

2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Police and Emergency Services)

Emergencies Bill 2004

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2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Police and Emergency Services)

Emergencies Bill 2004

A Bill for

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

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Chapter 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Emergencies Act 2004*.

4 **2 Commencement**

5 (1) This Act (other than schedule 3, parts 3.1 and 3.2 and
6 amendments 3.47 and 3.48) commences on a day fixed by the
7 Minister by written notice.

8 (2) Schedule 3, part 3.1 (Building Act 2004) and part 3.2 (Building
9 Regulations 2004) commence on the later of—

10 (a) the commencement of this Act; and

11 (b) the commencement of the *Building Act 2004*.

12 (3) Schedule 3, amendments 3.47 and 3.48 commence on the
13 commencement of the *Environment Legislation Amendment
14 Act 2004*.

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

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

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

1 **3 Objects of Act**

2 The objects of this Act are—

- 3 (a) to protect and preserve life, property and the environment; and
- 4 (b) to provide for effective emergency management; and
- 5 (c) to provide for the effective and cohesive management by the
- 6 emergency services authority of the state emergency service,
- 7 the ambulance service, the fire brigade and the rural fire
- 8 service; and
- 9 (d) to recognise the value to the community of all emergency
- 10 service members, including volunteer members.

11 **4 Dictionary**

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

13 *Note 1* The dictionary at the end of this Act defines certain terms used in this

14 Act, and includes references (*signpost definitions*) to other terms

15 defined elsewhere.

16 For example, the signpost definition '*land management agreement*—

17 see the *Land (Planning and Environment) Act 1991*, dictionary.' means

18 that the term 'land management agreement' is defined in that dictionary

19 and the definition applies to this Act.

20 *Note 2* A definition in the dictionary (including a signpost definition) applies to

21 the entire Act unless the definition, or another provision of the Act,

22 provides otherwise or the contrary intention otherwise appears (see

23 Legislation Act, s 155 and s 156 (1)).

24 **5 Notes**

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

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

1 **6 Offences against Act—application of Criminal Code etc**

2 Other legislation applies in relation to offences against this Act.

3 *Note 1 Criminal Code*

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

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

10 *Note 2 Penalty units*

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

1 **Chapter 2** **The authority and**
2 **commissioner**

3 **Part 2.1** **Emergency services authority**

4 **7** **Establishment of authority**

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

10 **8** **Powers of authority**

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

12 **Examples**

- 13 1 to enter into a contract
14 2 to own and dispose of property
15 3 to sue and be sued
16 4 to act as a trustee

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

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

1 Part 2.2 Functions of authority

2 9 Authority functions

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

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

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

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

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

- 15 (4) In the exercise of the authority's functions, the authority must—

- 16 (a) seek to give the emergency services a strong, cohesive,
17 strategic and operational direction; and
18 (b) seek to ensure delivery of high-quality and effective service to
19 the community by each of the emergency services; and
20 (c) seek to improve the operational effectiveness and flexibility of
21 the emergency services; and
22 (d) recognise the value of the individual emergency services; and
23 (e) recognise the importance of all emergency service members,
24 including volunteer members, to the services and the
25 community; and

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

3 **Examples of people with special needs**

- 4 1 the frail aged
5 2 people with a disability
6 3 people in hospital

7 (g) emphasise community education and preparedness for
8 emergencies; and

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

12 **Example**

13 common risk management planning

14 (i) ensure that members of the emergency services and volunteers
15 are properly equipped, trained and prepared; and

16 (j) establish an emergency coordination centre for the ACT.

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

20 **10 Authority to advise Minister**

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

24 **11 Asking bushfire council's advice**

25 (1) The authority must ask for, and consider, the bushfire council's
26 advice before exercising a function relating to bushfires prescribed
27 under the regulations.

28 (2) The authority may ask for the bushfire council's advice in relation to
29 the exercise of any other function relating to bushfires.

- 1 **12 Authority may make guidelines**
- 2 (1) The authority may, in writing, make guidelines for the organisation
3 and operation of the authority and the strategic operation of each of
4 the emergency services (the *authority guidelines*).
- 5 (2) The authority guidelines are a notifiable instrument except to the
6 extent that the authority considers it is in the public interest that it
7 not be notifiable.
- 8 *Note* A notifiable instrument must be notified under the Legislation Act.
- 9 (3) Any part of the authority guidelines that is not notified under the
10 Legislation Act must be given to the appropriate Legislative
11 Assembly committee.
- 12 (4) The authority guidelines may make provision in relation to—
- 13 (a) areas of the emergency services to be operated jointly; and
- 14 (b) operation of joint areas of the emergency services; and
- 15 (c) planning and conduct of joint operations of the emergency
16 services; and
- 17 (d) anything else in relation to the organisation and operation of
18 the authority, and the strategic organisation and operation of
19 each of the emergency services, that the authority considers
20 appropriate.
- 21 **Examples**
- 22 1 guidelines for the operation of a joint communications area for the services
- 23 2 guidelines for joint operations
- 24 3 guidelines for joint response to a major building collapse
- 25 4 guidelines for ending appointments of volunteer members (including
26 application of the rules of natural justice)
- 27 *Note 1* An Act that authorises the making of a statutory instrument
28 (eg guidelines) also authorises an instrument to be made with respect to
29 any matter required or permitted to be prescribed under the authorising

1 law or that is necessary or convenient to be prescribed for carrying out
2 or giving effect to the authorising law (see Legislation Act, s 44).

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

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

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

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

14 (7) For this section:

15 *appropriate Legislative Assembly committee* means the standing
16 committee of the Legislative Assembly nominated, in writing, by
17 the Speaker.

18 **13 Delegations by authority**

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

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

1 **Part 2.3** **Operations of authority**

2 **14** **Authority to comply with directions**

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

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

6 **15** **Ministerial directions to authority**

7 (1) The Minister may give a written direction to the authority about the
8 exercise of its functions.

9 (2) Before giving a direction, the Minister must—

10 (a) tell the authority about the proposed direction; and

11 (b) give the authority reasonable opportunity to comment on the
12 proposed direction; and

13 (c) consider any comment made by the authority.

14 (3) The Minister must—

15 (a) present a copy of a direction to the Legislative Assembly
16 within 6 sitting days after the day it is given to the authority;
17 and

18 (b) if the copy would not be presented to the Legislative Assembly
19 under paragraph (a) within 14 days after the day it is given to
20 the authority—give copies of the direction to the Speaker for
21 the members of the Legislative Assembly within the 14 days.

22 (4) If subsection (3) is not complied with, the direction is taken to have
23 been revoked at the end of the period within which the copy of the
24 direction should have been presented or given to the Speaker.

1 (5) A direction is a notifiable instrument.

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

3 **16 Reports by authority to Minister**

4 (1) The authority must give the Minister a report, or information about
5 its operations, required by the Minister.

6 (2) A report under this section must be prepared in the form (if any) that
7 the Minister requires.

8 (3) This section is in addition to any other provision about the giving of
9 reports or information by the authority.

10 **17 Authority's annual report**

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

13 (a) a copy of any direction given to the authority under this Act or
14 another Territory law during the year; and

15 (b) a statement by the authority about action taken during the year
16 to give effect to any direction given to the authority (whether
17 before or during the year).

1 **Part 2.4** **Emergency services**
2 **commissioner**

3 **18 Appointment of commissioner**

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

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

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

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

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

- 12 (3) An appointment is a notifiable instrument.

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

14 **19 Functions of commissioner**

- 15 (1) The commissioner has the following functions:

16 (a) to promote the objects of the Act;

17 (b) to ensure the authority exercises its functions in a proper,
18 effective and efficient way.

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

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

1 **20 Commissioner's employment conditions**

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

5 **21 Ending commissioner's appointment**

6 (1) The Executive must end the appointment of the commissioner if the
7 Executive becomes aware that the commissioner has at any time
8 been convicted, in Australia or elsewhere, of an offence punishable
9 by imprisonment for at least 1 year.

10 (2) The Executive may end the appointment of the commissioner—

11 (a) for misbehaviour; or

12 (b) for physical or mental incapacity, if the incapacity affects the
13 exercise of the commissioner's functions; or

14 (c) if the commissioner becomes bankrupt, applies to take the
15 benefit of any law for the relief of bankrupt or insolvent
16 debtors, compounds with creditors or makes an assignment of
17 remuneration for their benefit; or

18 (d) in accordance with the commissioner's employment
19 conditions.

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

1 **Part 2.5** **Authority staff, volunteers and**
2 **consultants**

3 **22 Authority staff**

4 (1) The staff of the authority are to be employed under the *Public*
5 *Sector Management Act 1994*.

6 (2) A member of an emergency service is a member of the staff of the
7 authority.

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

14 (3) To remove any doubt, this Act does not prevent the making of an
15 instrument under the *Public Sector Management Act 1994*,
16 section 13 (Constitution of administrative units)—

17 (a) establishing the authority as an administrative unit; and

18 (b) placing the commissioner as chief executive in control of the
19 administrative unit.

20 (4) If an instrument mentioned in subsection (3) is in force—

21 (a) the *Public Sector Management Act 1994* and all other Territory
22 laws apply to the commissioner as if—

23 (i) the commissioner were, for all purposes, a chief executive
24 under that Act; and

25 (ii) all other necessary changes, and any other changes
26 prescribed under the regulations, were made; and

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

5 **23 Agreement for use of other government staff etc**

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

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

11 **24 Appointment of volunteer members**

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

16 **25 Volunteer appointments in accordance with guidelines**

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

- 1 (4) In this section:
2 *operational unit* includes a brigade.
3 *senior rank*, for the rural fire service, means a senior rank under the
4 authority guidelines for the service.

5 **26 Casual volunteers**

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

12 **Example**

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

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

- 17 (2) A person who takes part in an activity under this section is a *casual*
18 *volunteer* for this Act.
19 (3) Subsection (2) does not apply to a member of an emergency service
20 or a member of a support unit or a specialist acting under a
21 cooperative arrangement.

- 22 (4) The Legislation Act, part 19.3 does not apply in relation to a casual
23 volunteer.

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

- 25 (5) In this section:
26 *specialist*—see section 173.
27 *support unit*—see section 173.

- 1 **27** **Authority consultants**
- 2 (1) The authority may engage consultants.
- 3 (2) However, the authority must not enter into a contract of employment
- 4 under this section.

- 1 **Chapter 3 Chief officers**
- 2 **Part 3.1 Chief officers—appointments**
3 **and responsibilities**
- 4 **28 Chief officer—ambulance service**
- 5 (1) The authority may appoint a public servant to be the chief officer of
6 the ambulance service (the *chief officer (ambulance service)*).
- 7 *Note 1* For the making of appointments (including acting appointments), see
8 Legislation Act, pt 19.3.
- 9 *Note 2* In particular, an appointment may be made by naming a person or
10 nominating the occupant of a position (see s 207).
- 11 (2) However, the authority may appoint a person under subsection (1)
12 only if the person has the management, professional and technical
13 expertise to exercise the chief officer’s functions.
- 14 (3) The chief officer (ambulance service) is responsible for—
- 15 (a) the general management and control of the ambulance service;
16 and
- 17 (b) matters relating to the professional and technical expertise of
18 the ambulance service; and
- 19 **Example**
20 training and professional standards
- 21 (c) community awareness about pre-hospital medical emergencies.
- 22 *Note* An example is part of the Act, is not exhaustive and may extend, but
23 does not limit, the meaning of the provision in which it appears (see
24 Legislation Act, s 126 and s 132).

- 1 **29 Chief officer—fire brigade**
- 2 (1) The authority may appoint a public servant to be the chief officer of
- 3 the fire brigade (the *chief officer (fire brigade)*).
- 4 *Note 1* For the making of appointments (including acting appointments), see
- 5 Legislation Act, pt 19.3.
- 6 *Note 2* In particular, an appointment may be made by naming a person or
- 7 nominating the occupant of a position (see s 207).
- 8 (2) However, the authority may appoint a person under subsection (1)
- 9 only if the person has the management, professional and technical
- 10 expertise to exercise the chief officer’s functions.
- 11 (3) The chief officer (fire brigade) is responsible for—
- 12 (a) the general management and control of the fire brigade; and
- 13 (b) matters relating to the professional and technical expertise of
- 14 the fire brigade; and
- 15 **Example**
- 16 training and professional standards
- 17 (c) operational planning for fire in the built-up area, including fire
- 18 preparedness and control; and
- 19 (d) operational planning, in consultation with the chief officer
- 20 (rural fire service), for fire in the bushfire abatement zone,
- 21 including fire preparedness and control; and
- 22 (e) fire response in built-up areas; and
- 23 (f) community awareness about fire prevention and preparedness
- 24 in the city area.
- 25 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 26 does not limit, the meaning of the provision in which it appears (see
- 27 Legislation Act, s 126 and s 132).

- 1 **30 Chief officer—rural fire service**
- 2 (1) The authority may, after consulting with the bushfire council,
3 appoint a public servant to be the chief officer of the rural fire
4 service (the *chief officer (rural fire service)*).
- 5 *Note 1* For the making of appointments (including acting appointments), see
6 Legislation Act, pt 19.3.
- 7 *Note 2* In particular, an appointment may be made by naming a person or nominating
8 the occupant of a position (see s 207).
- 9 (2) However, the authority may appoint a person under subsection (1)
10 only if the person has the management, professional and technical
11 expertise to exercise the chief officer’s functions.
- 12 (3) The chief officer (rural fire service) is responsible for—
- 13 (a) the general management and control of the rural fire service;
14 and
- 15 (b) matters relating to the professional and technical expertise of
16 the rural fire service; and
- 17 **Example**
18 training and professional standards
- 19 (c) operational planning, in consultation with the chief officer (fire
20 brigade), for fire outside the city area, including fire
21 preparedness and control; and
- 22 (d) fire response in rural areas; and
- 23 (e) community awareness about fire prevention and preparedness
24 outside the city area.
- 25 *Note* An example is part of the Act, is not exhaustive and may extend, but
26 does not limit, the meaning of the provision in which it appears (see
27 Legislation Act, s 126 and s 132).

1 **31 Chief officer—SES**

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

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

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

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

11 (3) The chief officer (SES) is responsible for—

12 (a) the general management and control of the SES; and

13 (b) matters relating to the professional and technical expertise of
14 the SES; and

15 **Example**

16 training and professional standards

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

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

22 **32 Deputy chief officers**

23 (1) The authority may appoint a public servant to be the deputy chief
24 officer of a service.

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

Chapter 3
Part 3.1

Chief officers
Chief officers—appointments and responsibilities

Section 32

- 1 (3) A deputy chief officer of a service acts in the position of chief
2 officer of the service—
- 3 (a) during all vacancies in the position; and
- 4 (b) during all periods when the chief officer cannot for any reason
5 exercise the functions of the position.
- 6 *Note* The Legislation Act, div 19.3.2A deals with standing acting
7 arrangements.
- 8 (4) Before appointing a person as the deputy chief officer (rural fire
9 service), the authority must consult with the bushfire council.

1 **Part 3.2** **Chief officers—functions and**
2 **powers**

3 **33** **Functions of chief officers**

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

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

11 **34** **General powers of chief officers**

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

- 1 (j) use a supply of water without charge; or
2 (k) give directions to regulate or prohibit the movement of people,
3 animals or vehicles; or
4 (l) evacuate people or animals from an area to another place; or
5 (m) require a person to give reasonable assistance to a member of
6 an emergency service.
- 7 (2) A power under this section must, if practicable, be exercised in
8 accordance with the authority guidelines.
- 9 (3) In this section:
10 *equipment* includes a vehicle.
11 *land* includes any structure or vehicle on the land.
- 12 **35 Directions by chief officer to service members**
- 13 (1) The chief officer of an emergency service may, in the exercise of the
14 chief officer's functions, give directions to emergency service
15 members or any entity acting for the service.
- 16 (2) A direction by the chief officer (ambulance service) may be about
17 the provision of medical treatment (a *medical treatment direction*).
- 18 (3) A direction by the chief officer of an emergency service (other than
19 a medical treatment direction) must, if practicable, be in accordance
20 with any direction of the authority and the authority guidelines.
- 21 (4) A medical treatment direction must, if practicable, be in accordance
22 with the medical treatment standards.

1 **36 Chief officers to advise authority**

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

6 **37 Taking part in joint operations**

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

9 **38 Standards and protocols for the services**

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

14 **Example**

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

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

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

23 **39 Delegations by chief officers**

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

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

1 **Chapter 4** **The emergency services**

2 **Part 4.1** **The ambulance service**

3 **40** **Establishment of ambulance service**

4 The ACT Ambulance Service is established.

5 **41** **Functions of ambulance service**

6 (1) The main function of the ambulance service is to provide ambulance
7 services.

8 (2) The ambulance service has the following additional functions:

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

11 **Example**

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

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

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

18 (3) In exercising its functions, the ambulance service may—

19 (a) provide medical treatment and pre-hospital or post-hospital
20 patient care; or

21 (b) transport patients by ambulance; or

22 (c) transport patients by medical rescue aircraft.

1 **42 Constitution of ambulance service**

2 The ambulance service consists of—

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

1 **Part 4.2** **The fire brigade**

2 **Division 4.2.1** **Fire brigade**

3 **43** **Establishment of fire brigade**

4 The ACT Fire Brigade is established.

5 **44** **Functions of fire brigade**

6 (1) The main function of the fire brigade is to protect and preserve life,
7 property and the environment from fire in built-up areas.

8 (2) In exercising the function, the fire brigade is responsible for—

9 (a) operational planning for fire in the built-up area, including fire
10 preparedness; and

11 (b) operational planning, in consultation with the rural fire service,
12 for fire in the bushfire abatement zone, including fire
13 preparedness; and

14 (c) fire response in built-up areas.

15 (3) The fire brigade has the following additional functions:

16 (a) to respond to and deal with hazardous material incidents;

17 (b) to respond to rescue incidents;

18 (c) to respond to chemical, biological and radiological incidents;

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

21 **Example**

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

1 (e) any other function prescribed under the regulations.

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

5 (4) The fire brigade may also—

6 (a) respond to a fire in a rural area; and

7 (b) provide first response to any other incident to which another
8 emergency service may respond under this Act, if the
9 emergency service is unavailable.

10 **45 Constitution of fire brigade**

11 The fire brigade consists of—

12 (a) the chief officer (fire brigade); and

13 (b) the deputy chief officer (fire brigade); and

14 (c) other members of the fire brigade; and

15 (d) any volunteer members.

16 **46 Ranks for fire brigade members**

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

20 **Division 4.2.2 Community fire units**

21 **47 Establishment of community fire units**

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

- 1 **48** **Appointment of members of units**
- 2 (1) The chief officer (fire brigade) may appoint a person as a member of
3 a community fire unit.
- 4 (2) The chief officer may end the appointment at any time in
5 accordance with the authority guidelines.
- 6 **49** **Objects and functions of community fire units**
- 7 (1) The object of a community fire unit is to assist people in the area for
8 which the unit is established to learn how to—
- 9 (a) assist with defensive protection of property from fire; and
10 (b) use equipment for fire prevention work and firefighting.
- 11 (2) The functions of a community fire unit are to—
- 12 (a) undertake fire prevention work; and
13 (b) assist with firefighting during a fire emergency; and
14 (c) assist with recovery operations after a fire emergency.
- 15 (3) A community fire unit must exercise its functions—
- 16 (a) only in the area for which the unit is established; and
17 (b) in accordance with the standards and protocols for the fire
18 brigade; and
19 (c) under the direction of the chief officer (fire brigade).
- 20 **50** **Training and equipment for community fire units**
- 21 The chief officer (fire brigade) must provide a community fire unit
22 with training and equipment to enable the unit to exercise its
23 functions.

1 **Part 4.3** **The rural fire service**

2 **51** **Establishment of rural fire service**

3 The ACT Rural Fire Service is established.

4 **52** **Functions of rural fire service**

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

15 **Example**

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

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

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

1 **53 Constitution of rural fire service**

2 The rural fire service consists of—

- 3 (a) the chief officer (rural fire service); and
4 (b) the deputy chief officer (rural fire service); and
5 (c) other rural fire service members; and
6 (d) rural fire service volunteer members.

7 **54 Rural fire brigades**

8 (1) The authority must, after consulting with the bushfire council,
9 determine the number of rural fire brigades for the rural fire service.

10 (2) A determination is a notifiable instrument.

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

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

14 **55 Ranks for rural fire service members**

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

1 **Part 4.4** **The state emergency service**
2 **(SES)**

3 **56** **Establishment of SES**

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

5 **57** **Functions of SES**

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

8 (2) The SES has the following additional functions:

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

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

13 **Example**

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

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

18 **Example**

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

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

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

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

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

5 **58 Constitution of SES**

6 The SES consists of—

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

11 **59 SES operational units**

12 (1) The authority must determine the number of operational units for
13 the SES.

14 (2) A determination is a notifiable instrument.

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

16 (3) The chief officer (SES) may establish operational units for the SES.

1 **Part 4.5** **Other approved providers**

2 **60** **Definitions for pt 4.5**

3 In this part:

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

7 *emergency services* means—

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

10 *firefighting services* means—

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

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

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

1 **61 Approval of person to provide services**

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

4 *Note 1* If a form is approved under s 198 for this provision, the form must be
5 used.

6 *Note 2* A fee may be determined under s 199 for this provision.

7 **62 Decision about approval**

8 (1) The Minister must, in writing, approve the applicant to provide the
9 services to which the application relates, or refuse to do so.

10 (2) Before deciding the application, the Minister must consult with the
11 authority.

12 (3) In deciding the application, the Minister must consider—

13 (a) the public interest; and

14 (b) the impact of approval on community health and safety; and

15 (c) the impact of approval on the preservation of life, property and
16 the environment.

17 (4) The Minister may impose conditions on an approval.

18 **Examples**

19 1 conditions about quality standards for service delivery

20 2 conditions about training

21 3 conditions about uniforms

22 4 conditions limiting the extent or range of services to be provided

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

26 (5) An approval is a notifiable instrument.

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

- 1 **63 Offence to provide emergency services without approval**
- 2 (1) A person commits an offence if—
- 3 (a) the person is not approved by the Minister under this part to
- 4 provide emergency, ambulance, firefighting or rescue services;
- 5 and
- 6 (b) the person provides emergency, ambulance, firefighting or
- 7 rescue services.
- 8 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 9 both.
- 10 (2) A person commits an offence if—
- 11 (a) the Minister approves the person to provide ambulance,
- 12 emergency, firefighting or rescue services; and
- 13 (b) the person provides ambulance, emergency, firefighting or
- 14 rescue services for which they are not approved.
- 15 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 16 both.
- 17 (3) This section does not apply to—
- 18 (a) a doctor in relation to the provision of medical treatment, or
- 19 pre-hospital care to a patient, in the course of, or as an incident
- 20 of, conducting a medical practice; or
- 21 (b) an entity in relation to the provision of first aid; or
- 22 (c) a person who, acting without expectation of payment or other
- 23 consideration, comes to the aid of a person who is
- 24 apparently—
- 25 (i) injured or at risk of being injured; or
- 26 (ii) is in another way in need of emergency assistance; or

1 (d) a Commonwealth or State agency.

2 **Examples**

3 1 firefighting services provided by the Defence Force

4 2 search and rescue services provided under the *Air Services Act 1995*
5 (Cwlth)

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

1 **Part 4.6 Services from outside ACT**

2 **64 Interstate and overseas emergency services**

3 (1) This section applies if an interstate or overseas emergency service
4 responds to an emergency or incident in the ACT.

5 (2) A member of the interstate or overseas emergency service has the
6 functions of the chief officer of an emergency service in relation to
7 the emergency or incident if—

8 (a) the member has charge of other members of the interstate or
9 overseas emergency service; and

10 (b) no-one else present is, under this Act, in charge of the
11 operations at the emergency or incident.

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

14 (3) If another person present at the emergency or incident is, under this
15 Act, in charge of the operations, a member of the interstate or
16 overseas emergency service must—

17 (a) comply with any direction given by the person in relation to
18 the emergency or incident; and

19 (b) place any equipment in the member's charge at the disposal of
20 the person.

21 **Examples**

22 1 An interstate fire brigade is at a fire in a built-up area and no-one else present
23 is, under this Act, in charge of the firefighting operations. The member of
24 the interstate fire brigade in charge of the brigade will have the functions of
25 the chief officer (fire brigade) in relation to the fire.

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- 1 2 An overseas fire brigade is at a fire in a rural area and members of the rural
2 fire service are also at the fire. The overseas fire brigade must follow the
3 directions of the person in charge of the rural fire service members and allow
4 the rural fire service to use the brigade's equipment.
- 5 *Note* An example is part of the Act, is not exhaustive and may extend, but
6 does not limit, the meaning of the provision in which it appears (see
7 Legislation Act, s 126 and s 132).
- 8 (4) This section is subject to any cooperative arrangement that applies
9 to the interstate or overseas emergency service.
- 10 (5) In this section:
- 11 *incident* means a fire, an ambulance incident, a rescue or search
12 incident, a hazardous material incident or any other incident to
13 which, under this Act, an emergency service may respond.

1 **Chapter 5 Fire management**

2 **Part 5.1 Interpretation for ch 5**

3 **65 What is a built-up area and a *rural area*?**

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

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

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

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

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

15 **66 What is the *city area*?**

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

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

24 *Note 2* A bushfire abatement zone may include rural areas.

1 **Part 5.2 Fire response and control**

2 **67 Fires in built-up area**

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

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

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

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

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

- 1 (5) For the protection of life or property or to control or extinguish the
2 fire, a member of the fire brigade or a police officer may do
3 anything the chief officer (fire brigade) may do under an applicable
4 provision or another Territory law without being directed or given
5 authority by the chief officer if—
- 6 (a) the thing is done in accordance with the authority guidelines
7 for the fire brigade; or
- 8 (b) it is not practicable for a direction or authority to be obtained.
- 9 (6) For the application of subsection (5) to a member of the fire brigade
10 or a police officer in relation to an applicable provision or another
11 Territory law, the law applies to the member or police officer as if a
12 reference to the chief officer (fire brigade) were a reference to the
13 member or police officer.
- 14 (7) In this section:
- 15 *applicable provision* means—
- 16 (a) this section; or
- 17 (b) section 34 (1) (General powers of chief officers); or
- 18 (c) section 69 (Securing area at or after fire).
- 19 *fire* includes a fire the chief officer (fire brigade) has reasonable
20 grounds for believing may exist.
- 21 **68 Fires in rural areas**
- 22 (1) This section applies in relation to a fire in a rural area.
- 23 (2) For the purpose of extinguishing or preventing the spread of the fire,
24 the chief officer (rural fire service) may—
- 25 (a) control and direct members of an emergency service; and
- 26 (b) direct a person to leave any land or premises on fire or near the
27 fire; and

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- 1 (c) remove to any place the chief officer considers appropriate
2 anything the chief officer considers is interfering with, or may
3 interfere with, the fire control operation; and
- 4 (d) do anything else the chief officer considers appropriate, for
5 example—
- 6 (i) severing or pulling down a fence; or
7 (ii) burning grass or other vegetation.
- 8 *Note* An example is part of the Act, is not exhaustive and may extend, but
9 does not limit, the meaning of the provision in which it appears (see
10 Legislation Act, s 126 and s 132).
- 11 (3) Subsection (2) is in addition to anything the chief officer (rural fire
12 service) may do under section 34 (1) (General powers of chief
13 officers) or another Territory law.
- 14 *Note* Under s 34 (1), the chief officer has a number of general powers
15 including to enter land, shut off a power or water supply, demolish or
16 destroy a structure or remove or destroy an animal.
- 17 (4) The chief officer (rural fire service) may do anything mentioned in
18 subsection (2) at, immediately after, or in anticipation of the spread
19 of, the fire.
- 20 (5) If the chief officer (rural fire service) removes stock from land, the
21 chief officer must, as soon as practicable, tell the owner of the land
22 about the removal.
- 23 (6) If the chief officer (rural fire service) severs or pulls down a fence
24 on land, the chief officer must, as soon as practicable—
- 25 (a) temporarily repair the fence; and
26 (b) tell the owner of the land about the temporary repair.
- 27 (7) For the protection of life or property or to control or extinguish the
28 fire, a member of the rural fire service, a member of the fire brigade
29 or a police officer may do anything the chief officer (rural fire

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

19 **69 Securing area at or after fire**

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

23 **Examples**

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

- 26 (2) The chief officer (rural fire service) may do anything the chief
27 officer considers necessary to make premises safe at or immediately

- 1 after a fire in a rural area, other than a fire that is in a building if a
2 member of the fire brigade is present.
- 3 *Note 1* The rural fire service may assist the fire brigade in the exercise of its
4 functions in relation to fires in buildings in rural areas.
- 5 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
6 does not limit, the meaning of the provision in which it appears (see
7 Legislation Act, s 126 and s 132).
- 8 (3) An amount of expenses incurred by the chief officer in doing
9 anything mentioned in subsection (1) may be recovered by the
10 Territory as a debt owing to the Territory by the owner of the
11 premises.
- 12 (4) In this section:
- 13 **owner**, of a wall or structure, includes the occupier of the land on
14 which the wall or structure is situated.

1 **Part 5.3** **Bushfire prevention**

2 **70** **Definitions for pt 5.3**

3 In this part:

4 *agency* means—

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

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

10 **71** **Authority may declare bushfire abatement zone**

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

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

16 **72** **Strategic bushfire management plan**

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

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

11 **73 Bushfire management plan committee**

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

21 **74 Content of strategic bushfire management plan**

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

- 1 (2) The plan must include the following:
- 2 (a) a statement of strategic objectives for the plan;
- 3 (b) a description of the bushfire environment;
- 4 **Examples**
- 5 1 weather
- 6 2 topography
- 7 3 fuels
- 8 (c) a summary of known bushfire causes;
- 9 (d) a risk assessment of factors contributing to bushfires and the
- 10 spread of bushfires;
- 11 (e) a list of public assets (including cultural and ecological assets)
- 12 vulnerable to bushfire;
- 13 (f) a list of privately-owned assets of public interest vulnerable to
- 14 bushfire;
- 15 (g) strategies for prevention of, and preparedness for, bushfires;
- 16 (h) strategies for access for response and fire management
- 17 activities;
- 18 (i) a statement of strategies for research and monitoring of
- 19 bushfire risk;
- 20 (j) a statement of strategies for recovery after a bushfire;
- 21 (k) a statement of resources needed to meet the objectives of the
- 22 plan;
- 23 (l) anything else prescribed under the regulations.

24 *Note* An example is part of the Act, is not exhaustive and may extend, but

25 does not limit, the meaning of the provision in which it appears (see

26 Legislation Act, s 126 and s 132).

- 1 (3) The plan may also set out—
- 2 (a) requirements for owners or managers of land for the prevention
- 3 of, and preparedness for, bushfires; and
- 4 **Example**
- 5 location and maintenance of fire trails
- 6 (b) requirements for a bushfire operational plan for—
- 7 (i) unleased Territory land or land occupied by the Territory;
- 8 or
- 9 (ii) land in a bushfire abatement zone.
- 10 **Examples**
- 11 1 prevention activities
- 12 2 preparedness activities
- 13 3 performance indicators for activities
- 14 (4) A bushfire management requirement may be for—
- 15 (a) a particular land manager; or
- 16 (b) a particular area of land.
- 17 **Examples**
- 18 1 the manager of an area of unleased Territory land
- 19 2 land in a bushfire abatement zone
- 20 **75 Public consultation for strategic bushfire management**
- 21 **plan**
- 22 (1) Before making the strategic bushfire management plan, the Minister
- 23 must prepare a notice (a *consultation notice*)—
- 24 (a) stating that copies of a draft of the plan are available for
- 25 inspection during a stated period of at least 15 business days at
- 26 stated places; and

1 (b) inviting interested people to give written comments about the
2 draft plan to the authority at a stated address during a stated
3 period of at least 15 business days.

4 (2) The consultation notice is a notifiable instrument.

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

6 (3) The Minister must also publish the consultation notice in a daily
7 newspaper circulating generally in the ACT.

8 **76 Assessment of resources and capabilities**

9 (1) After the Minister makes the strategic management plan, the
10 authority must, based on the plan, conduct an assessment of
11 available resources and capabilities for bushfire prevention and
12 preparedness.

13 (2) The authority must give the assessment to the bushfire council and
14 the Minister.

15 **77 Effect of strategic bushfire management plan**

16 (1) An owner of land must—

17 (a) as far as practicable, ensure that the land is managed in
18 accordance with the strategic bushfire management plan; and

19 (b) comply with any bushfire management requirement for the
20 land.

21 (2) The manager of an area of unleased Territory land or land occupied
22 by the Territory must—

23 (a) as far as practicable, ensure that the area is managed in
24 accordance with the strategic bushfire management plan; and

25 (b) comply with any bushfire management requirement for the
26 manager or the land.

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

6 **78 Bushfire operational plans—Territory land**

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

22 **79 Bushfire operational plans—bushfire abatement zone**

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

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

10 **80 Review of strategic bushfire management plan**

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

16 **81 Directions by Minister to manager of land**

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

22 **82 Directions by authority to owner of land**

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

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

4 **83 Failure to comply with direction**

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

7 Maximum penalty: 50 penalty units

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

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

12 **84 Fire fuel reduction**

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

17 **85 Annual reports of agencies**

- 18 (1) An annual report of an agency must give an account of the
19 operations of the agency in relation to the strategic bushfire
20 management plan (including any bushfire operational plan approved
21 under the plan) for each area of unleased Territory land, or land
22 occupied by the Territory, used by the agency or someone on behalf
23 of the agency.

- 24 (2) The account must include the information the Minister directs in
25 writing.

- 26 (3) The annual report of an agency for a financial year in which a
27 direction under section 81 (Directions by Minister to manager of
28 land) is given to the manager of the agency must include particulars

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

- 1 **Part 5.4 Fire prevention—premises**
- 2 **Division 5.4.1 Notices and directions for premises**
- 3 **86 Notices for premises**
- 4 (1) This section applies if the chief officer (fire brigade) believes, on
5 reasonable grounds, that any of the following is or is likely to
6 present a risk (from fire or other hazard) to public safety or to the
7 safety of people who are or are likely to be at premises:
- 8 (a) the premises;
- 9 (b) anything at the premises;
- 10 (c) the lack or inadequacy of fire prevention measures or fire
11 safety systems on or in relation to the premises;
- 12 (d) the use to which the premises are or are likely to be put;
- 13 (e) the number of people likely to be at the premises at any time.
- 14 *Note 1 Premises* includes any land, structure or vehicle and any part of an area
15 of land, a structure or vehicle (see dict).
- 16 *Note 2 At premises* includes in or on the premises (see dict).
- 17 (2) The chief officer (fire brigade) may issue, for the premises—
- 18 (a) an improvement notice; or
- 19 (b) an occupancy notice; or
- 20 (c) a closure notice.
- 21 (3) The chief officer (fire brigade) must give a copy of the notice to—
- 22 (a) the person the chief officer believes, on reasonable grounds, to
23 be the occupier of the premises; and

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

4 **87 Improvement notices**

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

15 **88 Occupancy notices**

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

19 **89 Closure notices**

- 20 A closure notice for premises must direct the occupier of the
21 premises not to allow anyone other than the occupier to be at the
22 premises except—
23 (a) in the course of the person's employment with the occupier; or
24 (b) to clean, maintain, repair or alter the premises or anything on
25 them; or
26 (c) for this Act.

1 **90 Display of improvement notices etc**

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

8 **91 Ending of notices for premises**

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

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

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

4 **92 Direction to provide fire appliance at premises**

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

8 **Division 5.4.2 Offences relating to premises**

9 **93 Failure to display improvement notice etc**

- 10 (1) A person commits an offence if the person—
11 (a) has been given an improvement notice, occupancy notice or
12 closure notice; and
13 (b) fails to display the notice in accordance with section 90.
14 Maximum penalty: 10 penalty units.
15 (2) An offence against this section is a strict liability offence.

16 **94 Failure to comply with improvement notice etc**

- 17 (1) The occupier of premises commits an offence if the occupier fails to
18 take all reasonable steps to comply with an improvement notice,
19 occupancy notice or closure notice given to the occupier.
20 Maximum penalty: 50 penalty units.
21 (2) An offence against this section is a strict liability offence.

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

- 1 **95 Offences about fire appliances**
- 2 (1) The occupier of premises commits an offence if the occupier fails to
- 3 comply with a direction given to the occupier under section 92
- 4 (Direction to provide fire appliance at premises).
- 5 Maximum penalty: 50 penalty units.
- 6 (2) The occupier of premises commits an offence if—
- 7 (a) a fire appliance is provided or installed at the premises under a
- 8 direction under section 92; and
- 9 (b) the occupier fails to maintain the fire appliance to a reasonable
- 10 standard.
- 11 Maximum penalty: 50 penalty units.
- 12 (3) A person commits an offence if the person removes, destroys,
- 13 damages or interferes with—
- 14 (a) a fire appliance; or
- 15 (b) a container used for housing or storing fire appliances.
- 16 Maximum penalty: 50 penalty units.
- 17 (4) The occupier of premises commits an offence if—
- 18 (a) a fire appliance at the premises has been removed, destroyed or
- 19 damaged or is defective; and
- 20 (b) the occupier knows or is reckless about whether the fire
- 21 appliance has been removed, destroyed or damaged or is
- 22 defective; and
- 23 (c) the occupier fails to repair or replace the fire appliance.
- 24 Maximum penalty: 50 penalty units.
- 25 (5) An offence against subsection (1) or (3) is a strict liability offence.
- 26 (6) Strict liability applies to subsection (4) (c).

-
- 1 **96 Obstruction of passageway, door etc**
- 2 (1) A person commits an offence if—
- 3 (a) the person puts anything in a passageway, stairway or exit that
- 4 people may use, or intend to use, for escape from premises if
- 5 there is a fire; and
- 6 (b) the thing obstructs the passageway, stairway or exit; and
- 7 (c) the person is reckless about whether the thing obstructs the
- 8 passageway, stairway or exit.
- 9 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 10 both.
- 11 (2) A person commits an offence if the person—
- 12 (a) does something to a door or exit in a passageway or stairway in
- 13 premises that may prevent people using the door or exit to
- 14 leave the premises if there is a fire; and
- 15 (b) is reckless about whether the thing would prevent people using
- 16 the door or exit to leave the premises if there is a fire.
- 17 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 18 both.
- 19 (3) A person commits an offence if the person fixes a fire door, smoke
- 20 door or exit door in an open or closed position in a way that is not
- 21 approved by the chief officer (fire brigade).
- 22 Maximum penalty: 50 penalty units.
- 23 (4) An offence against subsection (3) is a strict liability offence.

- 1 **97 Offence to store etc flammable material to cause danger**
- 2 A person commits an offence if—
- 3 (a) the person intentionally stores or deposits flammable material
- 4 at premises; and
- 5 (b) the material is stored or deposited in a way that causes, directly
- 6 or indirectly, a danger to life or property if there is a fire; and
- 7 (c) the person is reckless about whether the material causes a
- 8 danger to life or property if there is a fire.
- 9 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 10 both.

1 **Part 5.5** **Inspectors and investigators**

2 **Division 5.5.1** **Definitions for pt 5.5**

3 **98** **Definitions for pt 5.5**

4 In this part:

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

7 *person in charge*, of land or premises, includes—

8 (a) a person believed, on reasonable grounds, to be a person in
9 charge of, or the occupier of, the land or premises and a person
10 apparently in charge of, or the occupier of, the land or
11 premises; and

12 (b) anyone else in control of the land or premises.

13 **Division 5.5.2** **Appointment and general powers**

14 **99** **Appointment of inspectors**

15 (1) The chief officer (fire brigade) and the chief officer (rural fire
16 service) are inspectors for this Act.

17 (2) The chief officer (fire brigade) may appoint a member of the fire
18 brigade as an inspector for this Act.

19 (3) The chief officer (rural fire service) may appoint a member of the
20 rural fire service as an inspector for this Act.

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

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

1 **100 Appointment of investigators**

2 (1) The chief officer (fire brigade) and the chief officer (rural fire
3 service) are investigators for this Act.

4 (2) The chief officer (fire brigade) may appoint a member of the fire
5 brigade as an investigator for this Act.

6 (3) The chief officer (rural fire service) may appoint a member of the
7 rural fire service as an investigator for this Act.

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

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

13 **101 General powers of inspectors and investigators**

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

18 (a) inspect or examine;

19 (b) take measurements or conduct tests;

20 (c) take samples of water, soil or anything else;

21 (d) make sketches, drawings or any other kind of record (including
22 photographs, films, or audio, video or other recordings);

23 (e) take onto the land or premises any people, equipment or
24 material the inspector or investigator reasonably needs;

25 (f) require the occupier, or anyone at the premises, to give
26 information, answer questions, or produce documents or
27 anything else, reasonably needed;

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

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

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

7 **102 Contravention of requirement by inspector or investigator**

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

10 Maximum penalty: 50 penalty units.

11 **Division 5.5.3 Inspectors**

12 **103 Inspector may enter land**

13 (1) An inspector may enter land—

14 (a) to conduct a compliance audit for the land of—

15 (i) the strategic bushfire management plan (including any
16 bushfire operational plan approved under the plan); or

17 (ii) the parts of a land management agreement that relate to
18 fire fuel management; or

19 (b) if the inspector believes, on reasonable grounds, that
20 section 120 (Fire prevention—obligations of rural land owners
21 or managers) is not being complied with in relation to the land;
22 or

23 (c) if the inspector believes, on reasonable grounds, that a bushfire
24 management requirement, or bushfire operational plan, under
25 the strategic bushfire management plan for the land is not
26 being complied with.

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

9 **104 Inspector may enter premises**

- 10 (1) An inspector may, at any time, enter premises—
- 11 (a) if the inspector believes, on reasonable grounds that there is
12 something at the premises that is, or is likely to be, a danger to
13 life or property if there is a fire; or
- 14 (b) to find out whether grounds exist for an improvement notice,
15 occupancy notice or closure notice; or
- 16 (c) to find out whether the premises comply with any relevant fire
17 and safety requirements, maintenance or testing requirements
18 in the building code or any standard applying to the premises
19 under a Territory law.
- 20 *Note 1* **Premises** includes any land, structure or vehicle and any part of an area
21 of land, a structure or vehicle (see dict).
- 22 *Note 2* **At** premises includes in or on the premises (see dict).
- 23 (2) For subsection (1) (c) a requirement is relevant if it was a
24 requirement for a certificate of occupancy or regularisation for the
25 premises under the *Building Act 2004*.
- 26 (3) However, the inspector must not remain at the premises if the
27 inspector does not produce his or her identity card for inspection
28 when asked by the occupier of the premises.

- 1 **105 Enforcement of improvement, occupancy and closure**
2 **notices**
- 3 (1) An inspector may take all reasonable steps to ensure that an
4 improvement notice, occupancy notice or closure notice is complied
5 with.
- 6 (2) Without limiting subsection (1), the inspector may do any of the
7 following if he or she believes on reasonable grounds that a person
8 has contravened the notice:
- 9 (a) enter the premises using the force and assistance that is
10 necessary and reasonable;
- 11 (b) prevent a person from entering the premises;
- 12 (c) remove a person from the premises.
- 13 (3) An amount of expenses incurred by an inspector in doing anything
14 mentioned in subsection (1) may be recovered by the Territory as a
15 debt owing to the Territory by the owner of the premises.
- 16 **106 Direction to remove flammable material from premises**
- 17 (1) If an inspector believes, on reasonable grounds, that flammable
18 material is kept on particular premises in a way that may cause,
19 directly or indirectly, a danger to life or property if there is a fire,
20 the inspector may direct the owner of the premises to take stated
21 action to remove the danger.
- 22 (2) In deciding whether to give the direction, the inspector must
23 consider the following:
- 24 (a) the amount and kind of flammable material at the premises;
- 25 (b) climatic conditions affecting the premises and nearby area;
- 26 (c) the nature, location and use of the premises and nearby
27 premises;

- 1 (d) the possible effect of any fire at the premises and nearby
2 premises;
- 3 (e) the availability of firefighting facilities;
- 4 (f) the action the inspector believes, on reasonable grounds, is
5 necessary to remove the danger;
- 6 (g) the period within which the inspector believes it is necessary
7 for the action to be taken.
- 8 *Note 1* **Premises** includes any land, structure or vehicle and any part of an area
9 of land, a structure or vehicle (see dict).
- 10 *Note 2* **At** premises includes in or on the premises (see dict).
- 11 (3) The inspector may also consider any other relevant matter.
- 12 (4) The direction must be in writing and must state—
- 13 (a) the action the owner must take to remove the danger; and
- 14 (b) the period (not shorter than 14 days after the day the direction
15 is given to the owner) within which the action must be taken;
16 and
- 17 (c) that, if the owner fails to comply with the direction, the
18 inspector may arrange for the removal of the danger at the
19 owner's expense; and
- 20 (d) if the direction requires material to be burnt—that the burning
21 must be done in accordance with this Act and the *Environment*
22 *Protection Act 1997*.
- 23 (5) The direction must not be inconsistent with the *Environment*
24 *Protection Act 1997*.

- 1 **107** **Contravention of direction to remove flammable material**
2 **from premises**
- 3 (1) This section applies if an inspector believes, on reasonable grounds,
4 that a person has contravened a direction under section 106.
- 5 (2) The inspector may—
- 6 (a) enter the premises using the force and assistance that is
7 necessary and reasonable; and
- 8 (b) arrange for the action to be taken that is necessary to remove
9 the danger.
- 10 (3) At least 24 hours before the inspector enters the premises, the
11 inspector must give written notice to the owner and occupier of the
12 premises stating the time and purpose of entry.
- 13 (4) An amount of expenses incurred in taking action under
14 subsection (2) (b) may be recovered by the Territory as a debt owing
15 to the Territory by the owner of the premises.
- 16 **108** **Emergency direction to remove flammable material from**
17 **premises**
- 18 (1) This section applies if an inspector believes, on reasonable grounds,
19 that—
- 20 (a) a fire emergency applies to particular premises; and
- 21 (b) flammable material kept at the premises is an immediate and
22 serious danger to life or property if there is a fire; and
- 23 (c) having regard to the danger, it is not appropriate to give a
24 direction under section 106 (Direction to remove flammable
25 material from premises) to eliminate the danger.
- 26 (2) The inspector may—
- 27 (a) enter the premises using the force and assistance that is
28 necessary and reasonable; and

- 1 (b) either—
2 (i) direct the occupier to take stated action; or
3 (ii) arrange for the action to be taken.
4 (3) A direction may be given orally or in writing.
5 (4) A direction must state—
6 (a) the action the inspector believes, on reasonable grounds, is
7 necessary and reasonable for the occupier to take in the
8 emergency to remove the danger; and
9 (b) the period within which the action must be taken.
10 (5) An amount of expenses incurred in taking action under
11 subsection (2) (b) (ii) may be recovered by the Territory as a debt
12 owing to the Territory by the owner of the premises.
13 (6) In this section:
14 *fire emergency* means—
15 (a) a total fire ban; or
16 (b) a situation in which there is an immediate and serious danger
17 to life or property from the outbreak or spread of fire.
- 18 **109 Directions to comply with fire prevention obligations etc**
19 (1) This section applies if an inspector believes, on reasonable grounds,
20 that a person is in breach of—
21 (a) section 120 (Fire prevention—obligations of rural land owners
22 or managers); or
23 (b) a bushfire management requirement, or bushfire operational
24 plan, under the strategic bushfire management plan.

- 1 (2) The inspector may direct the person, in writing, to comply with
2 section 120, the bushfire management requirement or the bushfire
3 operational plan.
- 4 (3) In deciding whether to give the direction, the inspector must
5 consider—
- 6 (a) the amount and kind of litter, timber or vegetation on the land
7 (whether alive or dead); and
- 8 (b) the amount and kind of other flammable materials on the land;
9 and
- 10 (c) climatic conditions affecting the land; and
- 11 (d) the nature, location and use of the land and nearby land; and
- 12 (e) the possible effect of any fire on the land and nearby land.
- 13 (4) The inspector may also consider any other relevant matter.
- 14 (5) The direction must state—
- 15 (a) a period within which the direction must be complied with; and
- 16 (b) the penalty for failure to comply with the direction.
- 17 (6) Unless the direction is given on a day or during a period when a
18 total fire ban is in force, the period for compliance must be at least
19 14 days after the day the direction is given to the person.

20 **110 Contravention of direction**

- 21 (1) A person commits an offence if the person fails to comply with a
22 direction under section 109 (2) (Directions to comply with fire
23 prevention obligations etc).
- 24 Maximum penalty: 50 penalty units.
- 25 (2) An offence against this section is a strict liability offence.

1 **Division 5.5.4 Investigators**

2 **111 Investigator may enter land or premises**

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

9 **112 Investigation of fires**

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

22 **Example**

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

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

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

13 **113 Investigator's power to require name and address**

- 14 (1) An investigator may require a person to state the person's name and
15 home address if the investigator believes, on reasonable grounds,
16 that the person may be able to assist the investigator in investigating
17 the cause of a fire.
- 18 (2) If an investigator makes a requirement of a person under
19 subsection (1), the investigator must—
- 20 (a) tell the person the reasons for the requirement; and
21 (b) as soon as practicable, record those reasons.
- 22 (3) A person commits an offence if the person contravenes a
23 requirement under subsection (1).
- 24 Maximum penalty: 50 penalty units.
- 25 (4) However, a person is not required to comply with a requirement
26 under subsection (1) if, when asked by the person, the investigator
27 does not produce his or her identity card for inspection by the
28 person.

Chapter 5 Fire management
Part 5.5 Inspectors and investigators
Division 5.5.4 Investigators

Section 113

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

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

3 **Division 5.6.1** **Total fire bans**

4 **114** **Declaration of total fire ban**

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

13 **115** **Publication of total fire ban**

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

1 **116 Offence—lighting etc fire during total fire ban**

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

18 **117 Declaration of exempt fires**

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

1 (2) A declaration is a notifiable instrument.

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

3 **118 Fire permits**

4 (1) The authority may, in writing, issue a permit to a person to light,
5 maintain or use a fire, or use fireworks, (the *proposed activity*)
6 during a total fire ban.

7 (2) An application for a permit must state—

8 (a) the location of the proposed activity; and

9 (b) the nature of the proposed activity; and

10 (c) the date and time of the proposed activity; and

11 (d) the safety precautions to be undertaken in relation to the
12 proposed activity.

13 *Note* If a form is approved under s 198 for an application, the form must be
14 used.

15 (3) In deciding whether to issue a permit, the authority must consider—

16 (a) the matters stated in the application; and

17 (b) the weather conditions forecast for the time of the proposed
18 activity; and

19 (c) the availability of the Territory's firefighting resources for the
20 time of the proposed activity.

21 (4) The authority may also consider any other relevant matter.

22 (5) A permit is subject to the conditions (if any) stated in the permit.

23 (6) A permit must state the period to which it applies.

1 **Division 5.6.2 Controlled activities and offences**
2 **relating to fire**

3 **119 Bushfire season**

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

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

12 **120 Fire prevention—obligations of rural land owners or**
13 **managers**

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

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

11 **121 Notification of fire etc—obligations of owners or**
12 **occupiers of rural land**

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

20 **Example**

21 immediately telephoning 000 emergency about the outbreak

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

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

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

3 Maximum penalty:

4 (a) if the offence is committed in the bushfire season—100 penalty
5 units; and

6 (b) in any other case—50 penalty units

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

8 **122 Using fires and appliances for cooking etc in open air**

9 (1) This section does not apply if a total fire ban is in force.

10 (2) A person may use an electric or gas heating appliance to cook food
11 or heat liquids in the open air on any land if the area around the
12 appliance is cleared of flammable material for at least 3m in every
13 direction.

14 (3) A person may light, maintain or use a fire in the open air on
15 unleased Territory or Commonwealth land in the fireplaces provided
16 by the Territory or Commonwealth.

17 (4) A person may light, maintain or use a fire in the open air on
18 unleased Territory or Commonwealth land in a rural area to cook
19 food or heat liquids if—

20 (a) the person does so in accordance with a permit given by the
21 authority under section 124; and

22 (b) the area around the place where the fire is to be lit, maintained
23 or used is cleared of flammable material for at least 3m in
24 every direction; and

25 (c) the fire is under the control of a responsible adult; and

26 (d) a fire extinguisher or a continuous stream of water is available
27 for use.

1 **123 Lighting fires for burning off**

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

- 1 **124 Permits for div 5.6.2**
- 2 (1) The authority may, on written application, issue a permit mentioned
- 3 in section 122 (4) (Using fires and appliances for cooking etc in
- 4 open air) or section 123 (3) (Lighting fires for burning off).
- 5 *Note 1* If a form is approved under s 198 for this provision, the form must be
- 6 used.
- 7 *Note 2* A fee may be determined under s 199 for this provision.
- 8 (2) A permit may be given subject to the conditions stated in the permit.
- 9 **125 Offence—lighting unauthorised fire**
- 10 (1) A person commits an offence if—
- 11 (a) the person—
- 12 (i) intentionally lights, maintains or uses a fire in the open
- 13 air, or burns flammable material, on any land; or
- 14 (ii) engages in conduct reckless about whether the conduct
- 15 would cause a fire to be lit or maintained in the open air,
- 16 or flammable material to be burnt, on any land; and
- 17 (b) the lighting or burning is not permitted under this Act or done
- 18 for fire prevention by anyone acting under this Act.
- 19 Maximum penalty:
- 20 (a) if the offence is committed in the bushfire season—100 penalty
- 21 units, imprisonment for 1 year or both; and
- 22 (b) in any other case—50 penalty units, imprisonment for
- 23 6 months or both.
- 24 (2) In this section:
- 25 *flammable material* includes wood, straw, stubble, grass and
- 26 herbage.

-
- 1 **126 Offence—leaving fire without extinguishing it**
- 2 (1) A person commits an offence if the person—
- 3 (a) lights, maintains or uses a fire in the open air on any land; and
- 4 (b) leaves the fire (whether temporarily or not) without
- 5 extinguishing it.
- 6 Maximum penalty:
- 7 (a) if the offence is committed in the bushfire season—100 penalty
- 8 units; and
- 9 (b) in any other case—50 penalty units.
- 10 (2) Subsection (1) does not apply if the person leaves the fire under the
- 11 control of a responsible adult.
- 12 (3) Subsection (1) does not apply to a fire lit, maintained or used for fire
- 13 prevention by anyone acting under this Act.
- 14 **Example**
- 15 lighting a controlled fire in a rural area to reduce the risk of bushfire under
- 16 section 84 (Fire fuel reduction)
- 17 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 18 does not limit, the meaning of the provision in which it appears (see
- 19 Legislation Act, s 126 and s 132).
- 20 (4) An offence against this section is a strict liability offence.

1 **Chapter 6 The bushfire council**

2 **127 Establishment of bushfire council**

3 The ACT Bushfire Council is established.

4 **128 Constitution of bushfire council**

5 (1) The bushfire council consists of—

6 (a) a chairperson; and

7 (b) a deputy chairperson; and

8 (c) at least 3, and not more than 10, other members.

9 (2) The deputy chairperson acts in the position of chairperson—

10 (a) during all vacancies in the position; and

11 (b) during all periods when the chairperson cannot for any reason
12 exercise the functions of the position.

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

15 **129 Bushfire council members**

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

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

18 *Note 2* Certain Ministerial appointments require consultation with an Assembly
19 committee and are disallowable (see Legislation Act, div 19.3.3). The
20 appointment of someone other than a public servant for more than
21 6 months under this section would require consultation and be
22 disallowable (see Legislation Act, s 227).

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

- 1 (2) The Minister must try to ensure that the following people are among
2 the members appointed:
- 3 (a) a person with skills or experience in fire sciences;
4 (b) a person with experience in land management;
5 (c) a person with experience in fighting fires in built-up areas;
6 (d) a person with experience in fighting fires in rural areas;
7 (e) a person with experience in indigenous land management;
8 (f) a person to represent the interests of rural lessees;
9 (g) a person to represent the community's interest in the
10 environment;
11 (h) a person to represent the community's interests generally.
- 12 (3) The following must not be appointed under subsection (1):
- 13 (a) the commissioner;
14 (b) the chief officer of an emergency service.
- 15 (4) An appointment must be for a term of not longer than 4 years.
- 16 *Note* A person may be reappointed to a position if the person is eligible to be
17 appointed to the position (see Legislation Act, s 208 and dict, pt 1,
18 def *appoint*).

130 Functions of bushfire council

- 19 (1) The bushfire council has the function of advising the authority and
20 the Minister about matters relating to bushfires.
- 21 *Note* The authority must ask for the bushfire council's advice before
22 exercising certain functions (see s 11 (Asking bushfire council's
23 advice)).

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

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

6 **131 Authority to give support to bushfire council**

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

9 **132 Ending of bushfire council members' appointments**

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

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

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

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

6 **133 Calling bushfire council meetings**

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

13 **134 Bushfire council meetings**

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

1 **135 Minimum number for bushfire council meetings**

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

4 **136 Voting at bushfire council meetings**

5 (1) Questions arising at a bushfire council meeting may be decided by a
6 majority of the votes of the members present and voting.

7 (2) If the votes of bushfire council members on a question are equally
8 divided, the decision of the chairperson is the decision of the
9 bushfire council on the question.

10 **137 Bushfire council resolutions**

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

12 (a) it is passed at a meeting of the council; or

13 (b) notice of the resolution is given under procedures decided by
14 the council and all members agree, in writing, to the resolution.

15 **138 Minutes of bushfire council proceedings**

16 (1) The bushfire council must keep minutes of its proceedings.

17 (2) At a bushfire council meeting the chairperson must ensure that the
18 council considers the minutes of its last meeting.

19 (3) The bushfire council must publish the minutes of its proceedings
20 within 7 days after the day the minutes are confirmed by the
21 bushfire council.

22 **Example**

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

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

-
- 1 **139 Disclosure of interests by bushfire council members**
- 2 (1) A bushfire council member who has a relevant interest in an issue
- 3 being considered, or about to be considered, by the council must, as
- 4 soon as practicable after the relevant facts have come to the
- 5 member's knowledge, disclose the nature of the interest at a meeting
- 6 of the council.
- 7 (2) The disclosure must be recorded in the bushfire council's minutes
- 8 and, unless the council otherwise decides, the member must not—
- 9 (a) be present when the council considers the issue; or
- 10 (b) take part in a decision of the council on the issue.
- 11 (3) Any other bushfire council member who also has a relevant interest
- 12 in the issue must not—
- 13 (a) be present when the council is considering its decision under
- 14 subsection (2); or
- 15 (b) take part in the decision.
- 16 (4) In this section:
- 17 *relevant interest*, in an issue, means—
- 18 (a) a direct or indirect financial interest in the issue; or
- 19 (b) a direct or indirect interest of any other kind if the interest
- 20 could conflict with the proper exercise of the bushfire council
- 21 member's functions in relation to the council's consideration of
- 22 the issue.

- 1 **140 Reporting of disclosed interests to Minister**
- 2 (1) Within 14 days after the disclosure of an interest under
- 3 section 139 (1), the bushfire council chairperson must report to the
- 4 Minister in writing about—
- 5 (a) the disclosure; and
- 6 (b) the nature of the interest disclosed; and
- 7 (c) any decision by the council under section 139 (2).
- 8 (2) The bushfire council chairperson must give the Minister, by 31 July
- 9 each year, a statement that sets out the information given to the
- 10 Minister in reports under subsection (1) that relate to disclosures
- 11 made during the previous financial year.
- 12 (3) The Minister must give a copy of the statement to the relevant
- 13 committee of the Legislative Assembly within 14 days after the day
- 14 the Minister receives the statement.
- 15 (4) In this section:
- 16 *relevant committee* means—
- 17 (a) a standing committee of the Legislative Assembly nominated
- 18 by the Speaker for subsection (3); or
- 19 (b) if no nomination under paragraph (a) is in effect—the standing
- 20 committee of the Legislative Assembly responsible for public
- 21 accounts.

1 **Chapter 7 Emergency management**

2 **Part 7.1 Emergency management**
3 **committee**

4 **141 Establishment of committee**

5 The ACT Emergency Management Committee is established.

6 **142 Constitution of committee**

7 (1) The emergency management committee consists of—

- 8 (a) the commissioner; and
9 (b) the chief officer (ambulance service); and
10 (c) the chief officer (fire brigade); and
11 (d) the chief officer (rural fire service); and
12 (e) the chief officer (SES); and
13 (f) the chief police officer; and
14 (g) the chief health officer; and
15 (h) the other members appointed under subsection (2).

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

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

18 *Note 2* Certain Ministerial appointments require consultation with an Assembly
19 committee and are disallowable (see Legislation Act, div 19.3.3). The
20 appointment of someone other than a public servant for more than
21 6 months under this section would require consultation and be
22 disallowable (see Legislation Act, s 227).

1 (d) any other function prescribed under the regulations.

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

5 **144 Calling committee meetings**

6 (1) The emergency management committee is to meet at the times and
7 places the committee chairperson decides.

8 (2) The emergency management committee chairperson must ensure
9 that members have reasonable notice of meetings.

10 (3) The emergency management committee chairperson must ensure
11 that, as far as practicable, the committee meets at least every
12 2 months.

13 **145 Committee meetings**

14 (1) The commissioner is the emergency management committee
15 chairperson.

16 (2) The chairperson presides at meetings of the emergency management
17 committee.

18 (3) However, if the commissioner is absent from a meeting, the
19 members present may elect a member to preside at the meeting.

20 (4) The emergency management committee may decide its own
21 procedure in relation to anything for which a procedure is not
22 provided under this Act.

23 (5) A meeting may be held by means of a method of communication, or
24 a combination of methods of communication, that allows the
25 emergency management committee members taking part to hear
26 what each other member says without being in each other's
27 presence.

- 1 (6) An emergency management committee member who takes part in a
2 meeting conducted under subsection (5) is taken, for all purposes, to
3 be present at the meeting.

4 **146 Minimum number for committee meetings**

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

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

1 **Part 7.2** **Emergency plan**

2 **147** **Emergency plan**

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

1 **Part 7.3** **Management of emergencies**

2 **Division 7.3.1** **Declared emergencies**

3 **148** **Application of div 7.3.1**

4 (1) This division applies to an emergency that, because of its scale or
5 nature—

6 (a) presents a significant danger to the health or safety of people,
7 animals or property in the ACT or to the environment of the
8 ACT; or

9 (b) presents a significant risk of disruption of essential services in
10 the ACT.

11 (2) To remove any doubt, this division applies to an emergency even if
12 events or circumstances giving rise to the emergency exist or
13 happen outside the ACT.

14 (3) This division does not authorise the taking of measures directed at—

15 (a) ending an industrial dispute; or

16 (b) dealing with a riot or other civil disturbance.

17 **149** **Declaration of state of alert**

18 (1) This section applies if—

19 (a) the Minister is satisfied that an emergency is likely to happen;
20 and

21 (b) the Chief Minister has not declared that a state of emergency
22 exists in relation to the emergency.

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

7 **Example**

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

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

13 **150 Declaration of state of alert commences immediately**

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

16 **151 Publication of state of alert declaration**

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

- 1 **152** **Minister to advise community during state of alert**
- 2 During a state of alert, the Minister must advise the community on
3 anything relating to the state of alert that the Minister considers
4 appropriate.
- 5 **Examples**
- 6 1 community vulnerability to the effects of the emergency
7 2 preparation
- 8 *Note* An example is part of the Act, is not exhaustive and may extend, but
9 does not limit, the meaning of the provision in which it appears (see
10 Legislation Act, s 126 and s 132).
- 11 **153** **State of emergency ends state of alert**
- 12 (1) This section applies if—
- 13 (a) a declaration that a state of alert is in force for the ACT or a
14 part of the ACT; and
- 15 (b) the Chief Minister declares that a state of emergency exists for
16 the ACT or the part of the ACT.
- 17 (2) The state of alert ends when the state of emergency is declared.
- 18 **154** **Declaration of state of emergency**
- 19 (1) This section applies if the Chief Minister is satisfied that an
20 emergency has happened, is happening or is likely to happen.
- 21 (2) The Chief Minister may, in writing, declare that a state of
22 emergency exists.
- 23 (3) A declaration may be made for all or part of the ACT.
- 24 (4) The Chief Minister may be satisfied that an emergency is likely to
25 happen if the Chief Minister is satisfied that an event that has
26 happened or is happening, or a circumstance that exists, gives rise to
27 the likelihood of an emergency.

1 **155 Declaration of state of emergency commences**
2 **immediately**

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

5 **156 Publication of declaration of state of emergency**

6 (1) As soon as possible after declaring that a state of emergency exists,
7 the Chief Minister must ensure that notice of the declaration is—

8 (a) broadcast in the ACT by television or radio; and

9 (b) notified under the Legislation Act as if it were a notifiable
10 instrument.

11 (2) A failure to comply with subsection (1) does not affect the validity,
12 of the declaration.

13 **157 Appointment of Territory controller for declared state of**
14 **emergency**

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

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

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

20 **158 Functions of Territory controller**

21 (1) The Territory controller has the following functions in relation to a
22 declared state of emergency:

23 (a) to manage the response to, and the recovery from, the
24 emergency by ensuring that entities dealing with the
25 emergency are appropriately deployed; and

26 (b) to coordinate the disposition of other resources to manage the
27 emergency; and

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

17 **159 Management executive for declared state of emergency**

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

1 (5) The management executive may decide its own procedure in
2 relation to anything for which a procedure is not provided under this
3 Act.

4 (6) The management executive may hold its meetings by means of a
5 method of communication, or a combination of methods of
6 communication, that allows the members taking part to hear what
7 each other member says without being in each other's presence.

8 **160 Management of declared state of emergency**

9 (1) For the management of a declared state of emergency, the Territory
10 controller may direct the head of an entity (including the authority)
11 to undertake response or recovery operations.

12 (2) The Territory controller may not direct the person to undertake an
13 operation in a particular way.

14 **161 Emergency powers for declared state of emergency**

15 (1) This section applies if a declaration of a state of emergency is in
16 force.

17 (2) For the management of the declared state of emergency, the
18 Territory controller may—

19 (a) direct the movement of people, animals or vehicles within, into
20 or around the area to which the state of emergency applies (the
21 *emergency area*); and

22 (b) give directions regulating or prohibiting the movement of
23 people, animals or vehicles within, into or around the
24 emergency area; and

25 (c) direct, in writing, the owner of property in or near the
26 emergency area to place the property under the control, or at
27 the disposal, of the Territory controller; and

- 1 (d) take possession of any premises, animal substance or thing in
2 or near the emergency area; or
- 3 (e) excavate land, form tunnels or construct earthworks, barriers or
4 temporary structures in or near the emergency area; and
- 5 (f) control, use, close off or block a drainage facility in or near the
6 emergency area; and
- 7 (g) maintain, restore or prevent disruption of essential services;
8 and
- 9 (h) do anything else that the chief officer of an emergency service
10 may do under section 34 (General powers of chief officers).
- 11 *Note* A chief officer has a number of general powers including to enter land,
12 shut off a power or water supply, demolish or destroy a structure or
13 remove or destroy an animal.
- 14 (3) Subsection (2) operates despite any other Territory law.
- 15 (4) The Territory controller may delegate a function mentioned in
16 subsection (1) to the head of an entity.
- 17 (5) A person who is delegated a function under subsection (4) may
18 delegate the function to another member, officer, employee or
19 contractor of the entity.
- 20 *Note* For the making of delegations and the exercise of delegated functions,
21 see Legislation Act, pt 19.4.
- 22 (6) In this section:
- 23 **owner**, of property, includes an occupier or someone apparently in
24 charge of the property.

- 1 **162** **Failure to comply with direction given under emergency**
2 **powers**
- 3 (1) A person commits an offence if the person fails to comply with a
4 direction given to the person under section 161 (2) (a), (b) or (c).
5 Maximum penalty: 50 penalty units.
- 6 (2) An offence against this section is a strict liability offence.
- 7 **163** **Chief Minister's directions to Territory controller**
- 8 (1) The Chief Minister may give the Territory controller written
9 directions about the exercise of the controller's functions.
- 10 (2) The Territory controller must give effect to a direction.
- 11 **164** **Territory controller to give information about controller's**
12 **operations**
- 13 The Territory controller must give the Chief Minister or the Minister
14 the information about the controller's operations that the Chief
15 Minister or Minister asks for.
- 16 **165** **Deployment of resources outside ACT in declared state**
17 **of emergency**
- 18 In a declared state of emergency, a person must not deploy Territory
19 resources outside the ACT, in relation to an emergency outside the
20 ACT, without the approval of the Territory controller.
- 21 **166** **Power to remove person obstructing response**
22 **operations etc**
- 23 (1) If the Territory controller believes, on reasonable grounds, that a
24 person is obstructing, or threatening to obstruct, response or
25 recovery operations in a declared state of emergency, the controller
26 may remove the person to another place.

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

4 **167 Compensation—declared state of emergency**

- 5 (1) A person who suffers loss because of an act or omission of the
6 Territory controller under section 161 (Emergency powers for
7 declared state of emergency) is entitled to be paid reasonable
8 compensation by the Territory for the loss.
- 9 (2) Compensation is not payable to a person for a loss to the extent—
10 (a) of any amount recovered or recoverable by the person under a
11 policy of insurance; or
12 (b) that the conduct of the person contributed to the loss.
- 13 (3) Compensation is not payable to a person for a loss if the loss would
14 have arisen despite the act or omission of the Territory controller.
- 15 (4) The person may apply, in writing, to the Minister for compensation.
- 16 *Note* If a form is approved under s 198 for this provision, the form must be
17 used.
- 18 (5) The application must state particulars of the loss, the amount
19 claimed and the basis for the amount claimed.

20 **168 Minister’s decision on claim for compensation**

- 21 (1) If the Minister is satisfied that an applicant is entitled to
22 compensation under section 167, the Minister must accept the claim
23 by giving written notice of acceptance to the claimant setting out—
24 (a) an offer to the claimant of the amount of compensation to
25 which the Minister considers the claimant is entitled; and
26 (b) an explanation of how the amount was worked out.

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

4 **169 Acceptance or rejection of offer of compensation**

- 5 (1) A person to whom an offer has been made under section 168 may,
6 in writing—
7 (a) accept the offer; or
8 (b) reject the offer.
9 (2) If the person accepts the offer, the Territory must pay the amount to
10 the person.

11 **170 Recovery of compensation in court**

12 If the Territory and the person to whom compensation is payable
13 under section 167 (Compensation—declared state of emergency) do
14 not agree on the amount of compensation, the person may, by
15 proceeding in a court of competent jurisdiction, recover from the
16 Territory the reasonable compensation that the court decides.

17 **Division 7.3.2 Other emergencies**

18 **171 Application of div 7.3.2**

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

21 **172 Authority must assist recovery for other emergencies**

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

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

1 **Part 7.4** **Commonwealth, interstate and**
2 **overseas cooperation**

3 **173** **Definitions for pt 7.4**

4 In this part:

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

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

11 **Example**

12 members of the ambulance service and an ambulance

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

16 **174** **Cooperative arrangements with Commonwealth, State or**
17 **overseas agencies**

18 (1) The Minister or the authority may enter into a written arrangement
19 with a Commonwealth or State agency, or an agency of a foreign
20 country, (a *cooperative arrangement*) to facilitate cooperation—

21 (a) in emergency management; or

22 (b) in the day-to-day operations of a Territory agency if the
23 operations involve the provision of emergency services outside
24 the ACT or the provision of emergency services in the ACT by
25 a Commonwealth or State agency.

- 1 (2) In this section:
- 2 *Territory agency* means—
- 3 (a) an administrative unit; or
- 4 (b) a Territory owned corporation; or
- 5 (c) a statutory office-holder; or
- 6 (d) an entity prescribed under the regulations for this definition.
- 7 **175 Cooperative arrangements about resources**
- 8 (1) A cooperative arrangement may provide for the authority or the
- 9 Territory controller to decide the nature and amount of resources
- 10 needed from outside the ACT to deal with an emergency within the
- 11 ACT and to ask the other party to the arrangement to provide the
- 12 resources to the Territory.
- 13 (2) An arrangement may provide for the authority or the Territory
- 14 controller to decide and coordinate the deployment of Territory
- 15 resources for an emergency outside the ACT.
- 16 (3) This section is additional to, and does not limit, section 174.
- 17 **176 Directions to people operating under cooperative**
- 18 **arrangement**
- 19 A member of a support unit, or a specialist, operating in the ACT
- 20 under a cooperative arrangement must comply with a direction
- 21 given by the authority or the Territory controller.
- 22 **177 Directions by authorised person to people operating**
- 23 **under cooperative arrangement**
- 24 (1) The authority or the Territory controller may, in writing, authorise a
- 25 person (an *authorised person*) to give directions to a member of a
- 26 support unit or a specialist.

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

6 **178 Recognition of interstate qualifications**

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

1 **Part 7.5 Emergency relief funds**

2 **179 Emergency relief funds**

3 (1) This section applies to money received by the Territory for the relief
4 of people who suffer loss because of an emergency (whether or not
5 from a public appeal).

6 (2) A charitable trust is established for the money.

7 (3) The trustee of the trust is the public trustee.

8 (4) An amount of money received, or apparently received, for the relief
9 of people who suffer loss because of a particular emergency may be
10 applied—

11 (a) for the relief of people who suffer loss because of another
12 emergency; or

13 (b) for another purpose prescribed under the regulations.

14 (5) In this section:

15 *emergency* includes an emergency outside the ACT.

16 **180 Gifts and donations**

17 (1) This section applies to a gift of money or other property made, or
18 purporting to be made—

19 (a) to, or for the purposes of, an emergency service; or

20 (b) for the purposes of providing or maintaining—

21 (i) services of an emergency service; or

22 (ii) equipment or training for an emergency service; or

23 (c) to the Territory in relation to anything mentioned in
24 paragraph (a) or (b).

- 1 (2) If the gift is expressed to be subject to a condition, the authority may
2 agree to comply with the condition, as far as practicable, in the
3 administration of the gift.
- 4 (3) However, if the authority is satisfied that the condition is
5 inappropriate, impracticable or impossible to carry out, the authority
6 may, in writing, amend the terms of the condition to the extent
7 necessary to make it appropriate and practicable to carry out.
- 8 (4) An amendment is a notifiable instrument.
- 9 *Note* A notifiable instrument must be notified under the Legislation Act.
- 10 (5) In this section:
11 **gift** includes a devise or bequest.

1 **Chapter 8 Volunteers**

2 **181 Victimisation of volunteers**

3 (1) This section applies if a volunteer member or casual volunteer (the
4 *volunteer*) is absent from his or her employment to take part in an
5 emergency operation in which an emergency service is taking part
6 during a declared state of alert or state of emergency.

7 (2) A person commits an offence if—

8 (a) the person is an employer of the volunteer; and

9 (b) the person victimises the employee for being absent from
10 employment to take part.

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

13 (3) For subsection (2), an employer is taken to victimise an employee if
14 the employer—

15 (a) dismisses the employee from employment or terminates the
16 engagement of the employee; or

17 (b) changes the employee's position in his or her employment, or
18 changes the circumstances of the employee's engagement, to
19 the employee's prejudice; or

20 (c) otherwise injures the employee in his or her employment.

1 **182 Release of volunteer member from operations**

- 2 (1) This section applies if the authority is satisfied that—
- 3 (a) a volunteer member is ordinarily employed by someone else
- 4 (the *employer*); and
- 5 (b) the taking part of the volunteer member in the emergency
- 6 operations of an emergency service would cause significant
- 7 hardship to the business of the employer.
- 8 (2) The authority must release the volunteer member from taking part in
- 9 the operations.

1 **Chapter 9 Administrative review of**
2 **decisions**

3 **183 Reviewable decisions and eligible people**

4 For this chapter—

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

9 **184 Notice of reviewable decisions**

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

22 **185 Review of decisions by AAT**

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

1 **Chapter 10** **Miscellaneous**

2 **Part 10.1** **Other offences relating to fires**

3 **186** **Lighting a fire dangerous to premises**

4 A person commits an offence if—

5 (a) the person intentionally lights a fire that may be dangerous to
6 premises; and

7 (b) the person does not have the written consent of the chief
8 officer (fire brigade) to do so.

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

11 **187** **Direction to leave fire area**

12 (1) A person commits an offence if—

13 (a) the person is at or near premises that are on fire; and

14 (b) a member of the fire brigade, a member of the rural fire service
15 or a police officer directs the person to leave the premises or
16 move away from the area of the fire; and

17 (c) the person fails to leave the premises, or move away from the
18 area, in accordance with the direction.

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

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

- 1 **188 Interfering with fire appliance, hydrant, alarm etc**
- 2 (1) A person commits an offence if the person does something to, or
- 3 near, a fire appliance that prevents or hinders the effective use of the
- 4 appliance.
- 5 **Example**
- 6 driving a vehicle over a fire hose
- 7 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 8 does not limit, the meaning of the provision in which it appears (see
- 9 Legislation Act, s 126 and s 132).
- 10 Maximum penalty: 50 penalty units.
- 11 (2) Subsection (1) does not apply if the person has the permission of a
- 12 member of the fire brigade, a member of the rural fire service or a
- 13 police officer to do the thing.
- 14 (3) A person commits an offence if the person—
- 15 (a) covers, encloses or conceals a fire hydrant; or
- 16 (b) obliterates or removes a mark, sign or letter indicating the
- 17 position of, or distinguishing, a fire hydrant.
- 18 Maximum penalty: 50 penalty units.
- 19 (4) A person commits an offence if the person does anything to a fire
- 20 alarm that prevents or hinders the effective use of the fire alarm.
- 21 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 22 both.
- 23 (5) Subsection (4) does not apply if the person does the thing—
- 24 (a) to give an alarm of fire; or
- 25 (b) to test or do maintenance work on the fire alarm.
- 26 (6) An offence against subsection (1), (3) or (4) is a strict liability
- 27 offence.

1 **189 False alarm of fire, emergency or other incident**

2 A person commits an offence if the person—

3 (a) intentionally gives a false alarm of fire, or an emergency or
4 other incident; and

5 (b) is reckless about whether it would—

6 (i) cause a person to fear that there is a fire, emergency or
7 other incident; or

8 (ii) cause an emergency service to respond to the alarm.

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

1 **Part 10.2 Other miscellaneous provisions**

2 **190 Obligations of owners and occupiers**

3 (1) For this Act, if an obligation is expressed to apply to the owner of
4 land or premises for which there are 2 or more owners—

5 (a) it is sufficient for any owner of the land or premises to carry
6 out the obligation; and

7 (b) if no owner of the land or premises carries out the obligation—
8 each owner is liable for the failure to carry out the obligation.

9 (2) For this Act, if an obligation is expressed to apply to the occupier of
10 land or premises for which there are 2 or more occupiers—

11 (a) it is sufficient for any occupier of the land or premises to carry
12 out the obligation; and

13 (b) if no occupier of the land or premises carries out the
14 obligation—each occupier is liable for the failure to carry out
15 the obligation.

16 **191 Policies of insurance against fire**

17 (1) If a person causes damage to property, either directly or indirectly,
18 in exercising a function under this Act at or after a fire, the damage
19 must, for the purposes of any policy of insurance against fire
20 covering the property damaged, be taken to be damage by fire.

21 (2) This section has effect despite any provision to the contrary in the
22 policy.

23 **192 Ambulance levy**

24 An ambulance levy is imposed in accordance with schedule 1.

1 **193 Ambulance fund**

2 (1) The chief officer (ambulance service) may, in writing, establish an
3 ambulance fund, or approve a person to operate an ambulance fund,
4 for the purpose of enabling contributors to the fund to receive
5 services provided by the ambulance service at no cost or at a
6 reduced rate.

7 (2) An instrument under subsection (1) is a notifiable instrument.

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

9 **194 Authorised person's power to require name and address**

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

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

18 (2) If an authorised person makes a requirement of a person under
19 subsection (1), the authorised person must—

20 (a) tell the person the reasons for the requirement; and

21 (b) as soon as practicable, record those reasons.

22 (3) A person commits an offence if the person contravenes a
23 requirement under subsection (1).

24 Maximum penalty: 10 penalty units.

25 (4) However, a person is not required to comply with a requirement
26 under subsection (1) if, when asked by the person, the authorised
27 person does not produce, for inspection by the person—

28 (a) his or her identity card; or

Section 195

- 1 (b) if the authorised person is the Territory controller or a person
2 authorised by the controller—evidence of his or her
3 appointment or authorisation.
- 4 (5) Subsection (4) does not apply in relation to an authorised person
5 who is a member of an emergency service, or a police officer, in
6 uniform.
- 7 (6) An offence against this section is a strict liability offence.
- 8 (7) In this section:
- 9 *authorised person* means the commissioner, the Territory controller,
10 a member of an emergency service, an inspector, an investigator, a
11 police officer or someone else authorised in writing by the Territory
12 controller for this section.
- 13 *home address*, of a person, means the address of the place where the
14 person usually lives.
- 15 **195 Identity cards**
- 16 (1) The authority must give an identity card to—
- 17 (a) each member of an emergency service; and
- 18 (b) each inspector or investigator who is not a member of an
19 emergency service; and
- 20 (c) each other member of the staff of the authority.
- 21 (2) The identity card must state the person's name and appointment as a
22 member, inspector, investigator or staff member, and show—
- 23 (a) a recent photograph of the person; and
- 24 (b) the date of issue of the card; and
- 25 (c) the date of expiry of the card; and
- 26 (d) anything else prescribed under the regulations.

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

8 Maximum penalty: 1 penalty unit.

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

10 **196 Protection of officials from liability**

- 11 (1) In this section:

12 *official* means—

- 13 (a) the commissioner; or
14 (b) an inspector or investigator; or
15 (c) a member of an emergency service; or
16 (d) any other member of the staff of the authority; or
17 (e) anyone else exercising a function under this Act.

- 18 (2) An official does not incur civil liability for an act or omission done
19 honestly and without recklessness for this Act.

- 20 (3) Any civil liability that would, apart from this section, attach to an
21 official attaches instead to the Territory.

- 22 (4) For subsection (1) (e), a person is taken to be exercising a function
23 under this Act if the person is—

- 24 (a) a member of an interstate or overseas emergency service to
25 which section 64 (Interstate and overseas emergency services)
26 applies; or

Section 197

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

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

9 **197 Compensation for exercise of functions etc**

- 10 (1) A person may claim compensation from the Territory if the person
11 suffers loss because of the exercise, or purported exercise, of a
12 function under this Act (other than under section 161 (Emergency
13 powers for declared state of emergency)).

14 *Note* For compensation for loss because of an act or omission under s 161,
15 see s 167.

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

1 **198** **Approved forms**

- 2 (1) The authority may, in writing, approve forms for this Act.
3 (2) If the authority approves a form for a particular purpose, the
4 approved form must be used for that purpose.

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

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

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

8 **199** **Determination of fees**

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

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

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

- 15 (3) A determination is a disallowable instrument.

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

18 **200** **Regulation-making power**

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

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

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

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

24 **Examples**

- 25 1 storing or keeping flammable material
26 2 use of steam and internal combustion engines

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

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

6 (3) The regulations may also prescribe offences for contraventions of
7 the regulations and prescribe maximum penalties of not more than
8 20 penalty units for offences against the regulations.

1 **Chapter 11** **Consequential and transitional**
2 **matters**

3 **Part 11.1** **Repeals**

4 **201** **Legislation repealed**

- 5 (1) The following Acts are repealed:
- 6 • *Bushfire Act 1936* A1935-20
 - 7 • *Emergency Management Act 1999* A1999-76
 - 8 • *Fire Brigade Act 1957* A1957-20
 - 9 • *Fire Brigade (Administration) Act 1974* A1974-52.
- 10 (2) The following regulations are repealed:
- 11 • *Bushfire Regulations 1938*
 - 12 • *Emergency Management Regulations 1999* SL1999-36
 - 13 • *Fire Brigade (Administration) Regulations 1980* SL1980-12
 - 14 • *Fire Brigade Regulations 1958* SL1958-1.
- 15 (3) The following instruments are repealed:
- 16 • *ACT Fire Brigade (Determination of Fees and Charges for*
17 *2002/2003)-2002 (No 1)* DI2002-127
 - 18 • *Appointment and Determination of Terms and Conditions*
19 *DI2000-319*
 - 20 • *Bushfire Council Appointment of Members* DI2001-163
 - 21 • *Determination for variation of the rural fire control manual*
22 *DI1994-146*
 - 23 • *Determination for variation of the rural fire control manual*
24 *DI1996-188*

Chapter 11 Consequential and transitional matters
Part 11.1 Repeals

Section 201

- 1 • *Emergency Services (Determination of Fees and Charges for*
- 2 *2003/2004) 2003 (No 1) DI2003-92*
- 3 • *Instrument to exempt land leased exclusively for agricultural*
- 4 *purposes from requiring bushfire fuel management plans*
- 5 *DI1997-187.*

1 **Part 11.2** **Transitional provisions**

2 **Division 11.2.1** **Definitions for pt 11.2**

3 **202** **Definitions for pt 11.2**

4 In this part:

5 *commencement day* means the day this part commences.

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

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

11 **Division 11.2.2** **Emergency management committee**

12 **203** **Committee members**

13 (1) This section applies to a person who was, immediately before the
14 commencement day, a member of the former emergency
15 management committee appointed under the *Emergency*
16 *Management Act 1999*, section 7 (2) (h).

17 (2) The person is taken to be a member of the emergency management
18 committee.

19 (3) The person remains a member of the emergency management
20 committee until the earlier of—

21 (a) the end of 12 months after the commencement day; and

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

1 **Division 11.2.3 Bushfire council**

2 **204 Council members**

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

8 **Division 11.2.4 Former bushfire council—assets,**
9 **rights and liabilities**

10 **205 Vesting of assets, rights and liabilities**

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

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

18 **206 Registration of changes in ownership of certain assets**

- 19 (1) This section applies if—
- 20 (a) an asset, including an interest in land, vests in the authority or
21 the Territory under section 205; and
- 22 (b) information about ownership of the asset may be entered in a
23 statutory property register.

1 (2) On application by the authority, a person responsible for the
2 statutory property register must make the entries in the register and
3 do anything else that is necessary or desirable to reflect the
4 operation of section 205.

5 (3) The evidentiary value of a statutory property register is not affected
6 by—

7 (a) the making of an entry under this section; or

8 (b) a failure to make an entry under this section; or

9 (c) a failure by the authority to make an application under this
10 section.

11 (4) In this section:

12 **statutory property register** means a register kept under a Territory
13 law for recording ownership of property (including interests in
14 property) if—

15 (a) title to the property is passed by registration in the register of
16 ownership of the property; or

17 (b) the owner of an interest in the property may lose the interest if
18 the interest is not registered in the register.

19 **Examples**

20 1 the register of land titles kept under the *Land Titles Act 1925*, section 43

21 2 a book, index or register mentioned in the *Instruments Act 1933*

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

- 1 **207 Evidentiary certificate for vested assets and liabilities**
- 2 (1) The authority may, in writing, certify that an asset or liability has
- 3 vested in the authority under section 205 (1).
- 4 (2) The authority may, in writing, certify that an asset has vested in the
- 5 Territory under section 205 (3).
- 6 (3) A certificate under subsection (1) or (2) is evidence of what it states.
- 7 (4) A document that purports to be a certificate under subsection (1) or
- 8 (2) is taken to be such a certificate unless the contrary is proved.
- 9 **208 Proceedings and evidence**
- 10 (1) For a proceeding begun before the commencement day and to which
- 11 the former bushfire council is a party, the authority is substituted as
- 12 a party.
- 13 (2) A proceeding for a cause of action may be brought against the
- 14 authority if, before the commencement day—
- 15 (a) the cause of action had accrued against the former bushfire
- 16 council; and
- 17 (b) a proceeding had not begun in relation to the cause of action;
- 18 and
- 19 (c) the limitation period for the cause of action had not ended.
- 20 (3) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the
- 21 beginning of a proceeding that may be brought by or against the
- 22 authority under this section as if the cause of action had been
- 23 accrued by, or had accrued against, the authority.
- 24 (4) The court or other entity in which, or before which, a proceeding
- 25 may be or has been begun or continued under this section may give
- 26 directions about the proceeding.

- 1 (5) Any evidence that, apart from the repeal of the *Bushfire Act 1936*,
2 would have been admissible for or against the former bushfire
3 council is admissible for or against the authority.
- 4 (6) An order made in a proceeding by or against the former bushfire
5 council before the commencement day may, on or after the
6 commencement day, be enforced by or against the authority.
- 7 (7) In this section:
- 8 *proceeding* includes a proceeding by way of appeal or review
9 (including review under the *Ombudsman Act 1989*) or any other
10 civil proceeding in relation to an asset, right or liability vested in the
11 authority under section 205 (Vesting of assets, rights and liabilities).

12 **Division 11.2.5 Members of fire brigade**

13 **209 Fire Brigade (Administration) Act**

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

- 1 (iii) part 2 (Fire commissioner and deputy fire commissioner);
2 and
- 3 (iv) section 16 (1) and (2) (Establishment of fire brigade); and
4 (v) section 17 (Officers); and
5 (vi) section 18 (Firefighters); and
6 (vii) section 19 (Alteration of ranks); and
7 (viii) section 61, section 62 and section 63 (which deal with
8 offences); and
9 (ix) section 81 (Regulation-making power); and
- 10 (b) the *Fire Brigade (Administration) Regulations 1980*, other than
11 regulation 1 (Name of regulations).
- 12 (3) A notice under subsection (1) (b) is a notifiable instrument.
- 13 *Note* A notifiable instrument must be notified under the Legislation Act.
- 14 (4) The Minister may fix a date under subsection (1) (b) only if the
15 Minister is satisfied that the matters provided for in the continued
16 provisions are—
- 17 (a) provided for in a certified agreement under the *Workplace*
18 *Relations Act 1996* (Cwlth) that—
- 19 (i) has come into operation, within the meaning of that Act,
20 section 170LX (1); and
- 21 (ii) covers members of the fire brigade under the repealed
22 Administration Act (other than the fire commissioner and
23 deputy fire commissioner); or
- 24 (b) agreed by the parties to the agreement to be matters that—
- 25 (i) should be dealt with in the agreement in a different or
26 changed way; or

- 1 (ii) need not be dealt with in the agreement.
- 2 (5) The repealed Administration Act applies as if—
- 3 (a) a reference in that Act to the commissioner were a reference to
- 4 the chief officer (fire brigade) under the *Emergencies Act*
- 5 *2004*; and
- 6 (b) a reference in that Act to the deputy commissioner were a
- 7 reference to the deputy chief officer (fire brigade) under the
- 8 *Emergencies Act 2004*; and
- 9 (c) a reference in that Act to the brigade is a reference to the fire
- 10 brigade under the *Emergencies Act 2004*; and
- 11 (d) a reference in that Act to general orders and instructions were a
- 12 reference to standards and protocols under the *Emergencies Act*
- 13 *2004*; and
- 14 (e) all other necessary changes were made.
- 15 (6) In this section:
- 16 *default commencement date* means 1 July 2006 or, if a later date is
- 17 prescribed under the regulations for this definition, that date.

18 **210 References to staff of authority**

- 19 (1) Section 22 (1) does not apply to a member of the fire brigade (other
- 20 than the chief officer (fire brigade) or the deputy chief officer (fire
- 21 brigade).
- 22 (2) This section expires on the expiry date under section 209 (1).

1 **Division 11.2.6 Emergency Services Commissioner**

2 **211 Appointment of emergency services commissioner**

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

6 **Division 11.2.7 Other provisions**

7 **212 References to Bushfire Act etc**

- 8 (1) In an Act, statutory instrument or document, a reference to any of
9 the following Acts is, in relation to anything to which this Act
10 applies, a reference to this Act:
11 • *Bushfire Act 1936*
12 • *Emergency Management Act 1999*
13 • *Fire Brigade Act 1957*.
14 (2) In an Act, statutory instrument or document, a reference to a
15 provision of an Act mentioned in subsection (1) is, in relation to
16 anything to which this Act applies, a reference to the corresponding
17 provision of this Act.
18 (3) In an Act, statutory instrument or document—
19 (a) a reference to the fire commissioner is a reference to the chief
20 officer (fire brigade); and
21 (b) a reference to the chief fire control officer is a reference to the
22 chief officer (rural fire service).

- 1 **213** **Transitional regulations**
- 2 (1) The regulations may prescribe transitional matters necessary or
- 3 convenient to be prescribed because of the enactment of this Act.
- 4 (2) The regulations may modify the operation of this chapter to make
- 5 provision in relation to any matter that, in the Executive’s opinion,
- 6 is not, or not adequately, dealt with in this chapter.
- 7 **214** **Legislation amended—sch 3**
- 8 This Act amends the legislation mentioned in schedule 3.
- 9 **215** **Expiry of ch 11**
- 10 This chapter expires on the expiry date under section 209 (1).

1 **Schedule 1 Ambulance levy**

2 (see s 192)

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

7 **1 Definitions for sch 1**

8 In this schedule:

9 *ambulance levy*—see clause 4.

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

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

17 *exempt contribution*—see clause 2.

18 *family rate*, for contributions, means contributions that are not
19 single rate contributions.

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

23 (a) accommodation in hospitals; and

24 (b) surgical, therapeutic or other medical or health treatments,
25 services or procedures in hospitals.

1 ***health benefits organisation*** means an organisation that provides
2 health benefits to contributors to a health benefits fund conducted by
3 the organisation.

4 ***reference month***—see clause 3.

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

7 **2 Meaning of exempt contribution**

8 (1) This clause applies to contributions paid into a health benefits fund
9 for the purpose of securing entitlement to basic health benefits.

10 (2) A contribution is an ***exempt contribution*** if—

11 (a) the contributor is in a class of people prescribed under the
12 regulations; or

13 (b) it is—

14 (i) if paid at the single rate—paid while the contributor is
15 absent from Australia for at least the period prescribed
16 under the regulations; or

17 (ii) if paid at the family rate—paid while all the contributors
18 are absent from Australia for at least the period prescribed
19 under the regulations.

1 **3 Meaning of reference month**

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

4 **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

5 **4 Imposition of ambulance levy**

6 (1) A levy (the *ambulance levy*) is imposed on a health benefits
7 organisation carrying on business in the ACT.

8 (2) The ambulance levy is imposed for each month in accordance with
9 the following formula:

10
$$(S + 2F) \times RA \times \frac{D}{7}$$

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

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

5 **5 Organisation to pay levy**

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

8 **6 Returns**

9 (1) A health benefits organisation must give the commissioner for
10 revenue a return for each month on or before the 15th day of the
11 month.

12 (2) The return must state, in relation to the reference month for the
13 month—

14 (a) the number of contributors who contribute at the single rate
15 (including contributors who are taken to be contributing at the
16 single rate); and

17 (b) the number of contributors who contribute at the family rate;
18 and

19 (c) the number of days in the reference month.

20 **7 Records**

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

23 (a) the name and address of each contributor to the health benefits
24 fund conducted by the organisation for the month; and

25 (b) the amount of the contribution; and

26 (c) the name of each person entitled to receive health benefits from
27 the organisation because of the contribution; and

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

4 **8 Levy payable if organisation stops operations**

5 (1) If a health benefits organisation stops carrying on business in the
6 ACT, it is liable to pay the levy worked out in accordance with this
7 section.

8 (2) The organisation must, on or before the 15th day of the month for
9 which the levy is payable, give the commissioner for revenue a
10 return for the month.

11 (3) The levy payable by the organisation is payable—

12 (a) if the organisation stopped carrying on business before the 15th
13 day of a month—for that month; and

14 (b) if the organisation stopped carrying on business on or after the
15 15th day of a month—for the month immediately after that
16 month.

17 (4) Clause 6 (2) applies to the return.

18 (5) In the application of—

19 (a) clause 6 (2) to the return in relation to a month (the *payment*
20 *month*); and

21 (b) the *Road Transport (General) Act 1999*, part 10 (Compulsory
22 vehicle insurance);

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

Schedule 2 Reviewable decisions

(see s 183)

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

1 **Schedule 3** **Consequential amendments**

2 (see s 214)

3 **Part 3.1** **Building Act 2004**

4 **[3.1] New section 136 (4)**

5 *insert*

- 6 (4) The regulations may make provision in relation to the application of
7 the building code.

8 **Example**

9 prescribe an area to be a bushfire-prone area

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

13 **Part 3.2** **Building Regulations 2004**

14 **[3.2] Regulation 15 (1) (g)**

15 *omit*

16 fire commissioner and the chief fire control officer

17 *insert*

18 chief officer (fire brigade) or chief officer (rural fire service)

19 **[3.3] Regulation 22 (b)**

20 *substitute*

- 21 (b) approval of the installation of any fire appliance in the new
22 building or new part of the building by the chief officer (fire
23 brigade) or the chief officer (rural fire service);

- 1 **[3.4] New regulation 29A**
- 2 *insert*
- 3 **29A Building code—Act, s 136 (4)**
- 4 (1) For the building code, an area of non-urban land is a bushfire-prone
- 5 area.
- 6 (2) In this regulation:
- 7 *national capital plan* means the national capital plan under the
- 8 *Australian Capital Territory (Planning and Land Management) Act*
- 9 *1988* (Cwlth), part 3.
- 10 *non-urban land* means—
- 11 (a) Territory land subject to 1 or more of the following land use
- 12 policies under the Territory plan, part B (Land use policies):
- 13 (i) broadacre;
- 14 (ii) rural;
- 15 (iii) hills, ridges and buffer areas;
- 16 (iv) river corridors;
- 17 (v) mountains and bushlands;
- 18 (vi) plantation forestry;
- 19 (vii) major roads; or
- 20 (b) land that is not subject to any of the following land use
- 21 categories under the national capital plan:
- 22 (i) urban area;
- 23 (ii) industrial centre;
- 24 (iii) Lake Burley Griffin and Foreshores.

1 **Part 3.3** **Bushfire Act 1936**

2 **[3.5] Section 11 (1)**

3 *omit*

4 Magistrates Court on application made to it in a summary way

5 *substitute*

6 Small Claims Court

7 **[3.6] Section 11 (as amended)**

8 *relocate to the Common Boundaries Act 1981, division 2.3 as*
9 *section 26A*

10 **Part 3.4** **Common Boundaries Act 1981**

11 **[3.7] Section 21**

12 *substitute*

13 **21 Div 2.3 not affected**

14 This division does not affect the operation of division 2.3 (Damage
15 by fire to fences).

16 **[3.8] New division 2.3 heading**

17 *insert*

18 **Division 2.3** **Damage by fire to fences**

1 **Part 3.5 Civil Law (Wrongs) Act 2002**

2 **[3.9] Section 5 (3), definition of *medically qualified*,**
3 **paragraph (c)**

4 *omit*

5 an ambulance officer

6 *substitute*

7 a member of the ambulance service

8 **Part 3.6 Crimes Act 1900**

9 **[3.10] Section 396 (1)**

10 *omit*

11 emergency services officer

12 *substitute*

13 member of the emergency services

14 **[3.11] Section 396 (2)**

15 *substitute*

16 (2) In this section:

17 ***member of the emergency services*** means a member of—

18 (a) the ambulance service; or

19 (b) the fire brigade; or

20 (c) the rural fire service; or

21 (d) the SES.

1 **[3.12] Dictionary, note 2**

2 *insert*

- 3 • ambulance service
- 4 • fire brigade
- 5 • rural fire service
- 6 • SES

7 **Part 3.7 Dangerous Substances Act 2004**

8 **[3.13] Section 8, notes 2 to 4**

9 *substitute*

10 *Note 2* Other legislation in force in the ACT relating to dangerous substances
11 includes the following:

- 12 • *Emergencies Act 2004*
- 13 • *Environment Protection Act 1997*
- 14 • *Occupational Health and Safety Act 1989*
- 15 • *Poisons Act 1933*
- 16 • *Poisons and Drugs Act 1978*
- 17 • *Road Transport Reform (Dangerous Goods) Act 1995* (Cwlth).

18 *Note 3* See the *Emergencies Act 2004* for provisions relating to hazardous
19 materials incidents (which may include dangerous occurrences).

20 *Note 4* See the *Road Transport Reform (Dangerous Goods) Act 1995* (Cwlth),
21 and the regulations made under that Act, for the transport of dangerous
22 substances (other than explosives, infectious substances and radioactive
23 substances) that are classified as dangerous goods under that Act.

24 *Note 5* Territory laws have no effect to the extent that they are inconsistent
25 with a Commonwealth law (see Self-Government Act, s 28).

26 **[3.14] Section 85, definition of *authorised person*, paragraph (d)**

27 *substitute*

28 (d) a member of the ambulance service, the fire brigade, the rural
29 fire service or the SES.

1 **[3.15] Dictionary, note 2**

2 *insert*

- 3 • ambulance service
- 4 • fire brigade
- 5 • rural fire service
- 6 • SES

7 **Part 3.8 Dangerous Substances**
8 **(Explosives) Regulations 2004**

9 **[3.16] Regulation 22**

10 *substitute*

11 **22 Reports to chief officer (fire brigade) and chief officer**
12 **(rural fire service)**

- 13 (1) This regulation applies if these regulations are expressed to require
14 information (including a notice or report) to be given to the chief
15 officer (fire brigade) or the chief officer (rural fire service),
16 whichever is appropriate.
- 17 (2) If the information relates to explosives that may present a hazard or
18 risk in a built-up area, the information must be given to the chief
19 officer (fire brigade).
- 20 (3) If the information relates to explosives that may present a hazard or
21 risk in a rural area, the information must be given to the chief officer
22 (rural fire service).
- 23 (4) If the information relates to explosives that may present a hazard or
24 risk in both a built-up area and a rural area, the information must be
25 given to both the chief officer (fire brigade) and the chief officer
26 (rural fire service).

1 (5) In this regulation:

2 *built-up area*—see the *Emergencies Act 2004*, dictionary.

3 *rural area*—see the *Emergencies Act 2004*, section 65 (4).

4 **[3.17] Regulation 24 (1) (a)**

5 *omit*

6 fire commissioner or the chief fire control officer

7 *substitute*

8 chief officer (fire brigade) or the chief officer (rural fire service)

9 **[3.18] Regulation 60 (1) and (2)**

10 *omit*

11 fire commissioner or the chief fire control officer

12 *substitute*

13 chief officer (fire brigade) or the chief officer (rural fire service)

14 **[3.19] Regulation 134 (1) and (2)**

15 *omit*

16 fire commissioner or the chief fire control officer

17 *substitute*

18 chief officer (fire brigade) or the chief officer (rural fire service)

19 **[3.20] Regulation 209**

20 *substitute*

21 **209 Total fire ban days**

22 A person must not use an explosive that may produce a flame above
23 the ground in the open during a period for which a total fire ban is in
24 force under the *Emergencies Act 2004*.

1 **[3.21] Regulation 317 (2), definition of *police and fire***
2 ***authorities*, paragraph (b)**

3 *omit*

4 fire commissioner or the chief fire control officer

5 *substitute*

6 chief officer (fire brigade) or the chief officer (rural fire service)

7 **[3.22] Schedule 2, clause 1 (4)**

8 *omit*

9 fire commissioner or the chief fire control officer, whichever is
10 appropriate.

11 *substitute*

12 the emergency services commissioner.

13 **[3.23] Dictionary, note 2**

14 *insert*

- 15 • chief officer (fire brigade)
16 • chief officer (rural fire service)
17 • emergency services commissioner

18 **[3.24] Dictionary, definition of *firefighter***

19 *substitute*

20 ***firefighter*** means—

- 21 (a) the chief officer (fire brigade); or
22 (b) any other member of the fire brigade; or
23 (c) the chief officer (rural fire service); or
24 (d) any other member of the rural fire service; or

- 1 (e) a member of an interstate or overseas emergency service
2 (within the meaning of the *Emergencies Act 2004*) assisting at
3 or immediately after a fire in the ACT.

4 Part 3.9 Environment Protection Act 1997

5 [3.25] Section 6

6 *substitute*

7 6 Relationship with Emergencies Act

8 (1) This Act does not apply to the exercise or purported exercise by a
9 relevant person of a function under the *Emergencies Act 2004* for
10 the purpose of protecting life or property, or controlling,
11 extinguishing or preventing the spread of a fire.

12 (2) In this section:

13 *relevant person* means—

- 14 (a) the chief officer (fire brigade); or
15 (b) any other member of the fire brigade; or
16 (c) the chief officer (rural fire service); or
17 (d) any other member of the rural fire service; or
18 (e) any other person under the control of the chief officer (fire
19 brigade) or the chief officer (rural fire service); or
20 (f) a police officer.

1 **Part 3.10** **Environment Protection**
2 **Regulations 1997**

3 **[3.26] Schedule 1, item 3, column 3**

4 *omit*

5 chief fire control officer or the fire commissioner

6 *substitute*

7 chief officer (rural fire service) or chief officer (fire brigade)

8 **[3.27] Schedule 1, item 4, column 3**

9 *omit*

10 chief fire control officer

11 *substitute*

12 chief officer (rural fire service)

13 **[3.28] Schedule 1, item 4, column 3**

14 *omit*

15 fire commissioner

16 *substitute*

17 chief officer (fire brigade)

18 **[3.29] Dictionary, definition of *built-up area***

19 *substitute*

20 ***built-up area***—see the *Emergencies Act 2004*, dictionary.

1 **Part 3.11** **Juries Act 1967**

2 **[3.30] Schedule 2, part 2.1, item 11**

3 *substitute*

11 a person with full-time duties as a member of an emergency service

4 **[3.31] Schedule 2, part 2.1, item 21**

5 *substitute*

21 the emergency services commissioner and a chief officer, or deputy chief officer, of an emergency service

6 **Part 3.12** **Legislation Act 2001**

7 **[3.32] Section 227 (3)**

8 *substitute*

9 (3) In this section:

10 *public servant* includes a member of the fire brigade.

11 (4) Subsection (3) and this subsection expire on the expiry date under
12 the *Emergencies Act 2004*, section 209.

13 **[3.33] Dictionary, part 1, definition of *ambulance service***

14 *substitute*

15 *ambulance service* means the ACT Ambulance Service under the
16 *Emergencies Act 2004*.

17 **[3.34] Dictionary, part 1, definition of *chief fire control officer***

18 *omit*

1 **[3.35] Dictionary, part 1, new definitions**

2 *insert*

3 *chief officer (ambulance service)* means the chief officer
4 (ambulance service) under the *Emergencies Act 2004*.

5 *chief officer (fire brigade)* means the chief officer (fire brigade)
6 under the *Emergencies Act 2004*.

7 *chief officer (rural fire service)* means the chief officer (rural fire
8 service) under the *Emergencies Act 2004*.

9 *chief officer (SES)* means the chief officer (SES) under the
10 *Emergencies Act 2004*.

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

13 *emergency services authority* means the ACT Emergency Services
14 Authority under the *Emergencies Act 2004*.

15 *emergency services commissioner* means the ACT Emergency
16 Services Commissioner under the *Emergencies Act 2004*.

17 **[3.36] Dictionary, part 1, definition of *fire brigade***

18 *substitute*

19 *fire brigade* means the ACT Fire Brigade under the *Emergencies*
20 *Act 2004*.

21 **[3.37] Dictionary, part 1, definition of *fire commissioner***

22 *omit*

23 **[3.38] Dictionary, part 1, definition of *rural firefighting service***

24 *substitute*

25 *rural fire service* means the ACT Rural Fire Service under the
26 *Emergencies Act 2004*.

1 **[3.39] Dictionary, part 1, new definition of SES**

2 *insert*

3 *SES* means the ACT State Emergency Service under the
4 *Emergencies Act 2004*.

5 **Part 3.13 Liquor Act 1975**

6 **[3.40] Sections 40 (2) and 41 (2)**

7 *omit*

8 fire commissioner

9 *substitute*

10 chief officer (fire brigade)

11 **[3.41] Section 41 (2), (3) and (4)**

12 *omit*

13 fire commissioner's recommendation

14 *substitute*

15 recommendation of chief officer (fire brigade)

16 **[3.42] Section 41 (5)**

17 *omit*

18 fire commissioner

19 *substitute*

20 chief officer (fire brigade)

- 1 **[3.43] Section 41 (5)**
2 *omit*
3 the commissioner
4 *substitute*
5 the chief officer (fire brigade)

- 6 **[3.44] Section 41 (7)**
7 *omit*
8 fire commissioner
9 *substitute*
10 chief officer (fire brigade)

- 11 **[3.45] Section 41 (8)**
12 *omit*
13 the commissioner
14 *substitute*
15 the chief officer (fire brigade)

16 **Part 3.14 Nature Conservation Act 1980**

- 17 **[3.46] Section 6**
18 *substitute*

19 **6 Relationship with Emergencies Act**

- 20 (1) This Act does not apply to the exercise or purported exercise by a
21 relevant person of a function under the *Emergencies Act 2004* for
22 the purpose of protecting life or property, or controlling,
23 extinguishing or preventing the spread of a fire.

1 (2) In this section:

2 *relevant person* means—

- 3 (a) the chief officer (fire brigade); or
4 (b) any other member of the fire brigade; or
5 (c) the chief officer (rural fire service); or
6 (d) any other member of the rural fire service; or
7 (e) any other person under the control of the chief officer (fire
8 brigade) or the chief officer (rural fire service); or
9 (f) a police officer.

10 **[3.47] Section 60I (d)**

11 *substitute*

- 12 (d) in accordance with a strategic bushfire management plan under
13 the *Emergencies Act 2004*; or

14 **[3.48] Section 60R (d)**

15 *substitute*

- 16 (d) in accordance with a strategic bushfire management plan under
17 the *Emergencies Act 2004*; or

18 **[3.49] Dictionary, new notes**

19 *insert*

20 *Note 1* The Legislation Act, contains definitions and other provisions relevant
21 to these regulations.

22 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 23 • contravene
24 • exercise
25 • fire brigade
26 • function

- 1 • rural fire service
2 • the Territory.

3 **[3.50] Dictionary, definition of *built-up area***

4 *substitute*

5 *built-up area*—see the *Emergencies Act 2004*, dictionary.

6 **Part 3.15 Ombudsman Regulations 1989**

7 **[3.51] Schedule 2, table 1, item 1**

8 *omit*

9 **Part 3.16 Public Health Act 1997**

10 **[3.52] Section 121 (3) (c)**

11 *substitute*

12 (c) for a member of the ambulance service—the identity card
13 issued to the member under the *Emergencies Act 2004*; or

14 **[3.53] Section 121 (4), definition of *authorised person*,**
15 **paragraph (c)**

16 *substitute*

17 (c) a member of the ambulance service; or

18 **[3.54] Dictionary, note 2**

19 *insert*

- 20 • ambulance service
21 • chief officer (ambulance service)
22 • emergency services commissioner

1 **Part 3.17** **Public Sector Management Act**
2 **1994**

3 **[3.55] Employment in the service**
4 **Section 67, note**

5 *substitute*

6 *Note 1* See also pt 14, which makes provision for certain employees of
7 Totalcare to be employed in the service.

8 *Note 2* See also pt 15, which makes provision for certain members of the fire
9 brigade and chief officers for fire and emergency services to be
10 employed in the service.

11 **[3.56] New part 15**

12 *insert*

13 **Part 15** **Fire and emergency services**

14 **264** **Definitions for pt 15**

15 In this part:

16 *chief officer* means any of the following:

- 17 (a) the person who is, immediately before the repeal of the *Fire*
18 *Brigade (Administration) Act 1974*, the fire commissioner
19 under that Act;
- 20 (b) the person who is, immediately before the repeal of the
21 *Bushfire Act 1936*, the chief fire control officer under that Act;
- 22 (c) the person who is, immediately before the repeal of the
23 *Emergency Management Act 1999*, the chief officer of the
24 ambulance service under that Act.

1 ***deputy chief officer*** means any of the following:

2 (a) the person who is, immediately before the repeal of the *Fire*
3 *Brigade (Administration) Act 1974*, the deputy fire
4 commissioner under that Act;

5 (b) the person who is, immediately before the repeal of the
6 *Bushfire Act 1936*, the deputy chief fire control officer under
7 that Act;

8 (c) the person who is, immediately before the repeal of the
9 *Emergency Management Act 1999*, the deputy chief officer of
10 the ambulance service under that Act.

11 ***repealed Administration Act*** means the *Fire Brigade*
12 *(Administration) Act 1974*.

13 ***transfer***, of a person, means an appointment or engagement under
14 this Act.

15 **265 Transfer of chief officers**

16 (1) This section applies to a chief officer or a deputy chief officer who
17 is not already a public servant.

18 (2) The commissioner may, in writing, declare that the person is
19 appointed or engaged under this Act.

20 **266 Transfer of fire brigade members**

21 (1) This section applies to a person who, immediately before the expiry
22 date under the *Emergencies Act 2004*, section 209, is a member of
23 the fire brigade under the repealed Administration Act.

24 (2) The commissioner may, in writing, declare that the person is
25 appointed or engaged under this Act.

-
- 1 **267 Declarations of appointment or engagement**
- 2 (1) A declaration under section 265 (2) or section 266 (2) must state—
- 3 (a) for an appointment—the office to which the person is
- 4 appointed; and
- 5 (b) for an appointment on probation—the probation period; and
- 6 (c) for an engagement other than as a casual employee—the term
- 7 of the engagement; and
- 8 (d) the person’s classification on appointment or engagement.
- 9 (4) As far as possible—
- 10 (a) a person must be appointed or engaged with the same tenure
- 11 and classification the person had immediately before the
- 12 transfer; and
- 13 (b) a person on probation immediately before the transfer must be
- 14 appointed on probation for the unexpired part of the person’s
- 15 probation period.
- 16 (5) A declaration may create an office.
- 17 (6) A classification mentioned in a declaration that is not an approved
- 18 classification is taken to be an approved classification.
- 19 (7) If a declaration under section 266 (2) is made before the expiry date
- 20 under the *Emergencies Act 2004*, section 209, the declaration does
- 21 not commence until the expiry date.
- 22 **268 How rest of Act applies**
- 23 (1) The following provisions do not apply in relation to an appointment
- 24 or engagement under this part:
- 25 • section 65 (Application of merit principle)
- 26 • section 66 (Notification of certain matters related to
- 27 appointment, transfer or promotion)
- 28 • section 68 (Appointments generally)
-

- 1 • section 69 (Classification of unattached officers)
2 • section 70 (1), (2) and (3) (Appointments to be on probation)
3 • section 106 (Power to engage employees).
4 (2) Without limiting subsection (1), this Act applies to a person
5 appointed or engaged under this part subject to schedule 4.

6 **269 Employees appointed on probation**

- 7 (1) This section applies to a person mentioned in section 266 who is
8 appointed under this part on probation for a period (the *remaining*
9 *probation period*).
10 (2) Subject to section 70 (8), the relevant chief executive may confirm
11 the appointment at any time after the end of the remaining probation
12 period.
13 (3) Section 70 (4) to (12) applies in relation to the person as if the
14 person's date of appointment on probation were the date the person
15 became a member of the fire brigade.

16 **270 Entitlements on transfer**

17 The following provisions apply in relation to a person transferred
18 under this part:

- 19 (a) the person retains any leave entitlements that—
20 (i) had accrued to the person immediately before the
21 transfer; and
22 (ii) had not been paid out to the person;
23 (b) any leave entitlements that would, apart from this section,
24 accrue to the person on the person's appointment or
25 engagement under this Act (or on the anniversary of that
26 appointment or engagement) accrue instead on the anniversary
27 of the date when the leave entitlement would have accrued to
28 the person if his or her appointment as a chief officer or a
29 member of the fire brigade had continued;

1 (c) the person's period of appointment as a chief officer or a
2 member of the fire brigade is taken into account when working
3 out any entitlements;

4 (d) the person otherwise has entitlements that are no less
5 favourable to the person than the entitlements the person had
6 immediately before the transfer.

7 **271 Transfer of personnel files**

8 Personnel files for a person transferred under this part may be
9 transferred with the person and the information may be used as if it
10 had been collected under this Act.

11 **272 Management standards**

12 (1) The management standards may make provision in relation to
13 anything arising from or connected with the transfer of a person
14 under this part.

15 (2) The management standards may determine conditions of
16 employment applying to a particular transferred person.

17 **273 Expiry of pt 15**

18 This part expires—

19 (a) 2 years after it commences; or

20 (b) if a later date is prescribed under the regulations for this
21 section—on that date.

1 **Part 3.18 Radiation Act 1983**

2 **[3.57] Section 29 (2)**

3 *omit*

4 fire commissioner

5 *substitute*

6 chief officer (fire brigade)

7 **[3.58] Section 66 (3)**

8 *omit*

9 fire commissioner

10 *substitute*

11 chief officer (fire brigade)

12 **Part 3.19 Remuneration Tribunal Act 1995**

13 **[3.59] Section 10 (1) (n)**

14 *omit*

15 **[3.60] Section 10 (1)**

16 *renumber paragraphs when Act next republished under Legislation*
17 *Act*

1 **Part 3.20** **Road Transport (Safety and**
2 **Traffic Management) Regulations**
3 **2000**

4 **[3.61] Regulation 33 (1), definition of *emergency worker*,**
5 **paragraph (b)**

6 *substitute*

7 (b) a member of the ambulance service, the fire brigade, the rural
8 fire service or the SES providing transport in an emergency; or

9 **[3.62] Dictionary, new notes**

10 *insert*

11 *Note 1* The Legislation Act contains definitions and other provisions relevant to
12 these regulations.

13 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 14 • ambulance service
- 15 • chief police officer
- 16 • contravene
- 17 • exercise
- 18 • fire brigade
- 19 • rural fire service
- 20 • SES
- 21 • the Territory.

1 **Part 3.21** **Road Transport (Vehicle**
2 **Registration) Regulations 2000**

3 **[3.63] Regulation 17**

4 *substitute*

5 **17 Vehicles used to fight rural fires**

6 (1) The registration provisions do not apply to a registrable vehicle that
7 is used on a road or road related area if the vehicle—

8 (a) is attached to a rural fire service brigade and has painted on it,
9 or securely attached to it, a sign clearly identifying the brigade
10 to which it is attached; and

11 (b) is used to carry people or equipment to or from the work of
12 preventing, extinguishing, or preventing the spread of, fires in
13 rural areas (including fire hazard reduction work); and

14 (c) is travelling for the purpose mentioned in paragraph (b) or any
15 of the following purposes:

16 (i) to respond to an incident or emergency in accordance
17 with the *Emergencies Act 2004* or a corresponding law of
18 another jurisdiction;

19 (ii) to assist at an incident or emergency under the control of
20 the fire brigade, the SES or any other entity;

21 (iii) to train members of the rural fire service, including
22 volunteers;

23 (iv) for a purpose necessary for, or incidental to, the service
24 or repair of the vehicle;

25 (v) to exercise any other function of the rural fire service.

1 (2) In this regulation:

2 *rural fire service brigade* means—

3 (a) a brigade of the rural fire service; or

4 (b) a brigade of a similar entity established under the law of
5 another jurisdiction.

6 *rural area*—see the *Emergencies Act 2004*, section 65 (4).

7 **[3.64] Dictionary, note 2**

8 *insert*

- 9 • fire brigade
10 • rural fire service
11 • SES

12 **Part 3.22 Security Industry Regulations**
13 **2003**

14 **[3.65] Regulation 6 (1) (d) and (e)**

15 *substitute*

16 (d) the chief officer (fire brigade) and any other member of the fire
17 brigade;

18 (e) the chief officer (rural fire service) and any other member of
19 the rural fire service;

20 **Part 3.23 Supervised Injecting Place Trial**
21 **Act 1999**

22 **[3.66] Dictionary, note 2**

23 *insert*

- 24 • ambulance service

1 **Part 3.24 Taxation Administration Act 1999**

2 **[3.67] Section 4 (d)**

3 *substitute*

4 (d) the *Emergencies Act 2004*, schedule 1 (Ambulance levy);

5 **Part 3.25 Victims of Crime (Financial**
6 **Assistance) Act 1983**

7 **[3.68] Section 10 (5)**

8 *substitute*

9 (5) In this section:

10 *ambulance officer* means a member of the ambulance service.

11 *firefighter* means—

- 12 (a) the chief officer (fire brigade); or
13 (b) any other member of the fire brigade; or
14 (c) the chief officer (rural fire service); or
15 (d) any other member of the rural fire service; or
16 (e) a member of an interstate or overseas emergency service
17 (within the meaning of the *Emergencies Act 2004*) assisting at
18 or immediately after a fire in the ACT.

1 **Part 3.26** **Water Resources Act 1998**

2 **[3.69] Section 33 (5)**

3 *substitute*

- 4 (5) Subsection (1) does not apply to the exercise or purported exercise
5 by a relevant person of a function under the *Emergencies Act 2004*
6 for the purpose of protecting life or property, or controlling,
7 extinguishing or preventing the spread of a fire.

8 **[3.70] Section 33 (8), new definition of *relevant person***

9 *insert*

10 ***relevant person*** means—

- 11 (a) the chief officer (fire brigade); or
12 (b) any other member of the fire brigade; or
13 (c) the chief officer (rural fire service); or
14 (d) any other member of the rural fire service; or
15 (e) a police officer; or
16 (f) any other person under the control of the chief officer (fire
17 brigade) or the chief officer (rural fire service).

1 Dictionary

2 (see s 4)

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

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

- 6 • ACT
- 7 • administrative unit
- 8 • appoint
- 9 • chief health officer
- 10 • Chief Minister
- 11 • chief police officer
- 12 • conservator of flora and fauna
- 13 • contravene
- 14 • entity
- 15 • exercise
- 16 • function
- 17 • give
- 18 • Minister (see s 162)
- 19 • planning and land authority
- 20 • statutory office-holder
- 21 • Territory owned corporation
- 22 • the Territory
- 23 • under.

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

25 *ambulance levy*, for schedule 1 (Ambulance levy)—see clause 4.

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

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

- 1 **annual report**, of an agency, for part 5.3 (Bushfire prevention)—see
2 section 70.
- 3 **at** premises includes in or on the premises.
- 4 **authority** means the ACT Emergency Services Authority
5 established under section 7.
- 6 **authority guidelines**—see section 12.
- 7 **basic health benefits**, for schedule 1 (Ambulance levy)—see
8 clause 1.
- 9 **built-up area** means an area declared to be a built-up area under
10 section 65.
- 11 **building code**—see the *Building Act 2004*, section 136 (1).
- 12 **bushfire abatement zone** means a bushfire abatement zone declared
13 under section 71.
- 14 **bushfire council** means the ACT Bushfire Council established
15 under section 127.
- 16 **bushfire management requirement** means a requirement mentioned
17 in section 74 (3) (a) (Content of strategic bushfire management
18 plan).
- 19 **bushfire operational plan** means—
- 20 (a) for Territory land or land occupied by the Territory—a
21 bushfire operational plan approved by the Minister under
22 section 78; or
- 23 (b) for land in a bushfire abatement zone—a bushfire operational
24 plan approved by the authority under section 79.
- 25 **bushfire season**, for division 5.6.2 (Controlled activities and
26 offences relating to fire)—see section 117.
- 27 **casual volunteer**—see section 26 (2).

- 1 **chief officer** means—
- 2 (a) for the ambulance service—the chief officer (ambulance
- 3 service); and
- 4 (b) for the fire brigade—the chief officer (fire brigade); and
- 5 (c) for the rural fire service—the chief officer (rural fire service);
- 6 and
- 7 (d) for the SES—the chief officer (SES).
- 8 **chief officer (ambulance service)**—see section 28.
- 9 **chief officer (fire brigade)**—see section 29.
- 10 **chief officer (rural fire service)**—see section 30.
- 11 **chief officer (SES)**—see section 31.
- 12 **city area**—see section 66.
- 13 **closure notice** means a closure notice issued under section 86 (2)
- 14 (Notices for premises).
- 15 **commissioner** means the ACT Emergency Service Commissioner.
- 16 **conservator** means the conservator of flora and fauna.
- 17 **contributor**, to a health fund, for schedule 1 (Ambulance levy)—see
- 18 clause 1.
- 19 **cooperative arrangement**—see section 174 (Cooperative
- 20 arrangements with Commonwealth, State or overseas agencies).
- 21 **declared state of alert** means a state of alert declared under
- 22 section 149 (Declaration of state of alert).
- 23 **declared state of emergency** means a state of emergency declared
- 24 under section 154 (Declaration of state of emergency).
- 25 **eligible person**, for chapter 9 (Administrative review of
- 26 decisions)—see section 181.

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

3 **Examples**

- 4 1 fire, flood, storm or earthquake
5 2 accident, explosion
6 3 epidemic or animal disease
7 4 shortage of electricity, gas or water

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

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

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

17 **emergency risk** includes the risk of an emergency arising from—

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

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

24 **emergency plan** means the emergency plan made under section 147.

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

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

- 1 **exempt contribution**, for schedule 1 (Ambulance levy)—see
2 clause 2.
- 3 **family rate**, for contributions, for schedule 1 (Ambulance levy)—
4 see clause 1.
- 5 **fire alarm** includes any signalling apparatus for giving notice of a
6 fire.
- 7 **fire appliance** includes—
- 8 (a) any vehicle, equipment, implement or thing used for the
9 prevention, extinguishing or containment of fire or smoke; and
- 10 (b) any fire alarm; and
- 11 (c) any apparatus for alerting the occupants of a building to a fire
12 or facilitating the evacuation of the building; and
- 13 (d) equipment used for the control or evacuation of smoke from a
14 building.
- 15 **firefighting services**, for part 4.5 (Other approved providers)—see
16 section 60.
- 17 **firework** means a firework within the meaning of the *Dangerous*
18 *Substances (Explosives) Regulations 2004*, dictionary other than a
19 general use firework within the meaning of those regulations,
20 regulation 259.
- 21 **hazard** means a thing (including an intrinsic property of a thing), or
22 a situation, with potential to—
- 23 (a) cause the death of or harm to a person; and
- 24 (b) damage property or the environment.
- 25 **hazardous material** means anything that may cause injury or death,
26 or damage to property or the environment, if it is produced, stored,
27 moved, used, or in any other way dealt with, without adequate
28 safeguards.

1 ***hazardous material incident***—

2 (a) means an incident involving a hazardous material causing, or
3 creating a substantial risk of—

4 (iii) death or serious harm to a person; or

5 (iv) substantial damage to property or the environment; and

6 (b) includes a dangerous occurrence within the meaning of the
7 *Dangerous Substances Act 2004*.

8 **Examples of incidents**

9 1 a spill or other loss of containment of a hazardous material

10 2 an uncontrolled emission of a hazardous material

11 3 a fire, explosion or release of energy

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

15 ***health benefits fund***, for schedule 1 (Ambulance levy)—see
16 clause 1.

17 ***health benefits organisation***, for schedule 1 (Ambulance levy)—see
18 clause 1.

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

21 ***inspector*** means a person appointed as an inspector under
22 section 99.

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

27 ***investigator*** means a person appointed as an investigator under
28 section 100.

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

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

5 **medical treatment** means—

6 (a) undertaking a medical examination and assessment; or

7 (b) giving medical advice; or

8 (c) giving first aid; or

9 (d) undertaking a medical procedure; or

10 (e) administering medication.

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

13 **member**, of an emergency service—

14 (a) means a member of the service; and

15 (b) includes the chief officer and deputy chief officer of the
16 service; and

17 (d) other than for section 22 (Authority staff), includes a volunteer
18 or a casual volunteer in relation to the service.

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

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

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

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

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

- 1 **premises** includes any land, structure or vehicle and any part of an
2 area of land, a structure or vehicle.
- 3 **reference month**, for schedule 1 (Ambulance levy)—see clause 3.
- 4 **rescue** includes the release or removal to a safe place of any person,
5 animal or property trapped or endangered because of fire, accident,
6 hazardous material incident, explosion, natural disaster or similar
7 event.
- 8 **rescue services**, for part 4.5 (Other approved providers)—see
9 section 60.
- 10 **response operation**, for part 4.5 (Other approved providers)—see
11 section 60.
- 12 **reviewable decision**, for chapter 9 (Administrative review of
13 decisions)—see section 181.
- 14 **rural area**—see section 65 (4).
- 15 **SES**—see section 56.
- 16 **single rate**, for contributions, for schedule 1 (Ambulance levy)—see
17 clause 1.
- 18 **specialist**, for part 7.4 (Commonwealth, interstate and overseas
19 cooperation)—see section 173.
- 20 **standards and protocols**, for an emergency service, means the
21 standards and protocols determined under section 38 for the service.
- 22 **strategic bushfire management plan** means the strategic bushfire
23 management plan under section 72.
- 24 **structure** includes industrial plant and equipment.
- 25 **support unit**, for part 7.4 (Commonwealth, interstate and overseas
26 cooperation)—see section 173.
- 27 **Territory controller** means the person appointed to be the Territory
28 controller for a declared state of emergency under section 155.

- 1 ***vehicle*** includes an aircraft, boat and train.
- 2 ***volunteer member*** means a person appointed as a volunteer member
- 3 of an emergency service under section 24.
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Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2004.

2 Notification

Notified under the Legislation Act on 2004.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
