

Australian Capital Territory

Emergencies (Suspension and Disciplinary Arrangements for Volunteers) Commissioner's Guidelines 2011

Notifiable Instrument NI 2011-324

made under the

Emergencies Act 2004, s 11 (Commissioner may make guidelines).

1. Name of Instrument

This instrument is the *Emergencies (Suspension and Disciplinary Arrangements for Volunteers) Commissioner's Guidelines 2011*.

2. Commencement

This instrument commences on the day after it is notified.

3. Commissioner's Guidelines

I make the *Commissioner's Guidelines relating to Suspension and Disciplinary Arrangements for Volunteer Members of the ACT Emergency Services Agency* at Schedule 1 to this instrument.

4. Revocation

NI 2006- 220 is revoked.

Mark Crossweller AFSM FAIM
Emergency Services Commissioner
24 June 2011

Schedule 1

ACT EMERGENCY SERVICES AGENCY

COMMISSIONER'S GUIDELINES

relating to

**SUSPENSION AND DISCIPLINARY
ARRANGEMENTS FOR VOLUNTEER
MEMBERS OF THE
ACT EMERGENCY SERVICES AGENCY**

June 2011

A.C.T. EMERGENCY SERVICES AGENCY

COMMISSIONER'S GUIDELINES

SUBJECT: DISCIPLINARY AND SUSPENSION ARRANGEMENTS FOR VOLUNTEER MEMBERS OF THE ACT EMERGENCY SERVICES AGENCY

1. PURPOSE

To:

- a. provide Commissioner's guidelines relating to disciplinary and suspension arrangements of volunteer members of the ACT Emergency Services Agency (ESA);
- b. articulate a framework which provides procedural fairness and natural justice for volunteer members; and
- c. provide sufficient authority for Chief Officers or the Commissioner to act in a timely manner in the best interests of their respective services.

These guidelines are made in accordance with the *Emergencies Act 2004*. They are based broadly on the practices that apply to the appointment of career employees.

2. BACKGROUND

- a. The ESA has the object of protecting life property and the environment in the ACT. The Agency achieves this in a number of ways including through the use of appropriately skilled and trained career and volunteer members.
- b. The *Emergencies Act 2004* provides the legal framework (Ss 59B, 59C and 59CA) for Chief Officers and the Commissioner to appoint and end the appointment of volunteer members in accordance with Commissioner's guidelines.

3. GUIDING PRINCIPLES

3.1 Suspension of Volunteers

- a. A volunteer may be suspended from the respective volunteer service either:
 - i. for a maximum period of six months by the Chief Officer or the Commissioner, or two weeks by a Unit Commander or Brigade Captain, for disciplinary reasons; or

- ii. for a period of twenty-one days while the Chief Officer or Commissioner (or a person authorised by the Chief Officer or Commissioner) forms the view whether or not to impose a penalty in accordance with these guidelines.
- b. The Chief Officer or Commissioner may extend the period of suspension for further periods to permit investigation of the actions of a volunteer.
- c. It is desirable that a volunteer is able to make their case for not being suspended, if this is being considered, and this should occur prior to a decision on suspension. This may not always be possible due to the nature of operations, but in any case where a decision is made to suspend a volunteer they must be advised promptly by the decision-maker of the reasons for that decision.
- d. The affected volunteer may request that a panel, consisting of the Commissioner and the Chief Officers of the emergency services review the decision of suspension.
- e. On receiving such a request the panel may refer any recommendations back to the respective service Chief Officer or the Commissioner. The Chief Officer or the Commissioner may decide to confirm or rescind the suspension. This decision will be advised to the volunteer in writing at the earliest opportunity. This decision is not subject to review.

3.2 Imposition of Penalties on Volunteers

- a. A volunteer, who is not on probation, may have a disciplinary penalty imposed by a Chief Officer or the Commissioner, if the Chief Officer forms the reasonable opinion, on the balance of probability and having considered the expected standards, that the volunteer has behaved in a manner that:
 - i. is guilty of misconduct; or
 - ii. has brought the Service or the ESA into disrepute; or
 - iii. displays behaviour that is contrary to the effective management and good order of the Service or the Agency; or
 - iv. it is in the interests of the respective Service or the Agency to do so.
- b. A decision to impose a disciplinary penalty on a volunteer is not to be taken without due consideration and the volunteer will be provided natural justice and procedural fairness. (*Note – Volunteers should be given details of the case against them and be provided the opportunity to respond prior to a decision being made*).

- c. The Chief Officer or the Commissioner will provide the volunteer, in writing, details of any penalty imposed on them and the reasons for reaching a decision to impose a penalty.
- d. The affected volunteer may request that a panel, consisting of the Commissioner and the Chief Officers of the emergency services review the decision. The request must be made within fourteen days of the volunteer receiving notice of the decision.
- e. On receiving such a request the Panel may review the decision to impose a penalty on the volunteer and refer any recommendations back to the respective Chief Officer or the Commissioner. The Chief Officer or the Commissioner may decide to confirm the penalty or make any other penalty applicable under these guidelines. This decision will be advised to the volunteer in writing at the earliest opportunity. This decision is not subject to review.

3.3 Penalties for Volunteers Under these Guidelines

- a. The range of penalties which may be imposed by a Chief Officer or the Commissioner under these guidelines are:
 - i. formal counselling or written admonition;
 - ii. suspension for a maximum period of six months as determined by the Chief Officer or the Commissioner; and/or
 - iii. demotion within the ranks applicable to the respective Service or the ESA;
or
 - iv. termination as a volunteer from the respective Service or the ESA.
- b. Chief Officers or the Commissioner need to ensure that the weight of punishment decided for a volunteer is proportional to any disciplinary offence that the volunteer has committed.

Dictionary:

Note 1 The *Emergencies Act 2004* and the *Legislation Act 2001* contain definitions and other provisions relevant to this Guideline.