii) arrange for the action to be taken.

- (3) A direction may be given orally or in writing.
- (4) A direction must state—
 - (a) the action the inspector believes, on reasonable grounds, is necessary and reasonable for the occupier to take in the emergency to remove the danger; and
 - (b) the period within which the action must be taken.
- (5) An amount of expenses incurred in taking action under subsection (2) (b) (ii) may be recovered by the Territory as a debt owing to the Territory by the owner of the premises.
- (6) In this section:

fire emergency means—

 - (a) a total fire ban; or
 - (b) a situation in which there is an immediate and serious danger to life or property from the outbreak or spread of fire.

109 Directions to comply with fire prevention obligations etc

- (1) This section applies if an inspector believes, on reasonable grounds, that a person is in breach of—
 - (a) section 120 (Fire prevention—obligations of rural land owners or managers); or
 - (b) a bushfire management requirement, or bushfire operational plan, under the strategic bushfire management plan.
- (2) The inspector may direct the person, in writing, to comply with section 120, the bushfire management requirement or the bushfire operational plan.

- (3) In deciding whether to give the direction, the inspector must consider—
 - (a) the amount and kind of litter, timber or vegetation on the land (whether alive or dead); and
 - (b) the amount and kind of other flammable materials on the land; and
 - (c) climatic conditions affecting the land; and
 - (d) the nature, location and use of the land and nearby land; and
 - (e) the possible effect of any fire on the land and nearby land.
- (4) The inspector may also consider any other relevant matter.
- (5) The direction must state—
 - (a) a period within which the direction must be complied with; and
 - (b) the penalty for failure to comply with the direction.
- (6) Unless the direction is given on a day or during a period when a total fire ban is in force, the period for compliance must be at least 14 days after the day the direction is given to the person.

110 Contravention of direction

- (1) A person commits an offence if the person fails to comply with a direction under section 109 (2) (Directions to comply with fire prevention obligations etc).

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

Division 5.5.4 Investigators

111 Investigator may enter land or premises

- (1) To investigate the cause or origin of a fire, an investigator may at any time enter land or premises where, or near where, the fire happened.
- (2) However, the investigator must not remain on the land or premises if the investigator does not produce his or her identity card for inspection when asked by the occupier of the land or premises.

112 Investigation of fires

- (1) To investigate the cause or origin of a fire an investigator may—
 - (a) search land or premises where, or near where, the fire happened; and
 - (b) take possession of the land or premises and of anything on the land or premises; and
 - (c) remove anything from the land or premises; and
 - (d) prevent anyone from entering or remaining at the premises; and
 - (e) remove someone from the premises; and
 - (f) prevent someone from taking anything from the premises.
- (2) The investigator may also do anything the investigator considers necessary to make the premises or land, or nearby areas, safe.

Example

in investigating the cause of a fire, an investigator may also remove dangerous materials

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) Subsections (1) and (2) are in addition to anything the investigator may do under section 101 (General powers of inspectors and investigators).
- (4) The investigator may keep possession of the land or premises and anything on, or removed by the investigator from, the land or premises—
 - (a) if there is, or the investigator believes there may be, an inquiry under the *Coroners Act 1997* in relation to the fire—until the end of the inquiry or until the investigator is satisfied there will not be an inquiry; and
 - (b) in any other case—for the time the investigator considers appropriate.

113 Investigator's power to require name and address

- (1) An investigator may require a person to state the person's name and home address if the investigator believes, on reasonable grounds, that the person may be able to assist the investigator in investigating the cause of a fire.
- (2) If an investigator makes a requirement of a person under subsection (1), the investigator must—
 - (a) tell the person the reasons for the requirement; and
 - (b) as soon as practicable, record those reasons.
- (3) A person commits an offence if the person contravenes a requirement under subsection (1).

Maximum penalty: 50 penalty units.

- (4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the investigator does not produce his or her identity card for inspection by the person.

- (5) Subsection (4) does not apply in relation to an investigator who is a member of an emergency service, or a police officer, in uniform.
- (6) An offence against this section is a strict liability offence.
- (7) In this section:
home address, of a person, means the address of the place where the person usually lives.

Part 5.6 **Total fire bans, controlled activities and related offences**

Division 5.6.1 **Total fire bans**

114 **Declaration of total fire ban**

- (1) This section applies if the authority is satisfied that—
 - (a) severe weather conditions conducive to the spread of fire exist or are likely; or
 - (b) because of the number, nature or location of any existing fires, it is appropriate to declare a total fire ban.
- (2) The authority may, in writing, declare a total fire ban for the period stated in the declaration.
- (3) A declaration may be expressed to apply to all or part of the ACT.

115 **Publication of total fire ban**

- (1) As soon as possible after declaring a total fire ban, the authority must ensure that notice of the total fire ban is—
 - (a) broadcast in the ACT by television or radio; and
 - (b) published in a daily newspaper circulating generally in the ACT.
- (2) A failure to comply with subsection (1) does not affect the validity of the declaration.

116 Offence—lighting etc fire during total fire ban

- (1) A person commits an offence if—
- (a) the person lights, maintains or uses a fire, or uses fireworks, in the open air in an area; and
 - (b) a total fire ban is in force for the area.
- Maximum penalty: 50 penalty units.
- (2) Strict liability applies to paragraph (1) (b).
- (3) Subsection (1) does not apply to—
- (a) a fire lit, maintained or used for fire prevention by anyone acting under this Act; or
 - (b) the maintenance of a fire declared by the authority under section 117 to be an exempt fire; or
 - (c) the lighting, maintenance or use of a fire, or the use of fireworks, in accordance with a permit issued under section 118; or
 - (d) a fire prescribed under the regulations that is lit, maintained or used in accordance with the regulations.

117 Declaration of exempt fires

- (1) The authority may, in writing, declare a fire to be an exempt fire if—
- (a) the fire is maintained for a ceremonial or commemorative purpose; and
 - (b) the fire is less than 1m³ in volume; and
 - (c) the area for at least 3m around the fire is clear of flammable material; and
 - (d) reasonable steps have been taken to prevent the fire escaping.

- (2) A declaration is a notifiable instrument.

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

118 Fire permits

- (1) The authority may, in writing, issue a permit to a person to light, maintain or use a fire, or use fireworks, (the *proposed activity*) during a total fire ban.
- (2) An application for a permit must state—
- (a) the location of the proposed activity; and
 - (b) the nature of the proposed activity; and
 - (c) the date and time of the proposed activity; and
 - (d) the safety precautions to be undertaken in relation to the proposed activity.

Note If a form is approved under s 200 for an application, the form must be used.

- (3) In deciding whether to issue a permit, the authority must consider—
- (a) the matters stated in the application; and
 - (b) the weather conditions forecast for the time of the proposed activity; and
 - (c) the availability of the Territory's firefighting resources for the time of the proposed activity.
- (4) The authority may also consider any other relevant matter.
- (5) A permit is subject to the conditions (if any) stated in the permit.
- (6) A permit must state the period to which it applies.

Division 5.6.2 Controlled activities and offences relating to fire

119 Bushfire season

- (1) For this division, the *bushfire season* is the period from the beginning of October in a year to the end of March in the next year.
- (2) However, the authority may, in writing, declare a different date to be the beginning or end of a particular bushfire season.
- (3) Before making a declaration, the authority must consult with the bushfire council.
- (4) A declaration is a notifiable instrument.

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

120 Fire prevention—obligations of rural land owners or managers

- (1) The owner or manager of land in a rural area must take all reasonable steps—
 - (a) to prevent and inhibit the outbreak and spread of fire on the land; and
 - (b) to protect property from fire on the land or spreading from the land.
- (2) For subsection (1), in deciding what steps are *reasonable* regard must be had to the following:
 - (a) the amount and kind of litter, timber or vegetation on the land (whether alive or dead);
 - (b) the amount and kind of other flammable material on the land;
 - (c) climatic conditions affecting the land;
 - (d) the location and use of the land and nearby land;

- (e) the possible effect of any fire on the land and nearby land.
- (3) Subsection (2) does not limit the matters to which regard must be had.
- (4) A person commits an offence if the person fails to comply with subsection (1).
Maximum penalty:
 - (a) if the offence is committed in the bushfire season—100 penalty units; and
 - (b) in any other case—50 penalty units
- (5) An offence against this section is a strict liability offence.

121 Notification of fire etc—obligations of owners or occupiers of rural land

- (1) If a person who is the owner or occupier of rural land becomes aware of an outbreak of uncontrolled fire on the land (or on unleased Commonwealth or Territory land adjacent to the land), the person must—
 - (a) immediately take all reasonable steps to tell the authority, a member of the fire brigade or rural fire service, or a police officer, of the outbreak; and

Example

immediately telephoning 000 emergency about the outbreak

- (b) if the outbreak is on the land owned or occupied by the person and it is not beyond the person's capacity to extinguish the fire—take all reasonable steps to extinguish it.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A person commits an offence if the person fails to comply with subsection (1).

Maximum penalty:

- (a) if the offence is committed in the bushfire season—100 penalty units; and
(b) in any other case—50 penalty units
- (3) An offence against this section is a strict liability offence.

122 Using fires and appliances for cooking etc in open air

- (1) This section does not apply if a total fire ban is in force.
- (2) A person may use an electric or gas heating appliance to cook food or heat liquids in the open air on any land if the area around the appliance is cleared of flammable material for at least 3m in every direction.
- (3) A person may light, maintain or use a fire in the open air on unleased Territory or Commonwealth land in the fireplaces provided by the Territory or Commonwealth.
- (4) A person may light, maintain or use a fire in the open air on unleased Territory or Commonwealth land in a rural area to cook food or heat liquids if—
- (a) the person does so in accordance with a permit given by the authority under section 124; and
- (b) the area around the place where the fire is to be lit, maintained or used is cleared of flammable material for at least 3m in every direction; and
- (c) the fire is under the control of a responsible adult; and
- (d) a fire extinguisher or a continuous stream of water is available for use.

123 Lighting fires for burning off

- (1) This section does not apply if a total fire ban is in force.
- (2) The owner of land may burn any material (including wood, straw, stubble, grass and herbage) on the land on any day outside the bushfire season if—
 - (a) the land around the material to be burnt is clear of flammable material for at least 5m in every direction; or
 - (b) at least 24 hours before burning the material, the owner has given notice of the intended burning to every occupier of land adjacent to the land where the material is to be burnt.
- (3) The owner of land may burn any material (including wood, straw, stubble, grass and herbage) on the land on any day in the bushfire season if the owner does so in accordance with a written permit given by the authority under section 124.
- (4) The owner of land may also burn material on any day (whether in or outside the bushfire season) in accordance with the authority's oral approval.
- (5) The authority may give an approval for subsection (4) if the authority considers it is reasonable because of the nature or small amount of the material to be burned.
- (6) This section does not affect the duties of a person under the *Environment Protection Act 1997*, section 22 (General environmental duty) or any other obligation under that Act.

124 Permits for div 5.6.2

- (1) The authority may, on written application, issue a permit mentioned in section 122 (4) (Using fires and appliances for cooking etc in open air) or section 123 (3) (Lighting fires for burning off).

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

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

- (2) A permit may be given subject to the conditions stated in the permit.

125 Offence—lighting unauthorised fire

- (1) A person commits an offence if—
- (a) the person—
 - (i) intentionally lights, maintains or uses a fire in the open air, or burns flammable material, on any land; or
 - (ii) engages in conduct reckless about whether the conduct would cause a fire to be lit or maintained in the open air, or flammable material to be burnt, on any land; and
 - (b) the lighting or burning is not permitted under this Act or done for fire prevention by anyone acting under this Act.

Maximum penalty:

- (a) if the offence is committed in the bushfire season—100 penalty units, imprisonment for 1 year or both; and
 - (b) in any other case—50 penalty units, imprisonment for 6 months or both.
- (2) In this section:

flammable material includes wood, straw, stubble, grass and herbage.

126 Offence—leaving fire without extinguishing it

- (1) A person commits an offence if the person—
- (a) lights, maintains or uses a fire in the open air on any land; and
 - (b) leaves the fire (whether temporarily or not) without extinguishing it.

Maximum penalty:

- (a) if the offence is committed in the bushfire season—100 penalty units; and
 - (b) in any other case—50 penalty units.
- (2) Subsection (1) does not apply if the person leaves the fire under the control of a responsible adult.
- (3) Subsection (1) does not apply to a fire lit, maintained or used for fire prevention by anyone acting under this Act.

Example

lighting a controlled fire in a rural area to reduce the risk of bushfire under section 84 (Fire fuel reduction)

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) An offence against this section is a strict liability offence.

Chapter 6 The bushfire council

127 Establishment of bushfire council

The ACT Bushfire Council is established.

128 Constitution of bushfire council

- (1) The bushfire council consists of—
 - (a) a chairperson; and
 - (b) a deputy chairperson; and
 - (c) at least 3, and not more than 10, other members.
- (2) The deputy chairperson acts in the position of chairperson—
 - (a) during all vacancies in the position; and
 - (b) during all periods when the chairperson cannot for any reason exercise the functions of the position.

Note The Legislation Act, div 19.3.2 deals with acting appointments and div 19.3.2A with standing acting arrangements.

129 Bushfire council members

- (1) The Minister must appoint the bushfire council members.

Note 1 For the making of appointments generally, see Legislation Act, pt 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3). The appointment of someone other than a public servant for more than 6 months under this section would require consultation and be disallowable (see Legislation Act, s 227).

Note 3 A power to appoint a person to a position includes power to appoint a person to act in the position (see Legislation Act, s 209).

- (2) The Minister must try to ensure that the following people are among the members appointed:
- (a) a person with skills or experience in fire sciences;
 - (b) a person with experience in land management;
 - (c) a person with experience in fighting fires in built-up areas;
 - (d) a person with experience in fighting fires in rural areas;
 - (e) a person with experience in indigenous land management;
 - (f) a person to represent the interests of rural lessees;
 - (g) a person with relevant skills or experience to represent the community's interest in the environment;
 - (h) a person to represent the community's interests generally.
- (3) The following must not be appointed under subsection (1):
- (a) the commissioner;
 - (b) the chief officer of an emergency service.
- (4) An appointment must be for a term of not longer than 4 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

130 Functions of bushfire council

- (1) The bushfire council has the function of advising the authority and the Minister about matters relating to bushfires.

Note The authority must ask for the bushfire council's advice before exercising certain functions (see s 11 (Asking bushfire council's advice)).

- (2) The bushfire council may exercise any other function given to it under this Act or another Territory law.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

131 Authority to give support to bushfire council

The authority must provide administrative support and facilities for the bushfire council.

132 Ending of bushfire council members' appointments

The Minister may end the appointment of a bushfire council member—

- (a) for misbehaviour; or
- (b) for physical or mental incapacity, if the incapacity affects the exercise of the member's functions; or
- (c) if the member—
 - (i) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of remuneration for their benefit; or
 - (ii) is absent, other than on leave approved by the Minister, from 3 consecutive meetings of the bushfire council; or
 - (iii) contravenes section 139 (Disclosure of interests by bushfire council members) without reasonable excuse; or
 - (iv) commits, in Australia or elsewhere, an offence punishable by imprisonment for at least 1 year; or

- (d) if the Minister is satisfied that the member's ability to function as a member is affected by an interest disclosed under section 139.

Note The appointment of a member also ends if the member resigns (see Legislation Act, s 210).

133 Calling bushfire council meetings

- (1) The bushfire council is to meet at the times and places the council chairperson decides.
- (2) The bushfire council chairperson must ensure that members have reasonable notice of meetings.
- (3) The bushfire council chairperson must ensure that, as far as practicable, the council meets at least every 2 months.

134 Bushfire council meetings

- (1) The bushfire council chairperson presides at meetings of the council.
- (2) The bushfire council may decide its own procedure in relation to anything for which a procedure is not provided under this Act.
- (3) A meeting may be held by means of a method of communication, or a combination of methods of communication, that allows the bushfire council members taking part to hear what each other member says without being in each other's presence.
- (4) A bushfire council member who takes part in a meeting conducted under subsection (3) is taken, for all purposes, to be present at the meeting.

135 Minimum number for bushfire council meetings

Business may be conducted at a bushfire council meeting only if at least 4 members are present.

136 Voting at bushfire council meetings

- (1) Questions arising at a bushfire council meeting may be decided by a majority of the votes of the members present and voting.
- (2) If the votes of bushfire council members on a question are equally divided, the decision of the chairperson is the decision of the bushfire council on the question.

137 Bushfire council resolutions

A resolution is a valid resolution of the bushfire council if—

- (a) it is passed at a meeting of the council; or
- (b) notice of the resolution is given under procedures decided by the council and all members agree, in writing, to the resolution.

138 Minutes of bushfire council proceedings

- (1) The bushfire council must keep minutes of its proceedings.
- (2) At a bushfire council meeting the chairperson must ensure that the council considers the minutes of its last meeting.
- (3) The bushfire council must publish the minutes of its proceedings within 7 days after the day the minutes are confirmed by the bushfire council.

Example

The council may put the minutes of its proceedings on a web site.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

139 Disclosure of interests by bushfire council members

- (1) A bushfire council member who has a relevant interest in an issue being considered, or about to be considered, by the council must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the council.
- (2) The disclosure must be recorded in the bushfire council's minutes and, unless the council otherwise decides, the member must not—
 - (a) be present when the council considers the issue; or
 - (b) take part in a decision of the council on the issue.
- (3) Any other bushfire council member who also has a relevant interest in the issue must not—
 - (a) be present when the council is considering its decision under subsection (2); or
 - (b) take part in the decision.
- (4) In this section:
relevant interest, in an issue, means—
 - (a) a direct or indirect financial interest in the issue; or
 - (b) a direct or indirect interest of any other kind if the interest could conflict with the proper exercise of the bushfire council member's functions in relation to the council's consideration of the issue.

140 Reporting of disclosed interests to Minister

- (1) Within 14 days after the disclosure of an interest under section 139 (1), the bushfire council chairperson must report to the Minister in writing about—
 - (a) the disclosure; and

- (b) the nature of the interest disclosed; and
 - (c) any decision by the council under section 139 (2).
- (2) The bushfire council chairperson must give the Minister, by 31 July each year, a statement that sets out the information given to the Minister in reports under subsection (1) that relate to disclosures made during the previous financial year.
- (3) The Minister must give a copy of the statement to the relevant committee of the Legislative Assembly within 14 days after the day the Minister receives the statement.
- (4) In this section:
- relevant committee*** means—
- (a) a standing committee of the Legislative Assembly nominated by the Speaker for subsection (3); or
 - (b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for public accounts.

Chapter 7 Emergency management

Part 7.1 Emergency management committee

141 Establishment of committee

The ACT Emergency Management Committee is established.

142 Constitution of committee

- (1) The emergency management committee consists of—
- (a) the commissioner; and
 - (b) the chief officer (ambulance service); and
 - (c) the chief officer (fire brigade); and
 - (d) the chief officer (rural fire service); and
 - (e) the chief officer (SES); and
 - (f) the chief police officer; and
 - (g) the chief health officer; and
 - (h) the other members appointed under subsection (2).

- (2) The Minister may appoint other committee members.

Note 1 For the making of appointments generally, see Legislation Act, pt 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3). The appointment of someone other than a public servant for more than 6 months under this section would require consultation and be disallowable (see Legislation Act, s 227).

Note 3 A power to appoint a person to a position includes power to appoint a person to act in the position (see Legislation Act, s 209).

- (3) The Minister must try to ensure that the following people are among the other committee members appointed:
- (a) a person to represent the community's interests; and
 - (b) a person to represent environmental interests (including conservation); and
 - (c) a specialist in recovery from emergencies.

143 Functions of committee

- (1) The main function of the emergency management committee is to provide for liaison between entities in relation to emergency management.
- (2) In exercising the function, the emergency management committee must seek to—
- (a) enhance emergency management capabilities; and
 - (b) reduce community vulnerability to the effects of emergencies; and
 - (c) improve emergency management awareness and training.

- (3) The emergency management committee has the following additional functions:
- (a) to advise the Minister and the Chief Minister about emergency management;
 - (b) to support the authority in emergency management;
 - (c) to advise the Minister about the emergency plan;
 - (d) any other function prescribed under the regulations.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

144 Calling committee meetings

- (1) The emergency management committee is to meet at the times and places the committee chairperson decides.
- (2) The emergency management committee chairperson must ensure that members have reasonable notice of meetings.
- (3) The emergency management committee chairperson must ensure that, as far as practicable, the committee meets at least every 2 months.

145 Committee meetings

- (1) The commissioner is the emergency management committee chairperson.
- (2) The chairperson presides at meetings of the emergency management committee.
- (3) However, if the commissioner is absent from a meeting, the members present may elect a member to preside at the meeting.

- (4) The emergency management committee may decide its own procedure in relation to anything for which a procedure is not provided under this Act.
- (5) A meeting may be held by means of a method of communication, or a combination of methods of communication, that allows the emergency management committee members taking part to hear what each other member says without being in each other's presence.
- (6) An emergency management committee member who takes part in a meeting conducted under subsection (5) is taken, for all purposes, to be present at the meeting.

146 Minimum number for committee meetings

Business may be conducted at an emergency management committee meeting only if there is present at least the greater of—

- (a) 5 members; and
- (b) half the number of committee members for the time being.

Part 7.2 Emergency plan

147 Emergency plan

- (1) The emergency management committee must prepare, and give the Minister, a draft emergency plan for the ACT.
- (2) After considering the draft plan, the Minister must, in writing, make an emergency plan for the ACT.
- (3) The emergency plan must provide a basis for—
 - (a) emergency management; and
 - (b) coordination of emergency service agencies; and
 - (c) coordination of Territory, Commonwealth and State agencies; and
 - (d) coordination of other entities.
- (4) The emergency management committee must monitor—
 - (a) the scope of the emergency plan in relation to the range of emergencies to which it relates; and
 - (b) the effectiveness of the emergency plan in relation to each kind of emergency.
- (5) The emergency management committee may recommend amendments of the emergency plan to the Minister.

148 Content of emergency plan

The emergency plan must include a plan for an emergency if there is a reasonable possibility of the emergency happening in the ACT (whether or not an emergency of that kind has happened in the ACT or had an effect in the ACT).

Examples

- 1 terrorist attack
- 2 flood emergency
- 3 storm emergency
- 4 bushfire emergency
- 5 urban fire emergency
- 6 chemical or hazardous material incident
- 7 disease or epidemic emergency
- 8 aircraft accident
- 9 hospital emergency or evacuation by ambulance.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

149 Community and information plan

- (1) The emergency plan must include a community communication and information plan for communicating information to the community during a declared state of alert or state of emergency.
- (2) The community communication and information plan must include—
 - (a) provisions about when and how reports must be given to the community, and the kinds of reports that must be given; and

Examples

- 1 incident reports
 - 2 situation reports
- (b) provisions to ensure—
 - (i) that arrangements are made with a number of media organisations to establish adequate and reliable communications; and
 - (ii) that the media has appropriate training.

Example

involving the media in regular emergency exercises

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The authority must ensure that information about the community communication and information plan is given to the community.

Part 7.3 Management of emergencies

Division 7.3.1 Declared emergencies

150 Application of div 7.3.1

- (1) This division applies to an emergency that, because of its scale or nature—
 - (a) presents a significant danger to the health or safety of people, animals or property in the ACT or to the environment of the ACT; or
 - (b) presents a significant risk of disruption of essential services in the ACT.
- (2) To remove any doubt, this division applies to an emergency even if events or circumstances giving rise to the emergency exist or happen outside the ACT.
- (3) This division does not authorise the taking of measures directed at—
 - (a) ending an industrial dispute; or
 - (b) dealing with a riot or other civil disturbance.

151 Declaration of state of alert

- (1) This section applies if—
 - (a) the Minister is satisfied that an emergency is likely to happen; and
 - (b) the Chief Minister has not declared that a state of emergency exists in relation to the emergency.
- (2) The Minister may, in writing, declare that a state of alert exists.
- (3) A declaration may be made for all or part of the ACT.

- (4) The Minister may be satisfied that an emergency is likely to happen if the Minister is satisfied that an event that has happened or is happening, or a circumstance that exists, gives rise to the likelihood of an emergency.

Example

declaration of a state of alert for an impending major outbreak of disease or impending flooding

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

152 Declaration of state of alert commences immediately

A declaration of a state of alert commences immediately after the Minister makes the declaration.

153 Publication of state of alert declaration

- (1) As soon as possible after declaring that a state of alert exists, the Minister must ensure that notice of the declaration is—
- (a) broadcast in the ACT by television or radio; and
 - (b) notified under the Legislation Act as if it were a notifiable instrument.
- (2) A failure to comply with subsection (1) does not affect the validity of the declaration.

154 Minister to give reports to community during state of emergency

During a state of alert, the Minister must give the community regular situation reports, and other reports, in accordance with the community communication and information plan.

Examples

- 1 community vulnerability to the effects of the emergency

2 preparation

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

155 State of emergency ends state of alert

- (1) This section applies if—
 - (a) a declaration that a state of alert is in force for the ACT or a part of the ACT; and
 - (b) the Chief Minister declares that a state of emergency exists for the ACT or the part of the ACT.
- (2) The state of alert ends when the state of emergency is declared.

156 Declaration of state of emergency

- (1) This section applies if the Chief Minister is satisfied that an emergency has happened, is happening or is likely to happen.
- (2) The Chief Minister may, in writing, declare that a state of emergency exists.
- (3) A declaration may be made for all or part of the ACT.
- (4) The Chief Minister may be satisfied that an emergency is likely to happen if the Chief Minister is satisfied that an event that has happened or is happening, or a circumstance that exists, gives rise to the likelihood of an emergency.

157 Declaration of state of emergency commences immediately

A declaration of a state of emergency commences immediately after the Chief Minister makes the declaration.

158 Publication of declaration of state of emergency

- (1) As soon as possible after declaring that a state of emergency exists, the Chief Minister must ensure that notice of the declaration is—
 - (a) broadcast in the ACT by television or radio; and
 - (b) notified under the Legislation Act as if it were a notifiable instrument.
- (2) A failure to comply with subsection (1) does not affect the validity, of the declaration.

159 Appointment of Territory controller for declared state of emergency

The Chief Minister must appoint a person to be the Territory controller for a declared state of emergency.

Note 1 For the making of appointments generally, see Legislation Act, pt 19.3.

Note 2 A power to appoint a person to a position includes power to appoint a person to act in the position (see Legislation Act, s 209).

160 Functions of Territory controller

- (1) The Territory controller has the following functions in relation to a declared state of emergency:
 - (a) to manage the response to, and the recovery from, the emergency by ensuring that entities dealing with the emergency are appropriately deployed; and
 - (b) to coordinate the disposition of other resources to manage the emergency; and
 - (c) to advise the Minister and the Chief Minister about the emergency; and

- (d) to advise the community on anything relating to the state of emergency that the Territory controller considers appropriate; and
 - (e) any other function given to the Territory controller under this Act or another Territory law.
- (2) However, the Chief Minister may direct, in writing—
- (a) that the Territory controller is not to have a function (or part of a function) mentioned in subsection (1); or
 - (b) that the Territory controller has another stated function.
- Note* A direction may be included in the instrument of appointment (see Legislation Act, s 49).
- (3) As far as practicable, the Territory controller must exercise the Territory controller's functions in accordance with the emergency plan.

161 Management executive for declared state of emergency

- (1) As soon as possible after the Territory controller is appointed for a declared state of emergency, the Territory controller must establish a management executive for the emergency.
- (2) The executive consists of—
 - (a) the emergency management committee members; and
 - (b) the other people nominated by the Territory controller.
- (3) The management executive must provide support to the Territory controller in the exercise of the Territory controller's functions.
- (4) The Territory controller is not required to consult with the management executive before exercising a function.

- (5) The management executive may decide its own procedure in relation to anything for which a procedure is not provided under this Act.
- (6) The management executive may hold its meetings by means of a method of communication, or a combination of methods of communication, that allows the members taking part to hear what each other member says without being in each other's presence.

162 Management of declared state of emergency

- (1) For the management of a declared state of emergency, the Territory controller may direct the head of an entity (including the authority) to undertake response or recovery operations.
- (2) The Territory controller may not direct the person to undertake an operation in a particular way.

163 Emergency powers for declared state of emergency

- (1) This section applies if a declaration of a state of emergency is in force.
- (2) For the management of the declared state of emergency, the Territory controller may—
 - (a) direct the movement of people, animals or vehicles within, into or around the area to which the state of emergency applies (the *emergency area*); and
 - (b) give directions regulating or prohibiting the movement of people, animals or vehicles within, into or around the emergency area; and
 - (c) direct, in writing, the owner of property in or near the emergency area to place the property under the control, or at the disposal, of the Territory controller; and

- (d) take possession of any premises, animal substance or thing in or near the emergency area; or
- (e) excavate land, form tunnels or construct earthworks, barriers or temporary structures in or near the emergency area; and
- (f) control, use, close off or block a drainage facility in or near the emergency area; and
- (g) maintain, restore or prevent disruption of essential services; and
- (h) do anything else that the chief officer of an emergency service may do under section 34 (General powers of chief officers).

Note A chief officer has a number of general powers including to enter land, shut off a power or water supply, demolish or destroy a structure or remove or destroy an animal.

- (3) Subsection (2) operates despite any other Territory law.
- (4) The Territory controller may delegate a function mentioned in subsection (1) to the head of an entity.
- (5) A person who is delegated a function under subsection (4) may delegate the function to another member, officer, employee or contractor of the entity.

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

- (6) In this section:

owner, of property, includes an occupier or someone apparently in charge of the property.

164 Failure to comply with direction given under emergency powers

- (1) A person commits an offence if the person fails to comply with a direction given to the person under section 163 (2) (a), (b) or (c).

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

165 Chief Minister's directions to Territory controller

- (1) The Chief Minister may give the Territory controller written directions about the exercise of the controller's functions.

- (2) The Territory controller must give effect to a direction.

166 Territory controller to give information about controller's operations

The Territory controller must give the Chief Minister or the Minister the information about the controller's operations that the Chief Minister or Minister asks for.

167 Deployment of resources outside ACT in declared state of emergency

In a declared state of emergency, a person must not deploy Territory resources outside the ACT, in relation to an emergency outside the ACT, without the approval of the Territory controller.

168 Power to remove person obstructing response operations etc

- (1) If the Territory controller believes, on reasonable grounds, that a person is obstructing, or threatening to obstruct, response or recovery operations in a declared state of emergency, the controller may remove the person to another place.

- (2) The controller may use any necessary and reasonable force.
- (3) This section does not authorise the detention of a person except for the purpose of the removal.

169 Compensation—declared state of emergency

- (1) A person who suffers loss because of an act or omission of the Territory controller under section 163 (Emergency powers for declared state of emergency) is entitled to be paid reasonable compensation by the Territory for the loss.
- (2) Compensation is not payable to a person for a loss to the extent—
 - (a) of any amount recovered or recoverable by the person under a policy of insurance; or
 - (b) that the conduct of the person contributed to the loss.
- (3) Compensation is not payable to a person for a loss if the loss would have arisen despite the act or omission of the Territory controller.
- (4) The person may apply, in writing, to the Minister for compensation.

Note If a form is approved under s 200 for this provision, the form must be used.

- (5) The application must state particulars of the loss, the amount claimed and the basis for the amount claimed.

170 Minister’s decision on claim for compensation

- (1) If the Minister is satisfied that an applicant is entitled to compensation under section 169, the Minister must accept the claim by giving written notice of acceptance to the claimant setting out—
 - (a) an offer to the claimant of the amount of compensation to which the Minister considers the claimant is entitled; and
 - (b) an explanation of how the amount was worked out.

- (2) If the Minister does not decide the application within 28 days after the day the Minister receives the application, the Minister is taken to have refused to pay compensation.

171 Acceptance or rejection of offer of compensation

- (1) A person to whom an offer has been made under section 170 may, in writing—
- (a) accept the offer; or
 - (b) reject the offer.
- (2) If the person accepts the offer, the Territory must pay the amount to the person.

172 Recovery of compensation in court

If the Territory and the person to whom compensation is payable under section 169 (Compensation—declared state of emergency) do not agree on the amount of compensation, the person may, by proceeding in a court of competent jurisdiction, recover from the Territory the reasonable compensation that the court decides.

Division 7.3.2 Other emergencies

173 Application of div 7.3.2

This division applies to an emergency other than a declared state of emergency.

174 Authority must assist recovery for other emergencies

- (1) The authority must assist in recovery from the effects of an emergency by supporting the activities of any entity working in the area of recovery and welfare in the role of assisting the community to recover.

- (2) Without limiting subsection (1), the authority must give support by—
- (a) identifying people in the community to act as contacts in relation to the activities; and
 - (b) together with relevant entities—
 - (i) establishing priorities for the short-term recovery of infrastructure; and
 - (ii) assisting in the re-establishment of infrastructure.

Part 7.4 Commonwealth, interstate and overseas cooperation

175 Definitions for pt 7.4

In this part:

specialist means a person who has a skill appropriate for dealing with an aspect of an emergency (whether or not the skill is in a recognised field of expertise).

support unit means a unit (however described) of 1 or more people and associated equipment forming part of an entity that has a function relating to emergencies.

Example

members of the ambulance service and an ambulance

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

176 Cooperative arrangements with Commonwealth, State or overseas agencies

- (1) The Minister or the authority may enter into a written arrangement with a Commonwealth or State agency, or an agency of a foreign country, (a *cooperative arrangement*) to facilitate cooperation—
 - (a) in emergency management; or
 - (b) in the day-to-day operations of a Territory agency if the operations involve the provision of emergency services outside the ACT or the provision of emergency services in the ACT by a Commonwealth or State agency.

- (2) In this section:

Territory agency means—

- (a) an administrative unit; or
- (b) a Territory owned corporation; or
- (c) a statutory office-holder; or
- (d) an entity prescribed under the regulations for this definition.

177 Cooperative arrangements about resources

- (1) A cooperative arrangement may provide for the authority or the Territory controller to decide the nature and amount of resources needed from outside the ACT to deal with an emergency within the ACT and to ask the other party to the arrangement to provide the resources to the Territory.
- (2) An arrangement may provide for the authority or the Territory controller to decide and coordinate the deployment of Territory resources for an emergency outside the ACT.
- (3) This section is additional to, and does not limit, section 176.

178 Directions to people operating under cooperative arrangement

A member of a support unit, or a specialist, operating in the ACT under a cooperative arrangement must comply with a direction given by the authority or the Territory controller.

179 Directions by authorised person to people operating under cooperative arrangement

- (1) The authority or the Territory controller may, in writing, authorise a person (an *authorised person*) to give directions to a member of a support unit or a specialist.

- (2) The authorisation ends 7 days after the day it is given unless renewed by the person who gave the authorisation.
- (3) A member of a support unit, or a specialist, operating in the ACT under a cooperative arrangement must comply with a direction given by an authorised person.

180 Recognition of interstate qualifications

- (1) This section applies if—
 - (a) a specialist ordinarily resident in a State, another Territory or a foreign country undertakes activities in the ACT under a cooperative arrangement; and
 - (b) the activities are activities that under a Territory law may only be undertaken by a person who holds a qualification (the *required qualification*); and
 - (c) the person holds a qualification recognised by the law of that State, Territory or foreign country as a requirement for undertaking the activities in that State, Territory or country.
- (2) The person is taken to hold the required qualification for the purpose of undertaking the activities in the ACT under the arrangement.
- (3) In this section:
qualification includes—
 - (a) a degree, diploma, certificate or other award; and
 - (b) registration with or membership of an entity.

Part 7.5 Emergency relief funds

181 Emergency relief funds

- (1) This section applies to money received by the Territory for the relief of people who suffer loss because of an emergency (whether or not from a public appeal).
- (2) A charitable trust is established for the money.
- (3) The trustee of the trust is the public trustee.
- (4) An amount of money received, or apparently received, for the relief of people who suffer loss because of a particular emergency may be applied—
 - (a) for the relief of people who suffer loss because of another emergency; or
 - (b) for another purpose prescribed under the regulations.
- (5) In this section:
emergency includes an emergency outside the ACT.

182 Gifts and donations

- (1) This section applies to a gift of money or other property made, or purporting to be made—
 - (a) to, or for the purposes of, an emergency service; or
 - (b) for the purposes of providing or maintaining—
 - (i) services of an emergency service; or
 - (ii) equipment or training for an emergency service; or
 - (c) to the Territory in relation to anything mentioned in paragraph (a) or (b).

- (2) If the gift is expressed to be subject to a condition, the authority may agree to comply with the condition, as far as practicable, in the administration of the gift.
- (3) However, if the authority is satisfied that the condition is inappropriate, impracticable or impossible to carry out, the authority may, in writing, amend the terms of the condition to the extent necessary to make it appropriate and practicable to carry out.
- (4) An amendment is a notifiable instrument.

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

- (5) In this section:
gift includes a devise or bequest.

Chapter 8 Volunteers

183 **Victimisation of volunteers**

- (1) This section applies if a volunteer member or casual volunteer (the *volunteer*) is absent from his or her employment to take part in an emergency operation in which an emergency service is taking part during a declared state of alert or state of emergency.
- (2) A person commits an offence if—
 - (a) the person is an employer of the volunteer; and
 - (b) the person victimises the employee for being absent from employment to take part.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) For subsection (2), an employer is taken to victimise an employee if the employer—
 - (a) dismisses the employee from employment or terminates the engagement of the employee; or
 - (b) changes the employee's position in his or her employment, or changes the circumstances of the employee's engagement, to the employee's prejudice; or
 - (c) otherwise injures the employee in his or her employment.

184 **Release of volunteer member from operations**

- (1) This section applies if the authority is satisfied that—
 - (a) a volunteer member is ordinarily employed by someone else (the *employer*); and

- (b) the taking part of the volunteer member in the emergency operations of an emergency service would cause significant hardship to the business of the employer.
- (2) The authority must release the volunteer member from taking part in the operations.

Chapter 9 Administrative review of decisions

185 Reviewable decisions and eligible people

For this chapter—

- (a) a decision mentioned in schedule 2 is a *reviewable decision*; and
- (b) a person mentioned in schedule 2 in relation to a reviewable decision is an *eligible person* for the decision.

186 Notice of reviewable decisions

- (1) If a person (the *decision-maker*) makes a reviewable decision, the decision-maker must give written notice of the decision to each eligible person for the decision.
- (2) The notice must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (3) In particular, the notice must tell the person—
 - (a) that the person has the right to apply to the administrative appeals tribunal for review of the decision, and how the application must be made; and
 - (b) about the options available under other Territory laws to have the decision reviewed by a court or the ombudsman.

187 Review of decisions by AAT

An eligible person may apply to the administrative appeals tribunal for review of a reviewable decision.

Chapter 10 Miscellaneous

Part 10.1 Other offences relating to fires

188 Lighting a fire dangerous to premises

A person commits an offence if—

- (a) the person intentionally lights a fire that may be dangerous to premises; and
- (b) the person does not have the written consent of the chief officer (fire brigade) to do so.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

189 Direction to leave fire area

(1) A person commits an offence if—

- (a) the person is at or near premises that are on fire; and
- (b) a member of the fire brigade, a member of the rural fire service or a police officer directs the person to leave the premises or move away from the area of the fire; and
- (c) the person fails to leave the premises, or move away from the area, in accordance with the direction.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) An offence against this section is a strict liability offence.

190 Interfering with fire appliance, hydrant, alarm etc

- (1) A person commits an offence if the person does something to, or near, a fire appliance that prevents or hinders the effective use of the appliance.

Example

driving a vehicle over a fire hose

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply if the person has the permission of a member of the fire brigade, a member of the rural fire service or a police officer to do the thing.
- (3) A person commits an offence if the person—
- (a) covers, encloses or conceals a fire hydrant; or
 - (b) obliterates or removes a mark, sign or letter indicating the position of, or distinguishing, a fire hydrant.

Maximum penalty: 50 penalty units.

- (4) A person commits an offence if the person does anything to a fire alarm that prevents or hinders the effective use of the fire alarm.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (5) Subsection (4) does not apply if the person does the thing—
- (a) to give an alarm of fire; or
 - (b) to test or do maintenance work on the fire alarm.

- (6) An offence against subsection (1), (3) or (4) is a strict liability offence.

191 False alarm of fire, emergency or other incident

A person commits an offence if the person—

- (a) intentionally gives a false alarm of fire, or an emergency or other incident; and
- (b) is reckless about whether it would—
 - (i) cause a person to fear that there is a fire, emergency or other incident; or
 - (ii) cause an emergency service to respond to the alarm.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Part 10.2 Other miscellaneous provisions

192 Obligations of owners and occupiers

- (1) For this Act, if an obligation is expressed to apply to the owner of land or premises for which there are 2 or more owners—
 - (a) it is sufficient for any owner of the land or premises to carry out the obligation; and
 - (b) if no owner of the land or premises carries out the obligation—each owner is liable for the failure to carry out the obligation.
- (2) For this Act, if an obligation is expressed to apply to the occupier of land or premises for which there are 2 or more occupiers—
 - (a) it is sufficient for any occupier of the land or premises to carry out the obligation; and
 - (b) if no occupier of the land or premises carries out the obligation—each occupier is liable for the failure to carry out the obligation.

193 Policies of insurance against fire

- (1) If a person causes damage to property, either directly or indirectly, in exercising a function under this Act at or after a fire, the damage must, for the purposes of any policy of insurance against fire covering the property damaged, be taken to be damage by fire.
- (2) This section has effect despite any provision to the contrary in the policy.

194 Ambulance levy

An ambulance levy is imposed in accordance with schedule 1.

195 Ambulance fund

- (1) The chief officer (ambulance service) may, in writing, establish an ambulance fund, or approve a person to operate an ambulance fund, for the purpose of enabling contributors to the fund to receive services provided by the ambulance service at no cost or at a reduced rate.
- (2) An instrument under subsection (1) is a notifiable instrument.

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

196 Authorised person's power to require name and address

- (1) An authorised person may require a person to state the person's name and home address if the authorised person suspects, on reasonable grounds, that the person is committing, is about to commit, or has just committed, an offence against this Act.

Note A reference to an Act includes a reference to statutory instruments made or in force under the Act, including regulations and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

- (2) If an authorised person makes a requirement of a person under subsection (1), the authorised person must—
 - (a) tell the person the reasons for the requirement; and
 - (b) as soon as practicable, record those reasons.
- (3) A person commits an offence if the person contravenes a requirement under subsection (1).

Maximum penalty: 10 penalty units.

- (4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the authorised person does not produce, for inspection by the person—
 - (a) his or her identity card; or

- (b) if the authorised person is the Territory controller or a person authorised by the controller—evidence of his or her appointment or authorisation.
- (5) Subsection (4) does not apply in relation to an authorised person who is a member of an emergency service, or a police officer, in uniform.
- (6) An offence against this section is a strict liability offence.
- (7) In this section:

authorised person means the commissioner, the Territory controller, a member of an emergency service, an inspector, an investigator, a police officer or someone else authorised in writing by the Territory controller for this section.

home address, of a person, means the address of the place where the person usually lives.

197 Identity cards

- (1) The authority must give an identity card to—
 - (a) each member of an emergency service; and
 - (b) each inspector or investigator who is not a member of an emergency service; and
 - (c) each other member of the staff of the authority.
- (2) The identity card must state the person's name and appointment as a member, inspector, investigator or staff member, and show—
 - (a) a recent photograph of the person; and
 - (b) the date of issue of the card; and
 - (c) the date of expiry of the card; and
 - (d) anything else prescribed under the regulations.

- (3) A person commits an offence if—
- (a) the person ceases to be a member, inspector, investigator or staff member; and
 - (b) the person does not return the person's identity card to the authority as soon as practicable (but within 7 days) after the day the person ceases to be a member, inspector, investigator or staff member.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.

198 Protection of officials from liability

- (1) In this section:

official means—

- (a) the commissioner; or
 - (b) an inspector or investigator; or
 - (c) a member of an emergency service; or
 - (d) any other member of the staff of the authority; or
 - (e) anyone else exercising a function under this Act.
- (2) An official does not incur civil liability for an act or omission done honestly and without recklessness for this Act.
- (3) Any civil liability that would, apart from this section, attach to an official attaches instead to the Territory.
- (4) For subsection (1) (e), a person is taken to be exercising a function under this Act if the person is—
- (a) a member of an interstate or overseas emergency service to which section 64 (Interstate and overseas emergency services) applies; or

- (b) engaged in an activity under a cooperative arrangement; or
- (c) a casual volunteer taking part in an activity under section 26 (Casual volunteers); or
- (d) giving assistance to a member of an emergency service under section 34 (1) (m) (General powers of chief officers).

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

199 Compensation for exercise of functions etc

- (1) A person may claim compensation from the Territory if the person suffers loss because of the exercise, or purported exercise, of a function under this Act (other than under section 163 (Emergency powers for declared state of emergency)).

Note For compensation for loss because of an act or omission under s 163, see s 169.

- (2) Compensation may be claimed and ordered in a proceeding for—
 - (a) compensation brought in a court of competent jurisdiction; or
 - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) The regulations may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

200 Approved forms

- (1) The authority may, in writing, approve forms for this Act.

- (2) If the authority approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

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

201 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A fee determined for a service provided to a person by an emergency service is payable by the person even if the person did not ask for, or consent to, the provision of the service.

- (3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

202 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) The regulations may make provision in relation to—

- (a) measures for minimising danger of fire; and

Examples

- 1 storing or keeping flammable material
- 2 use of steam and internal combustion engines

- (b) attendance by members of an emergency service at public events.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 20 penalty units for offences against the regulations.

Chapter 11 Consequential and transitional matters

Part 11.2 Transitional provisions

Division 11.2.1 Definitions for pt 11.2

204 Definitions for pt 11.2

In this part:

commencement day means the day this part commences.

former bushfire council means the bushfire council under the *Bushfire Act 1936*.

former emergency management committee means the emergency management committee established by the *Emergency Management Act 1999*, section 7 (1).

Division 11.2.2 Emergency management committee

205 Committee members

- (1) This section applies to a person who was, immediately before the commencement day, a member of the former emergency management committee appointed under the *Emergency Management Act 1999*, section 7 (2) (h).
- (2) The person is taken to be a member of the emergency management committee.
- (3) The person remains a member of the emergency management committee until the earlier of—
 - (a) the end of 12 months after the commencement day; and

- (b) the day the person would have stopped being a member of the former emergency management committee if the *Emergency Management Act 1999* had not been repealed.

Division 11.2.3 Bushfire council

206 Council members

- (1) This section applies to a person who was, immediately before the commencement day, a member of the former bushfire council.
- (2) The person is taken to be a member of the bushfire council.
- (3) The person remains a member of the bushfire council until the end of 12 months after the commencement day.

Division 11.2.4 Former bushfire council—assets, rights and liabilities

207 Vesting of assets, rights and liabilities

- (1) All assets, rights and liabilities of the former bushfire council vest in the authority.
- (2) However, the Minister may, in writing, exclude an asset of the former bushfire council from subsection (1).
- (3) An asset excluded from subsection (1) vests in the Territory.
- (4) An exclusion under subsection (2) is a notifiable instrument.

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

208 Registration of changes in ownership of certain assets

- (1) This section applies if—
 - (a) an asset, including an interest in land, vests in the authority or the Territory under section 207; and

- (b) information about ownership of the asset may be entered in a statutory property register.
- (2) On application by the authority, a person responsible for the statutory property register must make the entries in the register and do anything else that is necessary or desirable to reflect the operation of section 207.
- (3) The evidentiary value of a statutory property register is not affected by—
- (a) the making of an entry under this section; or
 - (b) a failure to make an entry under this section; or
 - (c) a failure by the authority to make an application under this section.
- (4) In this section:
- statutory property register*** means a register kept under a Territory law for recording ownership of property (including interests in property) if—
- (a) title to the property is passed by registration in the register of ownership of the property; or
 - (b) the owner of an interest in the property may lose the interest if the interest is not registered in the register.

Examples

- 1 the register of land titles kept under the *Land Titles Act 1925*, section 43
- 2 a book, index or register mentioned in the *Instruments Act 1933*

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

209 Evidentiary certificate for vested assets and liabilities

- (1) The authority may, in writing, certify that an asset or liability has vested in the authority under section 207 (1).
- (2) The authority may, in writing, certify that an asset has vested in the Territory under section 207 (3).
- (3) A certificate under subsection (1) or (2) is evidence of what it states.
- (4) A document that purports to be a certificate under subsection (1) or (2) is taken to be such a certificate unless the contrary is proved.

210 Proceedings and evidence

- (1) For a proceeding begun before the commencement day and to which the former bushfire council is a party, the authority is substituted as a party.
- (2) A proceeding for a cause of action may be brought against the authority if, before the commencement day—
 - (a) the cause of action had accrued against the former bushfire council; and
 - (b) a proceeding had not begun in relation to the cause of action; and
 - (c) the limitation period for the cause of action had not ended.
- (3) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the beginning of a proceeding that may be brought by or against the authority under this section as if the cause of action had been accrued by, or had accrued against, the authority.
- (4) The court or other entity in which, or before which, a proceeding may be or has been begun or continued under this section may give directions about the proceeding.

- (5) Any evidence that, apart from the repeal of the *Bushfire Act 1936*, would have been admissible for or against the former bushfire council is admissible for or against the authority.
- (6) An order made in a proceeding by or against the former bushfire council before the commencement day may, on or after the commencement day, be enforced by or against the authority.
- (7) In this section:

proceeding includes a proceeding by way of appeal or review (including review under the *Ombudsman Act 1989*) or any other civil proceeding in relation to an asset, right or liability vested in the authority under section 207 (Vesting of assets, rights and liabilities).

Division 11.2.5 Members of fire brigade

211 Fire Brigade (Administration) Act

- (1) Despite the repeal of the *Fire Brigade (Administration) Act 1974* (the *repealed Administration Act*) and the *Fire Brigade (Administration) Regulations 1980*, the provisions mentioned in subsection (2) (the *continued provisions*) continue in force in accordance with this part until the earlier of the following days (the *expiry date*)—
 - (a) the default commencement date; or
 - (b) if an earlier date is fixed by the Minister by written notice—the earlier date.
- (2) The continued provisions are—
 - (a) the repealed Administration Act, other than—
 - (i) section 1 (Short title); and
 - (ii) section 3, definitions of *brigade*, *commissioner*, *deputy commissioner* and *member*; and

- (iii) part 2 (Fire commissioner and deputy fire commissioner); and
 - (iv) section 16 (1) and (2) (Establishment of fire brigade); and
 - (v) section 17 (Officers); and
 - (vi) section 18 (Firefighters); and
 - (vii) section 19 (Alteration of ranks); and
 - (viii) section 61, section 62 and section 63 (which deal with offences); and
 - (ix) section 81 (Regulation-making power); and
- (b) the *Fire Brigade (Administration) Regulations 1980*, other than regulation 1 (Name of regulations).
- (3) A notice under subsection (1) (b) is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (4) The Minister may fix a date under subsection (1) (b) only if the Minister is satisfied that the matters provided for in the continued provisions are—
- (a) provided for in a certified agreement under the *Workplace Relations Act 1996* (Cwlth) that—
 - (i) has come into operation, within the meaning of that Act, section 170LX (1); and
 - (ii) covers members of the fire brigade under the repealed Administration Act (other than the fire commissioner and deputy fire commissioner); or
 - (b) agreed by the parties to the agreement to be matters that—
 - (i) should be dealt with in the agreement in a different or changed way; or
 - (ii) need not be dealt with in the agreement.

- (5) The repealed Administration Act applies as if—
- (a) a reference in that Act to the commissioner were a reference to the chief officer (fire brigade) under the *Emergencies Act 2004*; and
 - (b) a reference in that Act to the deputy commissioner were a reference to the deputy chief officer (fire brigade) under the *Emergencies Act 2004*; and
 - (c) a reference in that Act to the brigade is a reference to the fire brigade under the *Emergencies Act 2004*; and
 - (d) a reference in that Act to general orders and instructions were a reference to standards and protocols under the *Emergencies Act 2004*; and
 - (e) all other necessary changes were made.
- (6) In this section:
- default commencement date* means 1 July 2006 or, if a later date is prescribed under the regulations for this definition, that date.

212 References to staff of authority

- (1) Section 22 (1) does not apply to a member of the fire brigade (other than the chief officer (fire brigade) or the deputy chief officer (fire brigade)).
- (2) This section expires on the expiry date under section 211 (1).

Division 11.2.6 Emergency Services Commissioner

213 Appointment of emergency services commissioner

- (1) Peter James Dunn AO is taken to be appointed to be the ACT Emergency Services Commissioner under section 18 (1).
- (2) Section 18 (3) does not apply to the appointment.

M **Division 11.2.6A Fuel management plans**

M **213A Fuel management plans**

M **Division 11.2.6B Emergency plan**

M **213B Emergency plan**

M **Division 11.2.6C Ambulance fund**

M **213C Approval of person to operate fund**

Division 11.2.7 Other provisions

214 References to Bushfire Act etc

- (1) In an Act, statutory instrument or document, a reference to any of the following Acts is, in relation to anything to which this Act applies, a reference to this Act:
 - *Bushfire Act 1936*
 - *Emergency Management Act 1999*
 - *Fire Brigade Act 1957*.
- (2) In an Act, statutory instrument or document, a reference to a provision of an Act mentioned in subsection (1) is, in relation to anything to which this Act applies, a reference to the corresponding provision of this Act.
- (3) In an Act, statutory instrument or document—
 - (a) a reference to the fire commissioner is a reference to the chief officer (fire brigade); and
 - (b) a reference to the chief fire control officer is a reference to the chief officer (rural fire service).

215 Transitional regulations

- (1) The regulations may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) The regulations may modify the operation of this chapter to make provision in relation to any matter that, in the Executive's opinion, is not, or not adequately, dealt with in this chapter.

216 Legislation amended—sch 3

This Act amends the legislation mentioned in schedule 3.

217 Expiry of ch 11

This chapter expires on the expiry date under section 211 (1).

Schedule 1 Ambulance levy

(see s 194)

Note This schedule is a tax law under the *Taxation Administration Act 1999*. As a tax law, this Act is subject to provisions of the *Taxation Administration Act 1999* about the administration and enforcement of tax laws generally.

1 Definitions for sch 1

In this schedule:

ambulance levy—see section 4.

basic health benefits means benefits payable by a health benefits organisation under the basic table of the organisation to contributors of the health benefits fund conducted by the organisation.

contributor, to a health benefits fund, means a person who contributes to the fund, or for whom contributions are made to the fund, in accordance with the rules of the organisation that conducts the fund.

exempt contribution—see section 2.

family rate, for contributions, means contributions that are not single rate contributions.

health benefits fund means a fund conducted by a health benefits organisation from which the organisation makes payments to contributors to the fund for—

- (a) accommodation in hospitals; and
- (b) surgical, therapeutic or other medical or health treatments, services or procedures in hospitals.

health benefits organisation means an organisation that provides health benefits to contributors to a health benefits fund conducted by the organisation.

reference month—see section 3.

single rate, for contributions, means contributions by a person who contributes only in relation to the person.

2 Meaning of exempt contribution

- (1) This section applies to contributions paid into a health benefits fund for the purpose of securing entitlement to basic health benefits.
- (2) A contribution is an **exempt contribution** if—
 - (a) the contributor is in a class of people prescribed under the regulations; or
 - (b) it is—
 - (i) if paid at the single rate—paid while the contributor is absent from Australia for at least the period prescribed under the regulations; or
 - (ii) if paid at the family rate—paid while all the contributors are absent from Australia for at least the period prescribed under the regulations.

3 Meaning of reference month

For a month mentioned in table 1.3, column 2, the *reference month* is the month mentioned in the table, column 3 for the month:

Table 1.3 Reference months

column 1 item	column 2 month	column 3 reference month
1	January	October in previous year
2	February	November in previous year
3	March	December in previous year
4	April	January in same year
5	May	February in same year
6	June	March in same year
7	July	April in same year
8	August	May in same year
9	September	June in same year
10	October	July in same year
11	November	August in same year
12	December	September in same year

4 Imposition of ambulance levy

- (1) A levy (the *ambulance levy*) is imposed on a health benefits organisation carrying on business in the ACT.
- (2) The ambulance levy is imposed for each month in accordance with the following formula:

$$(S + 2F) \times RA \times \frac{D}{7}$$

-
- (3) For this section, a person is taken to be contributing at the single rate if—
- (a) the person is contributing at the family rate; and
 - (b) only 1 of the people on behalf of whom the contributions are made is living in Australia.
- (4) For this section, a health benefits organisation is taken to carry on business in the ACT if, in relation to a health benefits fund conducted by it—
- (a) it uses premises in the ACT or the services of a person in the ACT for—
 - (i) the enrolment of contributors; or
 - (ii) the payment of benefits to contributors; or
 - (b) any contributor lives in the ACT.
- (5) If a health benefits organisation cannot accurately work out something required to work out an amount of levy payable by the organisation, the organisation may work it out in the way it considers reasonable.
- (6) In this section:
- D**, in relation to a month, means the number of days in the reference month for that month.
- F**, in relation to a month, means the number of contributors (other than contributors whose contributions are exempt) who, at the beginning of the reference month for that month, were contributing at the family rate.
- RA** means—
- (a) the amount determined under the *Taxation Administration Act 1999*, section 139 for this section; or
 - (b) if no amount is determined—83 cents.

S, in relation to a month, means the number of contributors (other than contributors whose contributions are exempt) who, at the beginning of the reference month for that month, were contributing at the single rate.

5 Organisation to pay levy

Levy imposed on a health benefits organisation under this schedule is payable to the commissioner for revenue by the organisation.

6 Returns

- (1) A health benefits organisation must give the commissioner for revenue a return for each month on or before the 15th day of the month.
- (2) The return must state, in relation to the reference month for the month—
 - (a) the number of contributors who contribute at the single rate (including contributors who are taken to be contributing at the single rate); and
 - (b) the number of contributors who contribute at the family rate; and
 - (c) the number of days in the reference month.

7 Records

A health benefits organisation must, for a return lodged by it for a month under section 6, keep a record of—

- (a) the name and address of each contributor to the health benefits fund conducted by the organisation for the month; and
- (b) the amount of the contribution; and
- (c) the name of each person entitled to receive health benefits from the organisation because of the contribution; and

- (d) anything else relating to the payment of the levy to which the return relates that the commissioner for revenue directs in writing.

8 Levy payable if organisation stops operations

- (1) If a health benefits organisation stops carrying on business in the ACT, it is liable to pay the levy worked out in accordance with this section.
- (2) The organisation must, on or before the 15th day of the month for which the levy is payable, give the commissioner for revenue a return for the month.
- (3) The levy payable by the organisation is payable—
- (a) if the organisation stopped carrying on business before the 15th day of a month—for that month; and
 - (b) if the organisation stopped carrying on business on or after the 15th day of a month—for the month immediately after that month.
- (4) Section 6 (2) applies to the return.
- (5) In the application of—
- (a) section 6 (2) to the return in relation to a month (the *payment month*); and
 - (b) the *Road Transport (General) Act 1999*, part 10 (Compulsory vehicle insurance);

contributions paid into the health benefits fund that have not previously been required to be taken into account as contributions in relation to a reference month for working out the ambulance levy payable by the organisation are taken to have been paid into the fund in the reference month for the payment month.

Schedule 2 Reviewable decisions

(see s 185)

column 1 item	column 3 decision	column 4 eligible person
1	deciding not to approve a person as a provider of services under section 62 (1)	the applicant for approval
2	approving a person as a provider of services subject to a condition under section 62 (4)	the applicant for approval
3	deciding not to approve a draft bushfire operational plan for an area of land under section 79 (3)	the owner of land to which the draft plan relates
4	approving a draft bushfire operational plan with amendments under section 79 (3)	the owner of land to which the draft plan relates
5	directing an owner of land to comply with a bushfire management requirement or bushfire operational plan under section 82 (1)	the person who is given the direction

column 1 item	column 3 decision	column 4 eligible person
6	issuing an improvement notice for premises under section 86 (2)	the occupier of premises to which the notice relates
7	issuing an occupancy notice for premises under section 86 (2)	the occupier of premises to which the notice relates
8	issuing a closure notice for premises under section 86 (2)	the occupier of premises to which the notice relates
9	deciding not to extend a period stated in an improvement notice under section 87 (2)	the occupier of premises to which the notice relates
10	deciding not to revoke a notice for premises under section 91 (4)	the occupier of premises to which the notice relates
11	giving a direction for provision or installation of fire appliance under section 92	the occupier of premises to which the direction relates
12	giving a direction to take action under section 106 (1)	the owner of premises to which the direction relates

Schedule 2

Reviewable decisions

column 1 item	column 3 decision	column 4 eligible person
13	giving a direction to comply with section 120, a bushfire management requirement or a bushfire operational plan under section 109	to person to whom the direction is given
14	deciding not to issue a permit under section 118 (1)	the applicant for the permit
15	issuing a permit subject to a condition under section 118 (5)	the applicant for the permit
16	deciding not to issue a permit under section 124	the applicant for the permit
17	issuing a permit subject to a condition under section 124	the applicant for the permit

Dictionary

(see s 4)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1 defines the following terms:

- ACT
- administrative unit
- appoint
- chief health officer
- Chief Minister
- chief police officer
- conservator of flora and fauna
- contravene
- entity
- exercise
- function
- give
- Minister (see s 162)
- planning and land authority
- statutory office-holder
- Territory owned corporation
- the Territory
- under.

agency, for part 5.3 (Bushfire prevention)—see section 70.

ambulance levy, for schedule 1 (Ambulance levy)—see schedule 1, section 4.

ambulance service means the ACT Ambulance Service established under section 40.

ambulance services, for part 4.5 (Other approved providers)—see section 60.

annual report, of an agency, for part 5.3 (Bushfire prevention)—see section 70.

at premises includes in or on the premises.

authority means the ACT Emergency Services Authority established under section 7.

authority guidelines—see section 12.

basic health benefits, for schedule 1 (Ambulance levy)—see schedule 1, section 1.

built-up area means an area declared to be a built-up area under section 65.

building code—see the *Building Act 2004*, section 136 (1).

bushfire abatement zone means a bushfire abatement zone declared under section 71.

bushfire council means the ACT Bushfire Council established under section 127.

bushfire management requirement means a requirement mentioned in section 74 (3) (a) (Content of strategic bushfire management plan).

bushfire operational plan means—

- (a) for Territory land or land occupied by the Territory—a bushfire operational plan approved by the Minister under section 78; or
- (b) for land in a bushfire abatement zone—a bushfire operational plan approved by the authority under section 79.

bushfire season, for division 5.6.2 (Controlled activities and offences relating to fire)—see section 119.

casual volunteer—see section 26 (2).

chief officer means—

- (a) for the ambulance service—the chief officer (ambulance service); and
- (b) for the fire brigade—the chief officer (fire brigade); and
- (c) for the rural fire service—the chief officer (rural fire service); and
- (d) for the SES—the chief officer (SES).

chief officer (ambulance service)—see section 28.

chief officer (fire brigade)—see section 29.

chief officer (rural fire service)—see section 30.

chief officer (SES)—see section 31.

city area—see section 66.

closure notice means a closure notice issued under section 86 (2) (Notices for premises).

commissioner means the ACT Emergency Service Commissioner.

community communication and information plan means the community communication and information plan mentioned in section 149.

conservator means the conservator of flora and fauna.

contributor, to a health fund, for schedule 1 (Ambulance levy)—see schedule 1, section 1.

cooperative arrangement—see section 176 (Cooperative arrangements with Commonwealth, State or overseas agencies).

declared state of alert means a state of alert declared under section 151 (Declaration of state of alert).

declared state of emergency means a state of emergency declared under section 156 (Declaration of state of emergency).

eligible person, for chapter 9 (Administrative review of decisions)—see section 183.

emergency means an actual or imminent event that requires a significant and coordinated response.

Examples

- 1 fire, flood, storm or earthquake
- 2 accident, explosion
- 3 epidemic or animal disease
- 4 shortage of electricity, gas or water

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

emergency management means the establishment of plans, structures and arrangements to coordinate the resources of agencies and other entities in a comprehensive approach to—

- (a) emergency risks; and
- (b) the prevention of, preparedness for, response to and recovery from, emergencies.

emergency risk includes the risk of an emergency arising from—

- (a) civil defence requirements associated with warlike action; or
- (b) mass gatherings of people at sporting and other events; or
- (c) technological problems, including the widespread simultaneous failure of computers.

emergency management committee means the ACT Emergency Management Committee established under section 141.

emergency plan means the emergency plan made under section 147.

emergency service means the ambulance service, the fire brigade, the rural fire service or the SES.

emergency services, for part 4.5 (Other approved providers)—see section 60.

exempt contribution, for schedule 1 (Ambulance levy)—see schedule 1, section 2.

family rate, for contributions, for schedule 1 (Ambulance levy)—see schedule 1, section 1.

fire alarm includes any signalling apparatus for giving notice of a fire.

fire appliance includes—

- (a) any vehicle, equipment, implement or thing used for the prevention, extinguishing or containment of fire or smoke; and
- (b) any fire alarm; and
- (c) any apparatus for alerting the occupants of a building to a fire or facilitating the evacuation of the building; and
- (d) equipment used for the control or evacuation of smoke from a building.

firefighting services, for part 4.5 (Other approved providers)—see section 60.

firework means a firework within the meaning of the *Dangerous Substances (Explosives) Regulations 2004*, dictionary other than a general use firework within the meaning of those regulations, regulation 259.

hazard means a thing (including an intrinsic property of a thing), or a situation, with potential to—

- (a) cause the death of or harm to a person; and
- (b) damage property or the environment.

hazardous material means anything that may cause injury or death, or damage to property or the environment, if it is produced, stored, moved, used, or in any other way dealt with, without adequate safeguards.

hazardous material incident—

- (a) means an incident involving a hazardous material causing, or creating a substantial risk of—
 - (iii) death or serious harm to a person; or
 - (iv) substantial damage to property or the environment; and
- (b) includes a dangerous occurrence within the meaning of the *Dangerous Substances Act 2004*.

Examples of incidents

- 1 a spill or other loss of containment of a hazardous material
- 2 an uncontrolled emission of a hazardous material
- 3 a fire, explosion or release of energy

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

health benefits fund, for schedule 1 (Ambulance levy)—see schedule 1, section 1.

health benefits organisation, for schedule 1 (Ambulance levy)—see schedule 1, section 1.

improvement notice means an improvement notice issued under section 86 (2) (Notices for premises).

inspector means a person appointed as an inspector under section 99.

interstate or overseas emergency service means an entity (however described) established under the law of the Commonwealth, a State, another Territory or a foreign country as an ambulance service, fire brigade, rural fire service or emergency service.

investigator means a person appointed as an investigator under section 100.

land management agreement—see the Land (Planning and Environment) Act 1991, dictionary.

manager, for Territory land or land occupied by the Territory, means the chief executive (however described) of the agency (as defined by section 70) whose responsibilities include managing the use of the land.

medical treatment means—

- (a) undertaking a medical examination and assessment; or
- (b) giving medical advice; or
- (c) giving first aid; or
- (d) undertaking a medical procedure; or
- (e) administering medication.

medical treatment standards—see section 38 (2) (Standards and protocols for the services)

member, of an emergency service—

- (a) means a member of the service; and
- (b) includes the chief officer and deputy chief officer of the service; and
- (d) other than for section 22 (Authority staff), includes a volunteer or a casual volunteer in relation to the service.

occupier, of land or premises, for part 5.5 (Inspectors and investigators—see section 98.

occupancy notice means an occupancy notice issued under section 86 (2) (Notices for premises).

operational unit means a unit of 1 or more people (however described) forming part of an emergency service.

owner, of land, includes the lessee or occupier of the land.

person in charge, of land or premises, for part 5.5 (Inspectors and investigators—see section 98.

premises includes any land, structure or vehicle and any part of an area of land, a structure or vehicle.

reference month, for schedule 1 (Ambulance levy)—see schedule 1, section 3.

rescue includes the release or removal to a safe place of any person, animal or property trapped or endangered because of fire, accident, hazardous material incident, explosion, natural disaster or similar event.

rescue services, for part 4.5 (Other approved providers)—see section 60.

response operation, for part 4.5 (Other approved providers)—see section 60.

reviewable decision, for chapter 9 (Administrative review of decisions)—see section 183.

rural area—see section 65 (4).

SES—see section 56.

single rate, for contributions, for schedule 1 (Ambulance levy)—see schedule 1, section 1.

specialist, for part 7.4 (Commonwealth, interstate and overseas cooperation)—see section 175.

standards and protocols, for an emergency service, means the standards and protocols determined under section 38 for the service.

strategic bushfire management plan means the strategic bushfire management plan under section 72.

structure includes industrial plant and equipment.

support unit, for part 7.4 (Commonwealth, interstate and overseas cooperation)—see section 175.

Territory controller means the person appointed to be the Territory controller for a declared state of emergency under section 157.

vehicle includes an aircraft, boat and train.

volunteer member means a person appointed as a volunteer member of an emergency service under section 24.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Emergencies Act 2004 A2004-28

notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
sch 3 pt 3.1, pt 3.2 commenced 1 September 2004 (s 2 (2) and see Building Act 2004 A2004-11, s 2 and Construction Occupations (Licensing) Act 2004 A2004-12, s 2 and CN2004-8)
amdt 3.47, amdt 3.48 commenced 19 July 2004 (s 2 (3) and see Environment Legislation Amendment Act 2004 A2004-23 s 2)
remainder commenced 1 July 2004 (s 2 (1) and CN2004-11)

as modified by

Emergencies Regulations 2004 SL2004-26 reg 10

notified LR 30 June 2004
reg 1, reg 2 commenced 30 June 2004 (LA s 75 (1))
reg 10 commenced 1 July 2004 (reg 2 and see Emergencies Act 2004 A2004-28, s 2 (1) and CN2004-11)

4 Amendment history

Consequential and transitional matters

ch 11 hdg exp on the expiry date under s 211 (1) (s 217)

Repeals

pt 11.1 hdg om LA s 89 (3)

Legislation repealed

s 203 om LA s 89 (3)

Transitional provisions

pt 11.2 hdg exp on the expiry date under s 211 (1) (s 217)

Definitions for pt 11.2

div 11.2.1 hdg exp on the expiry date under s 211 (1) (s 217)

Definitions for pt 11.2

s 204 exp on the expiry date under s 211 (1) (s 217)

Emergency management committee

div 11.2.2 hdg exp on the expiry date under s 211 (1) (s 217)

Committee members

s 205 exp on the expiry date under s 211 (1) (s 217)

Endnotes

4 Amendment history

Bushfire council

div 11.2.3 hdg [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Council members

s 206 [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Former bushfire council—assets, rights and liabilities

div 11.2.4 hdg [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Vesting of assets, rights and liabilities

s 207 [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Registration of changes in ownership of certain assets

s 208 [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Evidentiary certificate for vested assets and liabilities

s 209 [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Proceedings and evidence

s 210 [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Members of fire brigade

div 11.2.5 hdg [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Fire Brigade (Administration) Act

s 211 [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

References to staff of authority

s 212 [exp on the expiry date under s 211 \(1\) \(s 212 \(2\)\)](#)

Emergency Services Commissioner

div 11.2.6 hdg [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Appointment of emergency services commissioner

s 213 [exp on the expiry date under s 211 \(1\) \(s 217\)](#)

Fuel management plans

div 11.2.6A ins as mod SL2004-26 s 10
[exp 30 June 2005 \(see SL2004-26 reg 10 \(2\)\)](#)

Fuel management plans

s 213A ins as mod SL2004-26 s 10
[exp 30 June 2005 \(see SL2004-26 reg 10 \(2\)\)](#)

Emergency plan

div 11.2.6B ins as mod SL2004-26 s 10
[exp 30 June 2005 \(see SL2004-26 reg 10 \(2\)\)](#)

Emergency plan

s 213B ins as mod SL2004-26 s 10
[exp 30 June 2005 \(see SL2004-26 reg 10 \(2\)\)](#)

Ambulance fund

div 11.2.6C ins as mod SL2004-26 s 10
exp 30 June 2005 (see SL2004-26 reg 10 (2))

Approval of person to operate fund

s 213C ins as mod SL2004-26 s 10
exp 30 June 2005 (see SL2004-26 reg 10 (2))

Other provisions

div 11.2.7 hdg exp on the expiry date under s 211 (1) (s 217)

References to Bushfire Act etc

s 214 exp on the expiry date under s 211 (1) (s 217)

Transitional regulations

s 215 exp on the expiry date under s 211 (1) (s 217)

Legislation amended—sch 3

s 216 exp on the expiry date under s 211 (1) (s 217)

Expiry of ch 11

s 217 exp on the expiry date under s 211 (1) (s 217)

Consequential amendments

sch 3 om LA s 89 (3)

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 July 2004	1 July 2004– 18 July 2004	not amended	new Act and modifications by SL2004-26
R2 23 July 2004	19 July 2004– 31 August 2004	not amended	commenced provisions

6 Modifications of republished law with temporary effect

The following modifications have not been included in this republication:

Emergencies Regulations 2004 SL2004-26 s 10, sch 1

10 Modification of Act, ch 11—Act, s 215 (2)

- (1) The Act, chapter 11 (Consequential and transitional matters) is modified by inserting the provisions mentioned in schedule 1.
- (2) This regulation and schedule 1 expire on 30 June 2005.

Schedule 1 Modification of Act, ch 11

(reg 10)

Division 11.2.6A Fuel management plans

213A Fuel management plans

- (1) This section applies if a fuel management plan made under the *Bushfire Act 1936*, section 11H is in force for an area of land immediately before the commencement day.
- (2) The plan continues in force for the area of land until the day a strategic bushfire management plan made under section 72 commences.

Division 11.2.6B Emergency plan

213B Emergency plan

- (1) This section applies if an emergency plan for the Territory prepared by the Minister under the *Emergency Management Act 1999*, section 11 is in force immediately before the commencement day.
- (2) The emergency plan continues in force until the day an emergency plan made under section 147 commences.

Division 11.2.6C Ambulance fund

213C Approval of person to operate fund

- (1) This section applies to a person approved to operate an ambulance fund under the *Emergency Management Act 1999*, section 69.
- (2) The person is taken to have been approved to operate an ambulance fund under section 195.

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