



Australian Capital Territory

Emergencies Act 2004

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About this republication

The republished law

This is a republication of the *Emergencies Act 2004* (including any amendment made under the [Legislation Act 2001](#), part 11.3 (Editorial changes)) as in force on 21 June 2019. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 21 June 2019.

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

Kinds of republications

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

- authorised republications to which the [Legislation Act 2001](#) applies
- unauthorised republications.

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

Editorial changes

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

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

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

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see [Legislation Act 2001](#), s 133).



Australian Capital Territory

Emergencies Act 2004

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Australian Capital Territory

Emergencies Act 2004

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

Chapter 1 Preliminary

1 Name of Act

This Act is the *Emergencies Act 2004*.

3 Objects of Act

The objects of this Act are—

- (a) to protect and preserve life, property and the environment; and
- (b) to provide for effective emergency management that—
 - (i) has regard to the need to prepare for, prevent, respond to and recover from emergencies; and
 - (ii) takes an all-hazards approach to emergency management; and
- (c) to provide for the effective and cohesive management by the commissioner of the state emergency service, the ambulance service, the fire and rescue service and the rural fire service; and
- (d) to recognise the value to the community of all emergency service members, including volunteer members, and providers of operational and administrative support to the commissioner and the services.

4 Dictionary

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

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

For example, the signpost definition '*land management agreement*—see the [Planning and Development Act 2007](#), dictionary.' means that the term 'land management agreement' is defined in that dictionary and the definition applies to this Act.

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

5 Notes

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

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

6 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

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

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

Note 2 *Penalty units*

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

Chapter 2 Emergency services commissioner

7 Emergency services commissioner

- (1) The director-general may appoint a public servant to be the ACT Emergency Services Commissioner (the *commissioner*).

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

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

8 Commissioner's functions

- (1) The commissioner is responsible for—
- (a) the overall strategic direction and management of the emergency services; and
 - (b) operational and administrative support to the services.

Examples—operational and administrative support

- spatial services
- logistics and fleet management
- public information
- communication centre
- risk management and planning
- training

Note 1 A chief officer of an emergency service is responsible for the general management and control of the service (see s 28 (3) (a), s 29 (3) (a), s 30 (3) (a) and s 31 (3) (a)).

Note 2 For the effective coordination of the emergency, the commissioner may direct a chief officer to undertake response or recovery operations (see s 8A).

- (2) The commissioner is also responsible for—
- (a) community education and awareness about emergencies; and
 - (b) improving community preparedness for emergencies; and
 - (c) emergencies-related advice on planning and development matters.
- (3) The commissioner has the functions given to the commissioner under this Act and any other territory law.

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

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

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

Examples of people with special needs

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

- (g) emphasise community education and preparedness for emergencies; and
- (h) emphasise the importance of communicating information, advice and warnings to the community during an emergency; and
- (i) ensure that members of the emergency services and volunteers are properly equipped, trained and prepared; and
- (j) oversee and coordinate strategic and operational planning for emergencies.

Examples of strategic and operational planning for emergencies

- 1 strategic planning for recovery from a natural disaster
- 2 operational planning for response to a fuel shortage emergency

8A Directions by commissioner in relation to emergencies

- (1) This section applies to an emergency other than one for which an emergency controller is appointed.

Note Pt 7.3 provides for the management of an emergency for which an emergency controller is appointed or a state of emergency declared.

- (2) For the effective coordination of the emergency, the commissioner may direct a chief officer to undertake response or recovery operations.

- (3) In this section:

coordination of an emergency means the bringing together of the emergency services and other agencies and resources to support the response to the emergency.

9 Minister and emergency coordination

The Minister must, in consultation with the commissioner, ensure that—

- (a) an emergency coordination centre is established and maintained for the ACT; and
- (b) common planning, administrative and logistic support is provided for the emergency services (including common communications and emergency coordination centres).

Example

common risk management planning

10 Asking bushfire council's advice

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

11 Commissioner may make guidelines

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

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

Examples

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

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

- (5) The commissioner must consult the bushfire council before making a guideline on the standards and protocols required for the appointment of a volunteer member of the rural fire service to a senior rank of the service.
- (6) The commissioner's guidelines may apply, adopt or incorporate a law or instrument as in force from time to time.

Note The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument (see [Legislation Act](#), s 47 (5) and (6)).

(7) The chief officer of an emergency service may recommend amendments of the commissioner's guidelines to the commissioner.

(8) For this section:

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

senior rank, for the rural fire service, means a senior rank under the commissioner's guidelines for the service.

12 Delegation by commissioner

(1) The commissioner may delegate the commissioner's functions under this Act or another territory law to a public servant, a member of an emergency service or an emergency services support volunteer.

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

(2) However, the commissioner may delegate the commissioner's power under section 8A only to a chief officer.

Chapter 3 Chief officers

Part 3.1 Chief officers—appointments and responsibilities

28 Chief officer—ambulance service

- (1) The director-general may, after consulting the commissioner, appoint a public servant to be the chief officer of the ambulance service (the *chief officer (ambulance service)*).

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

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

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

Example

training and professional standards

29 Chief officer—fire and rescue service

- (1) The director-general may, after consulting the commissioner, appoint a public servant to be the chief officer of the fire and rescue service (the *chief officer (fire and rescue service)*).

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

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

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

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

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

Example

training and professional standards

- (c) operational planning for fire response in built-up areas, including fire preparedness and control; and
- (d) fire response in built-up areas.

30 Chief officer—rural fire service

- (1) The director-general may, after consulting the commissioner, appoint a public servant to be the chief officer of the rural fire service (the *chief officer (rural fire service)*).

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

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

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

Example

training and professional standards

- (c) operational planning for fire response in rural areas, including fire preparedness and control; and
- (d) fire response in rural areas.

31 Chief officer—SES

- (1) The director-general may, after consulting the commissioner, appoint a public servant to be the chief officer of the SES (the *chief officer (SES)*).

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

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

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

- (3) The chief officer (SES) is responsible for—
- (a) the general management and control of the SES; and
 - (b) matters relating to the professional and technical expertise of the SES.

Example

training and professional standards

32 Deputy chief officers

- (1) The director-general may, after consulting the commissioner, appoint a public servant to be the deputy chief officer of a service.
- (2) However, the director-general may appoint a person under subsection (1) only if the person has the management, professional and technical expertise to exercise the deputy chief officer's functions.
- (3) A deputy chief officer of a service acts in the position of chief officer of the service—
 - (a) during all vacancies in the position; and
 - (b) during all periods when the chief officer cannot for any reason exercise the functions of the position.

Note The [Legislation Act](#), div 19.3.2A deals with standing acting arrangements.

Part 3.2 Chief officers—functions and powers

33 Functions of chief officers

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

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

34 General powers of chief officers

- (1) The chief officer of an emergency service may, for the protection or preservation of life, property or the environment—
 - (a) with any necessary assistance and force, enter land; or
 - (b) close a street or road to traffic; or
 - (c) bring equipment onto land or into a structure or vehicle; or
 - (d) open a container, or dismantle equipment, using any necessary or reasonable force; or
 - (e) remove, dismantle, demolish or destroy a structure or vehicle; or
 - (f) contain an animal or substance; or
 - (g) remove or destroy an animal, a substance or vegetation; or
 - (h) turn off, disconnect or shut down a motor or equipment; or
 - (i) control, shut off or disconnect a supply of fuel, gas, electricity, water or anything else; or
 - (j) use a supply of water without charge; or

- (k) give directions to regulate or prohibit the movement of people, animals or vehicles; or
- (l) evacuate people or animals from an area to another place; or
- (m) close any premises; or

Examples—premises

- government or independent schools
- child care centres
- business premises
- health care facilities
- residential homes

- (n) require a person to give information, answer questions, or produce documents or anything else, reasonably needed; or

Note The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (o) require a person to give reasonable assistance to a member of an emergency service.

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

- (3) In this section:

equipment includes a vehicle.

land includes any structure or vehicle on the land.

35 Directions by chief officer to service members

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

scope of practice, for an ambulance service member, means the manner in which an ambulance service member may practise as a member, including, for example, the aspects of practice that an ambulance service member may undertake.

36 Chief officers to advise commissioner

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

37 Taking part in joint operations

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

38 Standards and protocols for the services

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

Example

The chief officer (fire and rescue service) may determine standards about members' duties that are not inconsistent with the guidelines.

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

39 Delegations by chief officers

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

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

Chapter 4 The emergency services

Part 4.1 The ambulance service

40 Establishment of ambulance service

The ACT Ambulance Service is established.

41 Functions of ambulance service

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

Example

assisting police officers or fire and rescue service members in dealing with any incident or emergency

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

42 Constitution of ambulance service

The ambulance service consists of—

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

Part 4.2 Fire and rescue service

Division 4.2.1 Fire and rescue service

43 Establishment of fire and rescue service

The ACT Fire and Rescue Service is established.

44 Functions of fire and rescue service

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

Example—par (d)

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

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

45 Constitution of fire and rescue service

The fire and rescue service consists of—

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

46 Ranks for fire and rescue service members

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

Division 4.2.2 Community fire units

47 Establishment of community fire units

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

48 Appointment of members of units

- (1) The chief officer (fire and rescue service) may appoint a person as a member of a community fire unit.
- (2) The chief officer may end the appointment at any time in accordance with the commissioner's guidelines.

49 Objects and functions of community fire units

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

50 Training and equipment for community fire units

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

Part 4.3 The rural fire service

51 Establishment of rural fire service

The ACT Rural Fire Service is established.

52 Functions of rural fire service

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

Example
assisting members of the fire and rescue service at a fire that is in a building in a rural area
 - (b) any other function prescribed by regulation.
- (4) The rural fire service may also—
 - (a) respond to a fire in built-up areas; and
 - (b) provide first response to any other incident to which another emergency service may respond under this Act, if the emergency service is unavailable.

53 Constitution of rural fire service

The rural fire service consists of—

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

54 Rural fire brigades

- (1) The chief officer (rural fire service) may establish rural fire brigades for the rural fire service.
- (2) The chief officer (rural fire service) must, after consulting with the bushfire council, determine the number of rural fire brigades for the rural fire service.
- (3) The chief officer (rural fire service) may also determine names for the brigades.
- (4) A determination under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

55 Ranks for rural fire service members

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

Part 4.4 The state emergency service (SES)

56 Establishment of SES

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

57 Functions of SES

- (1) The main function of the SES is to undertake planning and response operations for storms and floods.
- (2) The SES has the following additional functions:

- (a) to undertake civil defence planning and civil defence operations;
- (b) to undertake assistance operations to support other entities in the exercise of their functions under this Act;

Example

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

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

Example

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

- (d) to provide support for community organisations to the extent that the chief officer (SES) considers would assist the training of members of the service;
- (e) to undertake any other operation that the chief officer (SES) considers would benefit the community;
- (f) to undertake an operation prescribed by regulation.

58 Constitution of SES

The SES consists of—

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

59 SES operational units

- (1) The chief officer (SES) may establish operational units for the SES.
- (2) The chief officer (SES) must determine the number of operational units for the SES.
- (3) The chief officer (SES) may also determine names for the operational units.
- (4) A determination under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

59A Ranks for SES members

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

Part 4.5 Volunteers

59B Appointment of volunteer members

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

59C Volunteer appointments in accordance with guidelines

- (1) The appointment of a person as a volunteer member of a service must be in accordance with the commissioner's guidelines for the service.
- (2) Without limiting subsection (1), the appointment of a volunteer may be made to—
 - (a) an operational unit in the service; and
 - (b) a rank in the service.
- (3) In this section:
operational unit includes a brigade.

59CA Appointment of emergency services support volunteers

- (1) The commissioner may appoint a person as a volunteer (an *emergency services support volunteer*)—
 - (a) to assist the commissioner to perform the commissioner's functions under this Act; or

- (b) to assist an emergency service to perform the functions given to the service under this Act.

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

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

- (2) However, the commissioner may not appoint a person under subsection (1) if it would be more appropriate for the chief officer of the service to appoint the person as a volunteer member of the service.
- (3) The appointment of a person to assist an emergency service must be in accordance with the commissioner's guidelines for the service.

59D Casual volunteers

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

Example

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

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

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

Note The [Legislation Act](#), pt 19.3 deals with appointments generally.

- (5) In this section:

specialist—see section 175.

support unit—see section 175.

Part 4.6 Other approved providers

60 Definitions—pt 4.6

In this part:

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

emergency services means—

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

firefighting services means—

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

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

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

61 Approval of person to provide services

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

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

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

62 Decision about approval

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

Examples

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

- (5) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

63 Offence to provide emergency services without approval

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

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

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

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

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

Examples

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

Part 4.7 Services from outside ACT

64 Interstate and overseas emergency services

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

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

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

Examples

- 1 An interstate fire brigade is at a fire in a built-up area and no-one else present is, under this Act, in charge of the firefighting operations. The member of the interstate fire brigade in charge of the brigade will have the functions of the chief officer (fire and rescue service) in relation to the fire.
- 2 An overseas fire brigade is at a fire in a rural area and members of the rural fire service are also at the fire. The overseas fire brigade must follow the directions of the person in charge of the rural fire service members and allow the rural fire service to use the brigade's equipment.

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

(5) In this section:

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

Chapter 5 Fire management

Part 5.1 Interpretation for ch 5

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

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

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

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

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

Part 5.2 Fire response and control

67 Fires in built-up area

- (1) This section applies in relation to a fire in a built-up area.
- (2) For the purpose of extinguishing or preventing the spread of the fire, or responding to the consequences of the fire, the chief officer (fire and rescue service) may—
 - (a) control and direct members of an emergency service; and
 - (b) direct a person to leave any land or premises on fire, near the fire, or affected by the consequences of the fire; and
 - (c) remove to any place the chief officer considers appropriate anything that the chief officer considers is interfering with, or may interfere with, the fire control operation; and
 - (d) do anything else the chief officer considers appropriate.

Examples—par (d)

- 1 severing or pulling down a fence
- 2 burning grass or other vegetation

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

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

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

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

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

68 Fires in rural areas

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

- (c) remove to any place the chief officer considers appropriate anything that the chief officer considers is interfering with, or may interfere with, the fire control operation; and
- (d) do anything else the chief officer considers appropriate.

Examples—par (d)

- 1 severing or pulling down a fence
- 2 burning grass or other vegetation

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

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

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

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

69 Securing area at or after fire

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

Examples

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

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

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

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

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

Part 5.3 Bushfire prevention

70 Definitions for pt 5.3

In this part:

agency means—

- (a) an administrative unit; or
- (b) a territory-owned corporation; or
- (c) an entity prescribed by regulation for this definition.

71 Commissioner may declare bushfire abatement zone

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

72 Strategic bushfire management plan

- (1) The commissioner must prepare, and give the Minister, a draft strategic bushfire management plan for the ACT.
- (2) In preparing the draft plan, the commissioner must—
 - (a) consult with the bushfire council; and
 - (b) consult with the conservator; and

- (c) consider the impact of the plan on any—
 - (i) land management agreement; or
 - (ii) land manager; or
 - (iii) public land management plan under the *Planning and Development Act 2007*, section 318 (What is a *public land management plan* for an area of public land?).
- (3) The commissioner must—
 - (a) prepare a written report setting out the commissioner’s response to any matters raised by the conservator, in writing, during consultation on the draft plan; and
 - (b) give the report to the Minister with the draft plan.
- (4) After considering the draft plan, the Minister must make a strategic bushfire management plan for the ACT (the *strategic bushfire management plan*).
- (5) The plan is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).
- (6) If the Minister received a report under subsection (3) (b) in relation to the plan, the report must be presented to the Legislative Assembly with the plan.
- (7) The commissioner must, in consultation with the bushfire council, monitor the scope and effectiveness of the plan.
- (8) The commissioner, in consultation with the bushfire council, may recommend amendments of the plan to the Minister.

73 Bushfire management plan committee

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

74 Content of strategic bushfire management plan

- (1) A strategic bushfire management plan must provide a basis for—
 - (a) bushfire hazard assessment and risk analysis; and
 - (b) bushfire prevention, including hazard reduction; and
 - (c) agency and community preparation and response in relation to bushfires.
- (2) The plan must include the following:
 - (a) a statement of strategic objectives for the plan;
 - (b) a description of the bushfire environment;

Examples

- 1 weather
- 2 topography
- 3 fuels

- (c) a summary of known bushfire causes;
- (d) a risk assessment of factors contributing to bushfires and the spread of bushfires;

- (e) a list of public assets (including cultural and ecological assets) vulnerable to bushfire;
- (f) a statement about how information is kept about privately-owned assets of public interest vulnerable to bushfire;
- (g) strategies for prevention of, and preparedness for, bushfires;
- (h) strategies for access for response and fire management activities;
- (i) a statement of strategies for research and monitoring of bushfire risk;
- (j) a statement of strategies for recovery after a bushfire;
- (k) a statement of resources needed to meet the objectives of the plan;
- (l) anything else prescribed by regulation.

(3) The plan may also set out—

- (a) requirements for owners or managers of land for the prevention of, and preparedness for, bushfires; and

Example

location and maintenance of fire trails

- (b) requirements for a bushfire operational plan.

Examples

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

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

Examples

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

75 Public consultation for strategic bushfire management plan

- (1) Before making the strategic bushfire management plan, the Minister must prepare a notice (a *consultation notice*)—
- (a) stating that copies of a draft of the plan are available for inspection during a stated period of at least 15 business days at stated places; and
 - (b) inviting interested people to give written comments about the draft plan to the commissioner at a stated address during a stated period ending at least 15 business days after the end of the period mentioned in paragraph (a).

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

- (3) The Minister must give additional public notice of the consultation notice.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (3) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

76 Assessment of resources and capabilities

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

77 Compliance with strategic bushfire management plan

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

77A Inconsistency between strategic bushfire management plan and public land management plan

- (1) This section applies if the strategic bushfire management plan is inconsistent with a public land management plan in force for an area of unleased territory land or land occupied by the Territory.
- (2) The public land management plan has no effect to the extent of the inconsistency.

- (3) In this section:

public land management plan—see the [Planning and Development Act 2007](#), section 318 (What is a *public land management plan* for an area of public land?).

77B Commissioner may make bushfire management standards

- (1) The commissioner may make standards relating to requirements under the strategic bushfire management plan (the *bushfire management standards*).
- (2) In preparing the bushfire management standards the commissioner must consult with the conservator.
- (3) The bushfire management standards may apply, adopt or incorporate a law or instrument as in force from time to time.

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

- (4) The bushfire management standards are a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

- (5) The [Legislation Act](#), section 47 (6) does not apply in relation to an Australian Standard, or an Australian/New Zealand Standard, applied, adopted or incorporated as in force from time to time under the bushfire management standards.

78 Bushfire operational plans

- (1) This section applies to a person who is—
 - (a) the manager of an area of unleased territory land or land occupied by the Territory, unless the land is exempt from the operation of this section under the strategic bushfire management plan; or

- (b) the owner of an area of land in a bushfire abatement zone if—
 - (i) the strategic bushfire management plan sets out requirements for a bushfire operational plan for the bushfire abatement zone; and
 - (ii) the land is identified in the strategic bushfire management plan as land for which a bushfire operational plan must be prepared.
- (2) The person must give the commissioner a draft bushfire operational plan for the area in accordance with the strategic bushfire management plan.
- (3) The commissioner may—
 - (a) approve the draft bushfire operational plan for the area; or
 - (b) approve the draft plan for the area with stated amendments; or
 - (c) decide not to approve the draft plan.
- (4) The commissioner is taken to have approved a draft bushfire operational plan without amendments if the commissioner does not make a decision about the approval within 40 working days after the day the plan is given to the commissioner.
- (5) The person must review the bushfire operational plan and give the commissioner a draft updated bushfire operational plan at intervals of not longer than—
 - (a) for a person mentioned in subsection (1) (a)—2 years; or
 - (b) for a person mentioned in subsection (1) (b)—5 years.

80 Review of strategic bushfire management plan

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

81 Directions by Minister to manager of land

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

82 Directions by commissioner to owner of land

- (1) The commissioner may, in writing, direct an owner of land in an area to comply with—
 - (a) a bushfire management requirement for the area; or
 - (b) a bushfire operational plan for the area; or
 - (c) a bushfire management standard for the area.
- (2) Unless the commissioner is satisfied that there are urgent circumstances, the commissioner must consult with the conservator before giving the direction.
- (3) The commissioner may, in consultation with the conservator, make guidelines for giving directions under this section in urgent circumstances.

83 Failure to comply with direction

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

Maximum penalty: 50 penalty units

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

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

84 Fire fuel reduction

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

Part 5.4 Fire prevention—premises

Division 5.4.1 Notices and directions for premises

85 Meaning of *relevant chief officer*—div 5.4.1

In this division:

relevant chief officer means—

- (a) in relation to premises in a built-up area—the chief officer (fire and rescue service); and
- (b) in relation to premises in a rural area—the chief officer (fire and rescue service) or the chief officer (rural fire service).

86 Notices for premises

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

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

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

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

- (2) The relevant chief officer may issue, for the premises—
 - (a) an improvement notice; or
 - (b) an occupancy notice; or
 - (c) a closure notice.
- (3) The relevant chief officer must give a copy of the notice to—
 - (a) the person the chief officer believes, on reasonable grounds, to be the occupier of the premises; and
 - (b) if that person is not the owner of the premises—the person the chief officer believes, on reasonable grounds, to be the owner of the premises.

87 Improvement notices

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

88 Occupancy notices

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

89 Closure notices

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

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

90 Display of improvement notices etc

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

91 Ending of notices for premises

- (1) This section applies if an improvement notice, occupancy notice or closure notice has been given to the occupier of premises.
- (2) The notice ends when the notice is revoked under this section.
- (3) The occupier may ask the relevant chief officer who gave the notice, in writing, for a reinspection of the situation or circumstances that caused the notice to be given if the occupier considers there are no grounds for the notice to continue.
- (4) If the relevant chief officer is satisfied that there are no grounds for the notice to continue, the chief officer must revoke the notice by written notice given to the occupier.

- (5) Also, the notice is taken to be revoked on the 3rd business day after the day the request for reinspection is received by the relevant chief officer if—
- (a) the reinspection is not made within 2 business days after the day the request is received; and
 - (b) the person who made the request is not responsible, completely or partly, for the delay in making the reinspection.

Note For the meaning of *business day*, see the [Legislation Act](#), dict, pt 1.

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

92 Direction to provide fire appliance at premises

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

Division 5.4.2 Offences relating to premises

93 Failure to display improvement notice etc

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

Maximum penalty: 10 penalty units.

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

94 Failure to comply with improvement notice etc

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

Maximum penalty: 50 penalty units.

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

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

95 Offences about fire appliances

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

Maximum penalty: 50 penalty units.

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

- (a) a fire appliance is provided or installed at the premises under a direction under section 92; and
- (b) the occupier does not maintain the fire appliance in accordance with a proper maintenance standard.

Maximum penalty: 50 penalty units.

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

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

Maximum penalty: 50 penalty units.

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

- (a) a fire appliance at the premises has been removed, destroyed or damaged or is defective; and

(b) the occupier knows or is reckless about whether the fire appliance has been removed, destroyed or damaged or is defective; and

(c) the occupier fails to repair or replace the fire appliance.

Maximum penalty: 50 penalty units.

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

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

(7) In this section:

proper maintenance standard means—

(a) AS 1851 (Routine service of fire protection systems and equipment) as in force from time to time; or

(b) AS/NZS 2293.2 (Emergency evacuation lighting for buildings Inspection and maintenance) as in force from time to time; or

(c) a standard approved for the fire appliance as part of a building approval issued for the premises under the *Building Act 2004*, section 28; or

(d) a standard of maintenance prescribed by regulation.

(8) The *Legislation Act*, section 47 (6) does not apply in relation to an Australian Standard, or an Australian/New Zealand Standard, applied, adopted or incorporated as in force from time to time under this section.

Note The standards do not need to be notified under the *Legislation Act* because s 47 (6) does not apply (see *Legislation Act*, s 47 (7)). The standards may be purchased at www.standards.org.au.

96 Obstruction of passageway, door etc

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

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

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

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

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

Maximum penalty: 50 penalty units.

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

97 Offence to store etc flammable material to cause danger

A person commits an offence if—

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

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

Part 5.5 Inspectors and investigators

Division 5.5.1 Definitions for pt 5.5

98 Definitions for pt 5.5

In this part:

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

person in charge, of land or premises, includes—

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

Division 5.5.2 Appointment and general powers

99 Appointment of inspectors

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

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

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

100 Appointment of investigators

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

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

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

101 General powers of inspectors and investigators

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

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

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

Note 1 The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

Note 2 **Premises** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

102 Contravention of requirement by inspector or investigator

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

Maximum penalty: 50 penalty units.

Division 5.5.3 Inspectors

103 Inspector may enter land

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

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

104 Inspector may enter premises

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

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

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

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

105 Enforcement of improvement, occupancy and closure notices

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

106 Direction to remove flammable material from premises

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

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

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

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

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

107 Contravention of direction to remove flammable material from premises

- (1) This section applies if an inspector believes, on reasonable grounds, that a person has contravened a direction under section 106.
- (2) The inspector may—
 - (a) enter the premises using the force and assistance that is necessary and reasonable; and
 - (b) arrange for the action to be taken that is necessary to remove the danger.
- (3) At least 24 hours before the inspector enters the premises, the inspector must give written notice to the owner and occupier of the premises stating the time and purpose of entry.
- (4) An amount of expenses incurred in taking action under subsection (2) (b) may be recovered by the Territory as a debt owing to the Territory by the owner of the premises.

108 Emergency direction to remove flammable material from premises

- (1) This section applies if an inspector believes, on reasonable grounds, that—
 - (a) a fire emergency applies to particular premises; and
 - (b) flammable material kept at the premises is an immediate and serious danger to life or property if there is a fire; and
 - (c) having regard to the danger, it is not appropriate to give a direction under section 106 (Direction to remove flammable material from premises) to eliminate the danger.

- (2) The inspector may—
 - (a) enter the premises using the force and assistance that is necessary and reasonable; and
 - (b) either—
 - (i) direct the occupier to take stated action; or
 - (ii) arrange for the action to be taken.
- (3) A direction may be given orally or in writing.
- (4) A direction must state—
 - (a) the action the inspector believes, on reasonable grounds, is necessary and reasonable for the occupier to take in the emergency to remove the danger; and
 - (b) the period within which the action must be taken.
- (5) An amount of expenses incurred in taking action under subsection (2)(b)(ii) may be recovered by the Territory as a debt owing to the Territory by the owner of the premises.
- (6) In this section:
fire emergency means—
 - (a) a total fire ban; or
 - (b) a situation in which there is an immediate and serious danger to life or property from the outbreak or spread of fire.

109 Directions to comply with fire prevention obligations etc

- (1) This section applies if an inspector believes, on reasonable grounds, that a person is in breach of—
 - (a) section 120 (Fire prevention—obligations of rural land owners or managers); or

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

110 Contravention of direction

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

Maximum penalty: 50 penalty units.

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

Division 5.5.4 Investigators

111 Investigator may enter land or premises

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

112 Investigation of fires

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

- (2) The investigator may also do anything the investigator considers necessary to make the premises or land, or nearby areas, safe.

Example

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

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

113 Investigator's power to require name and address

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

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

Maximum penalty: 50 penalty units.

- (4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the investigator does not produce his or her identity card for inspection by the person.
- (5) Subsection (4) does not apply in relation to an investigator who is a member of an emergency service, or a police officer, in uniform.
- (6) An offence against this section is a strict liability offence.

Part 5.6 Total fire bans, controlled activities and related offences

Division 5.6.1 Total fire bans

114 Declaration of total fire ban

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

115 Publication of total fire ban

- (1) As soon as possible after declaring a total fire ban, the commissioner must ensure that notice of the total fire ban is—
 - (a) broadcast in the ACT by television or radio; and
 - (b) given in a public notice.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

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

116 Offence—lighting etc fire during total fire ban

- (1) A person commits an offence if—
- (a) the person lights, maintains or uses a fire, or uses fireworks, in the open air in an area; and
 - (b) a total fire ban is in force for the area.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (2) Strict liability applies to paragraph (1) (b).
- (3) Subsection (1) does not apply to—
- (a) a fire lit, maintained or used for fire prevention by anyone acting under this Act; or
 - (b) the maintenance of a fire declared by the commissioner under section 117 to be an exempt fire; or
 - (c) the lighting, maintenance or use of a fire, or the use of fireworks, in accordance with a permit issued under section 118; or
 - (d) a fire prescribed by regulation that is lit, maintained or used in accordance with a regulation.

116A Offence—high risk activity during total fire ban

- (1) A person commits an offence if—
- (a) the person undertakes a high risk activity in the open air in an area; and
 - (b) a total fire ban is in force for the area.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Strict liability applies to subsection (1) (b).
- (3) Subsection (1) does not apply to—
 - (a) a high risk activity undertaken for fire prevention by anyone acting under this Act; or
 - (b) a high risk activity undertaken in accordance with a permit issued under section 118; or
 - (c) a high risk activity prescribed by regulation as an exempt high risk activity and undertaken in accordance with a regulation.
- (4) In this section:
high risk activity means the following:
 - (a) welding;
 - (b) grinding;
 - (c) soldering;
 - (d) gas cutting;
 - (e) any other activity prescribed by regulation as a high risk activity.

117 Declaration of exempt fires

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

118 Fire permits

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

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

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

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

high risk activity—see section 116A (4).

Division 5.6.2 Controlled activities and offences relating to fire

119 Bushfire season

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

120 Fire prevention—obligations of rural land owners or managers

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

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

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

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

Example

immediately telephoning 000 emergency about the outbreak

- (b) if the outbreak is on the land owned or occupied by the person and it is not beyond the person's capacity to extinguish the fire—take all reasonable steps to extinguish it.
- (2) A person commits an offence if the person fails to comply with subsection (1).

Maximum penalty:

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

122 Using fires and appliances for cooking etc in open air

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

- (d) an adequate means of putting out the fire is available for use.

Examples

- a fire extinguisher
 - a fire blanket
 - a continuous stream of water
- (5) A person may light, maintain or use a fire in the open air on residential land for heating or to cook food or heat liquids if—
- (a) the area around the place where the fire is to be lit, maintained or used is cleared of flammable material for at least 3m in every direction; and
 - (b) the fire is under the control of a responsible adult; and
 - (c) an adequate means of putting out the fire is available for use.
- (6) In this section:

residential land means land leased for a residential purpose.

123 Lighting fires for burning off

- (1) This section does not apply if a total fire ban is in force.
- (2) The owner of land may burn any material (including wood, straw, stubble, grass and herbage) on the land on any day outside the bushfire season if—
- (a) the land around the material to be burnt is clear of flammable material for at least 5m in every direction; and
 - (b) at least 24 hours before burning the material, the owner has given notice of the intended burning to every occupier of land adjacent to the land where the material is to be burnt.
- (3) The owner of land may burn any material (including wood, straw, stubble, grass and herbage) on the land on any day in the bushfire season if the owner does so in accordance with a written permit given by the commissioner under section 124.

- (4) The owner of land may also burn material on any day (whether in or outside the bushfire season) in accordance with the commissioner's oral approval.
- (5) The commissioner may give an approval for subsection (4) if the commissioner considers it is reasonable because of the nature or small amount of the material to be burned.
- (6) This section does not affect—
 - (a) the duties of a person under the *Environment Protection Act 1997*, section 22 (General environmental duty); or
 - (b) any obligation to hold an authorisation under that Act, section 42 (Conducting prescribed classes of activities); or
 - (c) any other obligation under that Act.

124 Permits for div 5.6.2

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

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

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

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

125 Offence—lighting unauthorised fire

- (1) A person commits an offence if—
 - (a) the person—
 - (i) intentionally lights, maintains or uses a fire in the open air, or burns flammable material, on any land; or

- (ii) engages in conduct reckless about whether the conduct would cause a fire to be lit or maintained in the open air, or flammable material to be burnt, on any land; and
- (b) the lighting or burning is not permitted under this Act or done for fire prevention by anyone acting under this Act.

Maximum penalty:

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

- (2) In this section:

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

126 Offence—leaving fire without extinguishing it

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

Maximum penalty:

- (a) if the offence is committed in the bushfire season—100 penalty units; and
- (b) in any other case—50 penalty units.
- (2) Subsection (1) does not apply if the person leaves the fire under the control of a responsible adult.

- (3) Subsection (1) does not apply to a fire lit, maintained or used for fire prevention by anyone acting under this Act.

Example

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

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

Chapter 6 The bushfire council

127 Establishment of bushfire council

The ACT Bushfire Council is established.

128 Constitution of bushfire council

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

Note The [Legislation Act](#), div 19.3.2 deals with acting appointments and div 19.3.2A with standing acting arrangements.

129 Bushfire council members

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

Note 1 For the making of appointments generally, see the [Legislation Act](#), pt 19.3.

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

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

- (2) The following must be appointed under subsection (1):
 - (a) a person to represent the interests of rural lessees;
 - (b) a person with relevant skills or experience to represent the community's interest in the environment;
 - (c) a person to represent the community's interests generally.
- (3) The Minister must try to ensure that the following are among the other members appointed:
 - (a) a person with skills or experience in fire sciences;
 - (b) a person with experience in land management;
 - (c) a person to with experience in fighting fires in built-up areas;
 - (d) a person to with experience in fighting fires in rural areas;
 - (e) a person with experience in indigenous land management.
- (4) The following must not be appointed under subsection (1):
 - (a) the commissioner;
 - (b) the chief officer of an emergency service.
- (5) An appointment must be for a term of not longer than 4 years.
- (6) A person must not be appointed for more than 2 consecutive terms.
- (7) Subsection (6) does not apply to a person who is a member of the council immediately before the subsection commences.
- (8) Subsection (7) and this subsection expire 8 years after the day this subsection commences.

130 Functions of bushfire council

- (1) The bushfire council has the function of advising the Minister about matters relating to bushfires.
- (2) If the commissioner asks for the bushfire council's advice before exercising a function relating to bushfires, the council also has the function of advising the commissioner about the exercise of the function.

Note The commissioner must ask for the bushfire council's advice before exercising certain functions (see s 10).

- (3) The council may publish advice given under subsection (1) or (2) if the council first consults the commissioner about publishing the advice.
- (4) The bushfire council may exercise any other function given to it under this Act or another territory law.

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

131 Director-general to give support to bushfire council

The director-general must provide administrative support and facilities for the bushfire council.

132 Ending of bushfire council members' appointments

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

- (a) for misbehaviour; or
- (b) for physical or mental incapacity, if the incapacity affects the exercise of the member's functions; or

- (c) if the member—
 - (i) becomes bankrupt or personally insolvent; or
 - (ii) is absent, other than on leave approved by the Minister, from 3 consecutive meetings of the bushfire council; or
 - (iii) contravenes section 139 (Disclosure of interests by bushfire council members) without reasonable excuse; or
 - (iv) commits, in Australia or elsewhere, an offence punishable by imprisonment for at least 1 year; or
- (d) if the Minister is satisfied that the member's ability to function as a member is affected by an interest disclosed under section 139.

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

133 Calling bushfire council meetings

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

134 Bushfire council meetings

- (1) The bushfire council chairperson presides at meetings of the council.
- (2) The bushfire council may decide its own procedure in relation to anything for which a procedure is not provided under this Act.

- (3) A meeting may be held by means of a method of communication, or a combination of methods of communication, that allows the bushfire council members taking part to hear what each other member says without being in each other's presence.

Examples

a phone link, a satellite link, an internet or intranet link

- (4) A bushfire council member who takes part in a meeting conducted under subsection (3) is taken, for all purposes, to be present at the meeting.

135 Minimum number for bushfire council meetings

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

136 Voting at bushfire council meetings

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

137 Bushfire council resolutions

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

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

138 Minutes of bushfire council proceedings

- (1) The bushfire council must keep minutes of its proceedings.
- (2) At a bushfire council meeting the chairperson must ensure that the council considers the minutes of its last meeting.

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

Example

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

139 Disclosure of interests by bushfire council members

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

140 Reporting of disclosed interests to Minister

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

Chapter 7 Emergency management

Part 7.1 Security and Emergency Management Senior Officials Group

141 Security and Emergency Management Senior Officials Group

The Security and Emergency Management Senior Officials Group (*SEMSOG*) is established.

142 Constitution of SEMSOG

- (1) The SEMSOG consists of—
- (a) the director-general of each administrative unit; and
 - (b) the under treasurer; and
 - (c) the commissioner; and
 - (d) the chief officer (ambulance service); and
 - (e) the chief officer (fire and rescue service); and
 - (f) the chief officer (rural fire service); and
 - (g) the chief officer (SES); and
 - (h) the chief police officer; and
 - (i) the chief health officer; and
 - (j) the other members appointed under subsection (2).

- (2) The Minister may appoint other members of the SEMSOG.

Note 1 For the making of appointments generally, see the [Legislation Act](#), pt 19.3.

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

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

- (3) The director-general is the chair of the SEMSOG.

- (4) In this section:

under treasurer—see the [Financial Management Act 1996](#), dictionary.

143 Functions of SEMSOG

- (1) The main function of the SEMSOG is to provide for liaison between entities in relation to security and emergency management.
- (2) In exercising the function, the SEMSOG must seek to—
- (a) enhance security and emergency management capabilities; and
 - (b) reduce community vulnerability to the effects of emergencies; and
 - (c) improve security and emergency management awareness and training.
- (3) The SEMSOG has the following additional functions:
- (a) to advise the Minister and the Chief Minister about security and emergency management;
 - (b) to support the commissioner in security and emergency management, including the preparation of the emergency plan or any part of the plan;

- (c) to support the Minister in the preparation of an emergency sub-plan;
- (d) any other function prescribed by regulation.

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

Part 7.2 Emergency plan

147 Emergency plan

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

148 Emergency sub-plans

- (1) The Minister may make a plan for a hazard specific emergency for the ACT (an *emergency sub-plan*).

Examples—hazard specific emergency

- terrorist attack
 - flood emergency
 - storm emergency
 - bushfire emergency
 - urban fire emergency
 - chemical or hazardous material incident
 - disease or epidemic emergency
- (2) An emergency sub-plan may provide a basis for coordination of—
- (a) emergency service agencies; and
 - (b) Territory, Commonwealth and State agencies; and
 - (c) other entities.
- (3) An emergency sub-plan must not be inconsistent with the emergency plan.

149 Community communication and information plan

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

Examples

- 1 incident reports
- 2 situation reports

(b) provisions to ensure—

- (i) that arrangements are made with a number of media organisations to establish adequate and reliable communications; and
- (ii) that the media has appropriate training.

Example

involving the media in regular emergency exercises

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

Part 7.3 Management of emergencies

Division 7.3.1 Application—pt 7.3

150 Application—pt 7.3

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

Division 7.3.1A Emergency controller—no declared state of emergency

150A Appointment of emergency controller—no declared state of emergency

- (1) This section applies if the Chief Minister is satisfied that—
 - (a) an emergency has happened, is happening or is likely to happen; but
 - (b) it is not necessary to declare a state of emergency.

- (2) The Chief Minister may appoint a person to be the emergency controller for the emergency.

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

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

Note 3 If the Chief Minister is absent from duty or otherwise unable to exercise the powers of Chief Minister, the Deputy Chief Minister acts as Chief Minister (see [Australian Capital Territory \(Self-Government\) Act 1988](#) (Cwlth), s 44).

- (3) The [Legislation Act](#), division 19.3.3 (Appointments—Assembly consultation) does not apply to an appointment under this section.
- (4) The Chief Minister must review the appointment of the emergency controller not later than 48 hours after the appointment was made.
- (5) The appointment of a person for an emergency under this section ends on the earliest of the following occurring:
- (a) the appointment is revoked;
 - (b) the person is taken to be the emergency controller for a declared state of emergency under section 159 (2);
 - (c) another person is appointed to be the emergency controller for a declared state of emergency under section 159 (3);
 - (d) 7 days have elapsed since the day the appointment was made.
- (6) The Chief Minister may be satisfied that an emergency is likely to happen if the Chief Minister is satisfied that an event that has happened or is happening, or a circumstance that exists, gives rise to the likelihood of an emergency.

150B Functions of emergency controller—no declared state of emergency

- (1) An emergency controller appointed under section 150A for an emergency has the following functions in relation to the emergency:
 - (a) to manage the response to, and the recovery from, the emergency by ensuring that entities dealing with the emergency are appropriately deployed;
 - (b) to coordinate the disposition of other resources to manage the emergency;
 - (c) to advise the Minister and the Chief Minister about the emergency;
 - (d) to advise the community on anything relating to the emergency that the emergency controller considers appropriate;
 - (e) any other function given to the emergency controller under this Act or another territory law.
 - (2) However, the Chief Minister may direct, in writing—
 - (a) that the emergency controller is not to have a function (or part of a function) mentioned in subsection (1); or
 - (b) that the emergency controller has another stated function.
- Note* A direction may be included in the instrument of appointment (see [Legislation Act](#), s 49).
- (3) As far as practicable, the emergency controller must exercise the emergency controller's functions in accordance with the emergency plan and any relevant emergency sub-plan.

150C Emergency powers—no declared state of emergency

- (1) This section applies if an emergency controller is appointed under section 150A for an emergency.
- (2) For the management of the emergency, the emergency controller may—
 - (a) direct the movement of people, animals or vehicles within, into or around the area to which the emergency applies (the *emergency area*); and
 - (b) give directions regulating or prohibiting the movement of people, animals or vehicles within, into or around the emergency area; and
 - (c) direct, in writing, the owner of property in or near the emergency area to place the property under the control, or at the disposal, of an emergency controller; and
 - (d) direct a person to give information, answer questions, or produce documents or anything else, reasonably needed; and

Note The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (e) take possession of any premises, animal substance or thing in or near the emergency area; and
- (f) excavate land, form tunnels or construct earthworks, barriers or temporary structures in or near the emergency area; and
- (g) control, use, close off or block a drainage facility in or near the emergency area; and

- (h) in relation to essential services—
- (i) maintain, restore or prevent disruption of the services; and
 - (ii) control and coordinate the distribution of services; and

Examples—essential services

- water
- electricity
- gas
- fuel
- food
- health
- waste disposal
- sanitation
- freight
- public transport
- correctional facilities

- (i) do anything else that the chief officer of an emergency service may do under section 34 (General powers of chief officers).

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

- (3) Subsection (2) operates despite any other territory law.
- (4) However, the Chief Minister may direct, in writing—
- (a) that the emergency controller is not to have a power (or part of a power) mentioned in subsection (2); or
 - (b) that the emergency controller has another stated power.
- Note* A direction may be included in the instrument of appointment (see [Legislation Act](#), s 49).
- (5) The emergency controller may delegate a function mentioned in subsection (2) to the head of an entity.

- (6) A person who is delegated a function under subsection (5) may delegate the function to another member, officer, employee or contractor of the entity.

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

- (7) In this section:

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

Division 7.3.1B Declared emergencies

151 Declaration of state of alert

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

Example

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

152 Declaration of state of alert commences immediately

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

153 Publication of state of alert declaration

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

154 Minister to give reports to community during state of alert

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

Examples

- 1 community vulnerability to the effects of the emergency that is likely to happen
- 2 preparation for the emergency that is likely to happen

155 State of emergency ends state of alert

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

156 Declaration of state of emergency

- (1) This section applies if the Chief Minister is satisfied that an emergency has happened, is happening or is likely to happen.
- (2) The Chief Minister may, in writing, declare that a state of emergency exists.

Note If the Chief Minister is absent from duty or otherwise unable to exercise the powers of Chief Minister, the Deputy Chief Minister acts as Chief Minister (see [Australian Capital Territory \(Self-Government\) Act 1988](#) (Cwlth), s 44).

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

157 Declaration of state of emergency commences immediately

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

158 Publication of declaration of state of emergency

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

159 Appointment of emergency controller for declared state of emergency

- (1) The Chief Minister must appoint a person to be the emergency controller for a declared state of emergency.

Note 1 For the making of appointments generally, see the [Legislation Act](#), pt 19.3.

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

Note 3 If the Chief Minister is absent from duty or otherwise unable to exercise the powers of Chief Minister, the Deputy Chief Minister acts as Chief Minister (see [Australian Capital Territory \(Self-Government\) Act 1988](#) (Cwlth), s 44).

- (2) If a person is appointed as the emergency controller for an emergency under section 150A, the person is taken to be the emergency controller for the emergency under this section.
- (3) However, the Chief Minister may appoint someone else to be the emergency controller for the emergency.
- (4) The [Legislation Act](#), division 19.3.3 (Appointments—Assembly consultation) does not apply to an appointment under this section.

160 Functions of emergency controller

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

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

160A Emergency powers—declared state of emergency

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

- (d) direct a person to give information, answer questions, or produce documents or anything else, reasonably needed; and

Note The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (e) take possession of any premises, animal, substance or thing in or near the emergency area; or
- (f) excavate land, form tunnels or construct earthworks, barriers or temporary structures in or near the emergency area; and
- (g) control, use, close off or block a drainage facility in or near the emergency area; and
- (h) in relation to essential services—
- (i) maintain, restore or prevent disruption of the services; and
- (ii) control and coordinate the distribution of services; and

Examples—essential services

- water
- electricity
- gas
- fuel
- food
- health
- waste disposal
- sanitation
- freight
- public transport
- correctional facilities

- (i) do anything else that the chief officer of an emergency service may do under section 34 (General powers of chief officers).

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

- (3) Subsection (2) operates despite any other territory law.
- (4) However, the Chief Minister may direct, in writing—
 - (a) that the emergency controller is not to have a power (or part of a power) mentioned in subsection (2); or
 - (b) that the emergency controller has another stated power.

Note A direction may be included in the instrument of appointment (see [Legislation Act](#), s 49).

- (5) The emergency controller may delegate a function mentioned in subsection (2) to the head of an entity.
- (6) A person who is delegated a function under subsection (5) may delegate the function to another member, officer, employee or contractor of the entity.

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

- (7) In this section:

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

Division 7.3.1C General provisions applying if emergency controller appointed

161 Management executive for emergency

- (1) As soon as possible after an emergency controller is appointed, the emergency controller must establish a management executive for the emergency.
- (2) The management executive consists of people nominated by the emergency controller and may include members of the SEMSOG.
- (3) The management executive must provide support to the emergency controller in the exercise of the emergency controller's functions.

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

Examples

a phone link, a satellite link, an internet or intranet link

162 Management of emergency

- (1) For the management of an emergency for which an emergency controller is appointed, the emergency controller may direct the commissioner or the head of an entity to undertake response or recovery operations.
- (2) The emergency controller may not direct the person to undertake an operation in a particular way.

164 Failure to comply with direction given under emergency powers

- (1) A person commits an offence if the person fails to comply with a direction given to the person under section 150C (2) (a), (b), (c) or (d) or section 160A (2) (a), (b), (c) or (d).

Maximum penalty: 50 penalty units.

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

165 Chief Minister's directions to emergency controller

- (1) The Chief Minister may give an emergency controller written directions about the exercise of the controller's functions.
- (2) The emergency controller must give effect to a direction.

166 Emergency controller to give information about controller's operations

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

167 Deployment of resources outside ACT in emergency

During an emergency for which an emergency controller is appointed, a person must not deploy Territory resources outside the ACT, in relation to an emergency outside the ACT, without the approval of the emergency controller.

168 Power to remove person obstructing response operations etc

- (1) If an emergency controller believes, on reasonable grounds, that a person is obstructing, or threatening to obstruct, response or recovery operations in an emergency, the controller may remove the person to another place.
- (2) The controller may use any necessary and reasonable force.
- (3) This section does not authorise the detention of a person except for the purpose of the removal.

169 Compensation—emergencies

- (1) A person who suffers loss because of an act or omission of an emergency controller under section 150C (Emergency powers—no declared state of emergency) or section 160A (Emergency powers—declared state of emergency) is entitled to be paid reasonable compensation by the Territory for the loss.

- (2) Compensation is not payable to a person for a loss to the extent—
 - (a) of any amount recovered or recoverable by the person under a policy of insurance; or
 - (b) that the conduct of the person contributed to the loss.
- (3) Compensation is not payable to a person for a loss if the loss would have arisen despite the act or omission of the emergency controller.
- (4) The person may apply, in writing, to the Minister for compensation.

Note If a form is approved under s 200 for this provision, the form must be used.
- (5) The application must state particulars of the loss, the amount claimed and the basis for the amount claimed.

170 Minister's decision on claim for compensation

- (1) If the Minister is satisfied that an applicant is entitled to compensation under section 169, the Minister must accept the claim by giving written notice of acceptance to the claimant setting out—
 - (a) an offer to the claimant of the amount of compensation to which the Minister considers the claimant is entitled; and
 - (b) an explanation of how the amount was worked out.
- (2) If the Minister does not decide the application within 28 days after the day the Minister receives the application, the Minister is taken to have refused to pay compensation.

171 Acceptance or rejection of offer of compensation

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

- (2) If the person accepts the offer, the Territory must pay the amount to the person.

172 Recovery of compensation in court

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

Division 7.3.2 Other emergencies

173 Application—div 7.3.2

This division applies to an emergency other than an emergency for which an emergency controller is appointed.

174 Commissioner must assist recovery for other emergencies

- (1) The commissioner must assist in recovery from the effects of an emergency by supporting the activities of any entity working in the area of recovery and welfare in the role of assisting the community to recover.
- (2) Without limiting subsection (1), the commissioner must give support by—
- (a) identifying people in the community to act as contacts in relation to the activities; and
 - (b) together with relevant entities—
 - (i) establishing priorities for the short-term recovery of infrastructure; and
 - (ii) assisting in the re-establishment of infrastructure.

Part 7.4 Commonwealth, interstate and overseas cooperation

175 Definitions for pt 7.4

In this part:

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

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

Example

members of the ambulance service and an ambulance

176 Cooperative arrangements with Commonwealth, State or overseas agencies

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

- (2) In this section:

territory agency means—

- (a) an administrative unit; or
- (b) a territory-owned corporation; or
- (c) a statutory office-holder; or
- (d) an entity prescribed by regulation for this definition.

177 Cooperative arrangements about resources

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

178 Directions to people operating under cooperative arrangement

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

179 Directions by authorised person to people operating under cooperative arrangement

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

180 Recognition of interstate qualifications

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

Part 7.5 Emergency relief funds

181 Emergency relief funds

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

182 Gifts and donations

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

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

- (5) In this section:

gift includes a devise or bequest.

Chapter 8 Volunteers

183 Victimisation of volunteers

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

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

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

- (4) In this section:

volunteer means—

- (a) a volunteer member; or
- (b) a casual volunteer; or
- (c) an emergency services support volunteer.

184 Release of volunteer member from operations

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

Chapter 9 Notification and review of decisions

185 Meaning of *reviewable decision*—ch 9

In this chapter:

reviewable decision means a decision mentioned in schedule 2, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

186 Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 2, column 4 in relation to the decision.

Note 1 The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

187 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 2, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

Note If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

Chapter 10 Miscellaneous

Part 10.1 Other offences relating to fires

188 Lighting a fire dangerous to premises

A person commits an offence if—

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

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

189 Direction to leave fire area

(1) A person commits an offence if—

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

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

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

190 Interfering with fire appliance, hydrant, alarm etc

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

Example

driving a vehicle over a fire hose

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if the person—
- (a) covers, encloses or conceals a fire hydrant; or
 - (b) obliterates or removes a mark, sign or letter indicating the position of, or distinguishing, a fire hydrant.

Maximum penalty: 50 penalty units.

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

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

- (4) This section does not apply if the person has the permission of a member of the fire and rescue service, a member of the rural fire service or a police officer to do the thing.

- (5) Subsection (3) also does not apply if the person does the thing—

- (a) to give an alarm of fire; or
- (b) to test or do maintenance work on the fire alarm.

- (6) An offence against subsection (1), (2) or (3) is a strict liability offence.

191 False alarm of fire, emergency or other incident

A person commits an offence if the person—

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

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

Part 10.2 Other miscellaneous provisions

192 Obligations of owners and occupiers

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

193 Policies of insurance against fire

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

194 Ambulance levy

An ambulance levy is imposed in accordance with schedule 1.

195 Ambulance fund

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

195A Establishment of ambulance service quality assurance committee

- (1) The ambulance quality assurance committee is established.
- (2) Schedule 1A has effect in relation to the committee.

196 Authorised person's power to require name and address

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

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

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

Maximum penalty: 10 penalty units.

- (4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the authorised person does not produce, for inspection by the person—
 - (a) his or her identity card; or
 - (b) if the authorised person is an emergency controller or a person authorised by the controller—evidence of his or her appointment or authorisation.
- (5) Subsection (4) does not apply in relation to an authorised person who is a member of an emergency service, or a police officer, in uniform.
- (6) An offence against this section is a strict liability offence.
- (7) In this section:
authorised person means the commissioner, an emergency controller, a member of an emergency service, an inspector, an investigator, a police officer or someone else authorised in writing by an emergency controller for this section.

197 Identity cards

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

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

Maximum penalty: 1 penalty unit.

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

198 Protection of officials from liability

- (1) In this section:

official means—

- (a) the commissioner; or
 - (b) an inspector or investigator; or
 - (c) a member of an emergency service; or
 - (d) anyone else exercising a function under this Act.
- (2) An official is not personally liable for anything done or omitted to be done honestly and without recklessness—
- (a) in the exercise of a function under this Act; or
 - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.
- (3) Any liability that would, apart from this section, attach to an official attaches instead to the Territory.

- (4) For subsection (1) (d), and without limiting it, a person is taken to be exercising a function under this Act if the person is—
- (a) a member of an interstate or overseas emergency service to which section 64 (Interstate and overseas emergency services) applies; or
 - (b) engaged in an activity under a cooperative arrangement; or
 - (c) an emergency services support volunteer; or
 - (d) a casual volunteer taking part in an activity under section 59D (Casual volunteers); or
 - (e) giving assistance to a member of an emergency service under section 34 (1) (o) (General powers of chief officers); or
 - (f) a person who—
 - (i) is, or has been, a member of the ambulance service quality assurance committee; or
 - (ii) acted under the direction of a person who is, or was at the time, a member of the ambulance service quality assurance committee.

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

199 Compensation for exercise of functions etc

- (1) A person may claim compensation from the Territory if the person suffers loss because of the exercise, or purported exercise, of a function under this Act (other than under section 150C (Emergency powers—no declared state of emergency) or section 160A (Emergency powers—declared state of emergency)).

Note For compensation for loss because of an act or omission under s 150C or s 160A, see s 169.

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

200 Approved forms

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

Note For other provisions about forms, see the [Legislation Act](#), s 255.

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

Note A notifiable instrument must be notified under the [Legislation Act](#).

201 Determination of fees

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

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

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

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

202 Regulation-making power

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

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may make provision in relation to—

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

Examples

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

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

- (3) A regulation may also prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 20 penalty units for offences against a regulation.

203 Review of Act

- (1) The Minister must review the operation of this Act as soon as practicable after the end of every 5th year after the day this section commences.
- (2) The Minister must present a report on the review to the Legislative Assembly as soon as practicable after the review is completed.

Schedule 1 Ambulance levy

(see s 194)

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

1.1 Definitions for sch 1

In this schedule:

ambulance levy—see section 1.4.

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

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

exempt contribution—see section 1.2.

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

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

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

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

reference month—see section 1.3.

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

1.2 Meaning of exempt contribution

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

1.3 Meaning of reference month

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

Table 1.3 Reference months

column 1 item	column 2 month	column 3 reference month
1	January	October in previous year
2	February	November in previous year
3	March	December in previous year
4	April	January in same year

column 1 item	column 2 month	column 3 reference month
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

1.4 Imposition of ambulance levy

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

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

- (3) For this section, a person is taken to be contributing at the single rate if—
 - (a) the person is contributing at the family rate; and
 - (b) only 1 of the people on behalf of whom the contributions are made is living in Australia.

- (4) For this section, a health benefits organisation is taken to carry on business in the ACT if, in relation to a health benefits fund conducted by it—
- (a) it uses premises in the ACT or the services of a person in the ACT for—
 - (i) the enrolment of contributors; or
 - (ii) the payment of benefits to contributors; or
 - (b) any contributor lives in the ACT.
- (5) If a health benefits organisation cannot accurately work out something required to work out an amount of levy payable by the organisation, the organisation may work it out in the way it considers reasonable.
- (6) In this section:

D, in relation to a month, means the number of days in the reference month for that month.

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

RA means—

- (a) the amount determined under the *Taxation Administration Act 1999*, section 139 for this section; or
- (b) if no amount is determined—83 cents.

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

1.5 Organisation to pay levy

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

1.6 Returns

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

1.7 Records

A health benefits organisation must, for a return lodged by it for a month under section 1.6, keep a record of—

- (a) the name and address of each contributor to the health benefits fund conducted by the organisation for the month; and
- (b) the amount of the contribution; and
- (c) the name of each person entitled to receive health benefits from the organisation because of the contribution; and
- (d) anything else relating to the payment of the levy to which the return relates that the commissioner for revenue directs in writing.

1.8 Levy payable if organisation stops operations

- (1) If a health benefits organisation stops carrying on business in the ACT, it is liable to pay the levy worked out in accordance with this section.
- (2) The organisation must, on or before the 15th day of the month for which the levy is payable, give the commissioner for revenue a return for the month.
- (3) The levy payable by the organisation is payable—
 - (a) if the organisation stopped carrying on business before the 15th day of a month—for that month; and
 - (b) if the organisation stopped carrying on business on or after the 15th day of a month—for the month immediately after that month.
- (4) Section 1.6 (2) applies to the return.
- (5) In the application of—
 - (a) section 1.6 (2) to the return in relation to a month (the *payment month*); and
 - (b) the *Road Transport (Third-Party Insurance) Act 2008*, chapter 2 (Compulsory third-party insurance (CTP insurance));

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

Schedule 1A Ambulance service quality assurance committee

1A.1 Definitions—sch 1A

In this schedule:

committee means the ambulance service quality assurance committee.

information holder means a person who—

- (a) is or has been a member of the committee; or
- (b) exercises or has exercised a function under this schedule; or
- (c) is or has been engaged in the administration of this schedule; or
- (d) has been given information under this Act by a person mentioned in paragraphs (a), (b) or (c).

protected information—

- (a) means information about a person that is disclosed to, or obtained by, an information holder because of the exercise of a function under this Act by the information holder or someone else; and
- (b) includes sensitive information.

sensitive information means information that—

- (a) identifies a person who—
 - (i) has received an ambulance service; or
 - (ii) is exercising a function in relation to the ambulance service; or
 - (iii) has provided information to the committee in the course of the committee carrying out the committee's functions under this chapter; or

- (b) would allow the identity of a person mentioned in paragraph (a) to be worked out.

1A.2 Function of ASQAC

The committee has the following functions:

- (a) to facilitate the improvement of clinical services provided by the ambulance service in the ACT;
- (b) any other function given to the committee under this Act.

1A.3 Appointment of ASQAC members

- (1) The commissioner must appoint the members of the committee.

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

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

Note 3 A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1, def *appoint*).

- (2) An appointment must be for a term of not longer than 3 years.
- (3) An appointment is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

1A.4 Disclosure of interest by ASQAC members etc

- (1) If a person who is a member of, or acting under the direction of, the committee has a material interest in an issue being considered, or about to be considered, by the committee, the person must disclose the nature of the interest at a committee meeting as soon as practicable after the relevant facts come to the person's knowledge.

- (2) The disclosure must be recorded in the committee's minutes and, unless the committee otherwise decides, the person must not—
- (a) be present when the committee considers the issue; or
 - (b) take part in a decision of the committee on the issue.
- (3) Any other person who also has a material interest in the issue must not be present when the committee is considering its decision under subsection (2).
- (4) In this section:

associate, of a person, means—

- (a) the person's business partner; or
- (b) a close friend of the person; or
- (c) a family member of the person.

executive officer, of a corporation, means a person (however described) who is concerned with, or takes part in, the corporation's management, whether or not the person is a director of the corporation.

indirect interest—without limiting the kinds of indirect interests a person may have, a person has an **indirect interest** in an issue if any of the following has an interest in the issue:

- (a) an associate of the person;
- (b) a corporation if the corporation has not more than 100 members and the person, or an associate of the person, is a member of the corporation;
- (c) a subsidiary of a corporation mentioned in paragraph (b);
- (d) a corporation if the person, or an associate of the person, is an executive officer of the corporation;
- (e) the trustee of a trust if the person, or an associate of the person, is a beneficiary of the trust;

- (f) a member of a firm or partnership if the person, or an associate of the person, is a member of the firm or partnership;
- (g) someone else carrying on a business if the person, or an associate of the person, has a direct or indirect right to participate in the profits of the business.

material interest—a person has a ***material interest*** in an issue if the person has—

- (a) a direct or indirect financial interest in the issue; or
- (b) a direct or indirect interest of any other kind if the interest could conflict with the proper exercise of the person's functions in relation to the committee's consideration of the issue.

1A.5 Procedure for ASQAC

In exercising its functions, the committee—

- (a) must comply with the rules of natural justice; and
- (b) is not bound by the rules of evidence but may inform itself of anything in the way it considers appropriate; and
- (c) may do whatever it considers necessary or convenient for the fair and prompt exercise of its functions.

1A.6 Obtaining information

- (1) The committee may ask anyone to give the committee information, including protected information, that is relevant to the committee carrying out its function.
- (2) When asking anyone for information, the committee must tell the person that giving false or misleading information is an offence against the [Criminal Code](#), section 338 (Giving false or misleading information).

- (3) If someone gives information honestly and without recklessness to the committee under subsection (1)—
- (a) the giving of the information is not—
 - (i) a breach of confidence; or
 - (ii) a breach of professional etiquette or ethics; or
 - (iii) a breach of a rule of professional conduct; and
 - (b) the person does not incur civil or criminal liability only because of the giving of the information.

1A.7 Annual ASQAC report to Minister

- (1) The committee must, for each financial year, prepare a report (a *ministerial report*) about the committee's operation during the year.
- (2) The ministerial report must include information for the financial year about—
 - (a) the committee's functions under the Act; and
 - (b) how the committee's functions were facilitated by the application of section 198 (Protection of officials from liability); and
 - (c) why it was in the public interest for section 1A.10 (Offence—secrecy of protected information) to apply to information held by the committee members.
- (3) The ministerial report must comply with any requirements prescribed by regulation for this section.
- (4) The ministerial report must not include sensitive information.
- (5) The ministerial report must be given to the Minister not later than 3 months after the end of the financial year.

1A.8 ASQAC may give information

- (1) The committee may give protected information to 1 or more of the following if the committee is satisfied that giving the information would be likely to facilitate the improvement of clinical services provided by the ambulance service in the ACT:
 - (a) the Coroner's Court;
 - (b) a health board;
 - (c) the Minister.
- (2) If the committee gives protected information to a health board under subsection (1), the committee must also give the information to the health services commissioner.
- (3) In this section:

health board means a national board established under the [Health Practitioner Regulation National Law \(ACT\)](#), section 31.

1A.9 Admissibility of ASQAC evidence

- (1) The following are not admissible as evidence in a proceeding before a court:
 - (a) an oral statement made in a proceeding before the committee;
 - (b) a document given to the committee, but only to the extent that it was prepared only for the committee;
 - (c) a document prepared by the committee.
- (2) In this section:

court includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

1A.10 Offence—secrecy of protected information

- (1) An information holder commits an offence if—
- (a) the information holder—
 - (i) makes a record of protected information about someone else; and
 - (ii) is reckless about whether the information is protected information about someone else; or
 - (b) the information holder—
 - (i) does something that divulges protected information about someone else; and
 - (ii) is reckless about whether—
 - (A) the information is protected information about someone else; and
 - (B) doing the thing would result in the information being divulged to another person.
- Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (2) This section does not apply to the making of a record or the divulging of information if the record is made or the information divulged—
- (a) under this Act; or
 - (b) in the exercise of a function, as an information holder, under this Act.
- (3) This section does not apply to the making of a record or the divulging of information if—
- (a) the protected information is not sensitive information; and
 - (b) the record is made or the information divulged—
 - (i) under another territory law; or

(ii) in the exercise of a function, as an information holder, under another territory law.

- (4) This section does not apply to the divulging of protected information about someone with the person's agreement.
- (5) An information holder must not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act.

Note A quality assurance committee may give protected information to the Coroner's Court (see s 1A.8).

- (6) In this section:

court includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

divulge includes communicate.

produce includes allow access to.

Schedule 2 Reviewable decisions

(see ch 9)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	62 (1)	refuse to approve person as provider of services	applicant for approval
2	62 (4)	approve person as provider of services subject to condition	applicant for approval
3	78 (3)	refuse to approve draft bushfire operational plan for area of land	owner or manager of land
4	78 (3)	approve draft bushfire operational plan for area of land with amendments	owner or manager of land
5	82 (1)	direct owner of land to comply with bushfire management requirement or bushfire operational plan	person who is given direction
6	86 (2)	issue improvement notice for premises	occupier of premises to which notice relates
7	86 (2)	issue occupancy notice for premises	occupier of premises to which notice relates
8	86 (2)	issue closure notice for premises	occupier of premises to which notice relates

column 1 item	column 2 section	column 3 decision	column 4 entity
9	87 (2)	decide not to extend period stated in improvement notice	occupier of premises to which notice relates
10	91 (4)	decide not to revoke notice for premises	occupier of premises to which notice relates
11	92	give direction for provision or installation of fire appliance	occupier of premises to which direction relates
12	106 (1)	give direction to take action	owner of premises to which direction relates
13	109	give direction to comply with section 120, bushfire management requirement or bushfire operational plan	entity that is given direction
14	118 (1)	refuse to issue permit	applicant for permit
15	118 (5)	issue permit subject to condition	applicant for permit
16	124	refuse to issue permit	applicant for permit
17	124	issue permit subject to a condition	applicant for permit

Dictionary

(see s 4)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1 defines the following terms:

- ACAT
- ACT
- administrative unit
- adult
- appoint
- AS (see s 164 (1))
- AS/NZS (see s 164 (2))
- bankrupt or personally insolvent
- chief health officer
- Chief Minister
- chief police officer
- conservator of flora and fauna
- contravene
- Criminal Code
- director-general (see s 163)
- disallowable instrument
- entity
- Executive
- exercise
- fail
- function
- give
- home address
- may
- Minister (see s 162)
- must
- notifiable instrument

- penalty unit
- planning and land authority
- police officer
- public trustee and guardian
- reviewable decision notice
- statutory office-holder
- territory-owned corporation
- the Territory
- under.

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

ambulance levy, for schedule 1 (Ambulance levy)—see schedule 1, section 1.4.

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

ambulance service quality assurance committee (or **ASQAC**) means a committee established under section 195A.

ambulance services, for part 4.6 (Other approved providers)—see section 60.

ASQAC—see **ambulance service quality assurance committee**.

at premises includes in or on the premises.

basic health benefits, for schedule 1 (Ambulance levy)—see schedule 1, section 1.1.

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

building code—see the [Building Act 2004](#), section 136 (1).

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

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

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

bushfire operational plan means a bushfire operational plan approved under section 78.

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

casual volunteer—see section 59D (2).

chief officer means—

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

chief officer (ambulance service)—see section 28.

chief officer (fire and rescue service)—see section 29.

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

chief officer (SES)—see section 31.

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

commissioner means the ACT Emergency Services Commissioner.

commissioner's guidelines—see section 11 (1) (Commissioner may make guidelines).

committee, for schedule 1A (Ambulance service quality assurance committee)—see section 1A.1.

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

conservator means the conservator of flora and fauna.

contributor, to a health benefits fund, for schedule 1 (Ambulance levy)—see schedule 1, section 1.1.

cooperative arrangement—see section 176.

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

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

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

Examples of events

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

emergency controller means—

- (a) for a declared state of emergency—the person appointed under section 159; and
- (b) in any other case—the person appointed under section 150A.

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

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

emergency plan means the emergency plan made under section 147.

emergency risk includes the risk of an emergency arising from—

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

emergency service means the ambulance service, the fire and rescue service, the rural fire service or the SES.

emergency services, for part 4.6 (Other approved providers)—see section 60.

emergency services support volunteer—see section 59CA (Appointment of emergency services support volunteers).

emergency sub-plan—see section 148.

exempt contribution, for schedule 1 (Ambulance levy)—see schedule 1, section 1.2.

family rate, for contributions, for schedule 1 (Ambulance levy)—see schedule 1, section 1.1.

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

fire and rescue service means the ACT Fire and Rescue Service established under section 43.

fire appliance includes—

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

firefighting services, for part 4.6 (Other approved providers)—see section 60.

firework means a firework within the meaning of the [Dangerous Substances \(Explosives\) Regulation 2004](#), dictionary other than a general use firework within the meaning of that regulation, section 259.

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

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

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

hazardous material incident—

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

Examples of incidents

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

health benefits fund, for schedule 1 (Ambulance levy)—see schedule 1, section 1.1.

health benefits organisation, for schedule 1 (Ambulance levy)—see schedule 1, section 1.1.

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

information holder, for schedule 1A (Ambulance service quality assurance committee)—see section 1A.1.

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

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

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

land management agreement—see the [Planning and Development Act 2007](#), dictionary.

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

medical treatment means—

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

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

member, of an emergency service—

- (a) means a member of the service; and
- (b) includes the chief officer and deputy chief officer of the service; and
- (c) includes a volunteer or casual volunteer in relation to the service.

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

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

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

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

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

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

protected information, for schedule 1A (Ambulance service quality assurance committee)—see section 1A.1.

reference month, for schedule 1 (Ambulance levy)—see schedule 1, section 1.3.

relevant chief officer, for division 5.4.1 (Notices and directions for premises)—see section 85.

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

rescue services, for part 4.6 (Other approved providers)—see section 60.

response operation, for part 4.6 (Other approved providers)—see section 60.

reviewable decision, for chapter 9 (Notification and review of decisions)—see section 185.

rural area—see section 65 (4).

rural fire service means the ACT Rural Fire Service established under section 51.

SEMSOG—see section 141.

sensitive information, for schedule 1A (Ambulance service quality assurance committee)—see section 1A.1.

SES means the ACT State Emergency Service established under section 56.

single rate, for contributions, for schedule 1 (Ambulance levy)—see schedule 1, section 1.1.

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

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

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

structure includes industrial plant and equipment.

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

vehicle includes an aircraft, boat and train.

volunteer member means a person appointed as a volunteer member of an emergency service under section 59B.

Endnotes

1 About the endnotes

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

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

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

The endnotes also include a table of earlier republications.

2 Abbreviation key

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

3 Legislation history

Emergencies Act 2004 A2004-28

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

as modified by

[Emergencies Regulations 2004 SL2004-26](#) reg 10

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

as amended by

[Public Sector Management Amendment Act 2005 \(No 2\) A2005-44](#)

[sch 1 pt 1.3](#)

notified LR 30 August 2005
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))
sch 1 pt 1.3 commenced 8 September 2005 (s 2 and [CN2005-19](#))

[Emergencies Amendment Act 2005 A2005-56](#)

notified LR 23 November 2005
s 1, s 2 commenced 23 November 2005 (LA s 75 (1))
remainder commenced 24 November 2005 (s 2)

[Administrative \(Miscellaneous Amendments\) Act 2006 A2006-30](#)

[sch 1 pt 1.2](#)

notified LR 16 June 2006
s 1, s 2 commenced 16 June 2006 (LA s 75 (1))
sch 1 pt 1.2 commenced 1 July 2006 (s 2 (1))

Statute Law Amendment Act 2006 A2006-42 sch 1 pt 1.1

notified LR 26 October 2006
s 1, s 2 taken to have commenced 12 November 2005 (LA s 75 (2))
sch 1 pt 1.1 commenced 16 November 2006 (s 2 (1))

Planning and Development (Consequential Amendments) Act 2007 A2007-25 sch 1 pt 1.11

notified LR 13 September 2007
s 1, s 2 commenced 13 September 2007 (LA s 75 (1))
sch 1 pt 1.11 commenced 31 March 2008 (s 2 and see [Planning and Development Act 2007 A2007-24](#), s 2 and [CN2008-1](#))

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.24

notified LR 12 August 2008
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 3 pt 3.24 commenced 26 August 2008 (s 2)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.38

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.38 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008 A2008-35](#), s 2 (1) and [CN2009-2](#))

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.27

notified LR 1 September 2009
s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
sch 3 pt 3.27 commenced 22 September 2009 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.25

notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
sch 3 pt 3.25 commenced 17 December 2009 (s 2)

Justice and Community Safety Legislation Amendment Act 2010 A2010-13 sch 1 pt 1.2

notified LR 31 March 2010
s 1, s 2 commenced 31 March 2010 (LA s 75 (1))
s 3 commenced 1 April 2010 (LA s 75AA)
sch 1 pt 1.2 commenced 28 April 2010 (s 2 (4))

Emergencies Amendment Act 2010 A2010-17

notified LR 12 May 2010
s 1, s 2 commenced 12 May 2010 (LA s 75 (1))
remainder commenced 20 August 2010 (s 2 and [CN2010-8](#))

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.61

notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.61 commenced 1 July 2011 (s 2 (1))

Statute Law Amendment Act 2011 (No 2) A2011-28 sch 3 pt 3.12

notified LR 31 August 2011
s 1, s 2 commenced 31 August 2011 (LA s 75 (1))
sch 3 pt 3.12 commenced 21 September 2011 (s 2 (1))

Emergencies (Commissioner Directions) Amendment Act 2012 A2012-12

notified LR 4 April 2012
s 1, s 2 commenced 4 April 2012 (LA s 75 (1))
remainder commenced 5 April 2012 (s 2)

Justice and Community Safety Legislation Amendment Act 2012 A2012-13 sch 1 pt 1.5

notified LR 11 April 2012
s 1, s 2 commenced 11 April 2012 (LA s 75 (1))
sch 1 pt 1.5 commenced 12 April 2012 (s 2 (1))

Justice and Community Safety Legislation Amendment Act 2012 (No 2) A2012-30 sch 1 pt 1.2

notified LR 13 June 2012
s 1, s 2 commenced 13 June 2012 (LA s 75 (1))
sch 1 pt 1.2 commenced 14 June 2012 (s 2)

Emergencies Amendment Act 2014 A2014-50

notified LR 10 November 2014
s 1, s 2 commenced 10 November 2014 (LA s 75 (1))
remainder commenced 11 November 2014 (s 2)

Nature Conservation Act 2014 A2014-59 sch 2 pt 2.3

notified LR 11 December 2014

s 1, s 2 commenced 11 December 2014 (LA s 75 (1))

sch 2 pt 2.3 commenced 11 June 2015 (s 2 (1) and LA s 79)

Annual Reports (Government Agencies) Amendment Act 2015

A2015-16 sch 1 pt 1.9

notified LR 27 May 2015

s 1, s 2 commenced 27 May 2015 (LA s 75 (1))

sch 1 pt 1.9 commenced 3 June 2015 (s 2)

Red Tape Reduction Legislation Amendment Act 2015 A2015-33

sch 1 pt 1.22

notified LR 30 September 2015

s 1, s 2 commenced 30 September 2015 (LA s 75 (1))

sch 1 pt 1.22 commenced 14 October 2015 (s 2)

Protection of Rights (Services) Legislation Amendment Act 2016

(No 2) A2016-13 sch 1 pt 1.20

notified LR 16 March 2016

s 1, s 2 commenced 16 March 2016 (LA s 75 (1))

sch 1 pt 1.20 commenced 1 April 2016 (s 2 and see [Protection of Rights \(Services\) Legislation Amendment Act 2016 A2016-1 s 2](#))

Emergencies Amendment Act 2016 A2016-33

notified LR 20 June 2016

s 1, s 2 commenced 20 June 2016 (LA s 75 (1))

remainder commenced 21 June 2016 (s 2)

Justice and Community Safety Legislation Amendment

Act 2017 (No 3) A2017-38 pt 9

notified LR 9 November 2017

s 1, s 2 commenced 9 November 2017 (LA s 75 (1))

pt 9 commenced 16 November 2017 (s 2 (1))

Emergencies Amendment Act 2018 A2018-49

notified LR 6 December 2018

s 1, s 2 commenced 6 December 2018 (LA s 75 (1))

remainder commenced 7 December 2018 (s 2)

Motor Accident Injuries Act 2019 A2019-12 sch 3 pt 3.3

notified LR 31 May 2019

s 1, s 2 commenced 31 May 2019 (LA s 75 (1))

sch 3 pt 3.3 awaiting commencement

**Justice and Community Safety Legislation Amendment Act 2019
A2019-17 pt 4**

notified LR 14 June 2019

s 1, s 2 commenced 14 June 2019 (LA s 75 (1))

pt 4 commenced 21 June 2019 (s 2)

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s 2 om LA s 89 (4)

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s 3 am [A2006-30](#) amdt 1.2; [A2010-17](#) s 4; [A2012-13](#) amdt 1.36;
[A2014-50](#) s 4; [A2016-33](#) s 62

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s 4 am [A2007-25](#) amdt 1.40

Emergency services commissioner

ch 2 hdg sub [A2006-30](#) amdt 1.3

Emergency services authority

pt 2.1 hdg om [A2006-30](#) amdt 1.3

Emergency services commissioner

s 7 sub [A2006-30](#) amdt 1.3
am [A2011-22](#) amdt 1.194; [A2012-12](#) s 4

Commissioner's functions

s 8 sub [A2006-30](#) amdt 1.3
am [A2010-17](#) s 5; pars renum R15 LA; [A2012-12](#) s 5;
[A2014-50](#) ss 5-8; [A2016-33](#) s 4

Directions by commissioner in relation to emergencies

s 8A ins [A2012-12](#) s 6; [A2014-50](#) s 9

Functions of authority

pt 2.2 hdg om [A2006-30](#) amdt 1.3

Minister and emergency coordination

s 9 am [A2005-56](#) s 4
sub [A2006-30](#) amdt 1.3

Asking bushfire council's advice

s 10 sub [A2006-30](#) amdt 1.3

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s 11 sub [A2006-30](#) amdt 1.3
am [A2011-28](#) amdt 3.82; [A2016-33](#) s 5, s 6; ss renum R26 LA

Delegation by commissioner

s 12 sub [A2006-30](#) amdt 1.3; [A2010-13](#) amdt 1.15
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s 13 om [A2006-30](#) amdt 1.3

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Chief officer—fire and rescue service

s 29 hdg sub [A2012-13](#) amdt 1.21; [A2016-33](#) s 8
s 29 am [A2006-30](#) amdt 1.5; [A2011-22](#) amdt 1.194; [A2012-13](#)
amdt 1.36, amdt 1.37; [A2016-33](#) s 9, s 10, s 62, s 63;
[A2017-38](#) s 25; pars renum R27 LA

Chief officer—rural fire service

s 30 am [A2006-30](#) amdt 1.6; [A2011-22](#) amdt 1.194; [A2012-13](#)
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Chief officer—SES

s 31 am [A2006-30](#) amdt 1.7; [A2011-22](#) amdt 1.194; [A2016-33](#) s 14

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s 32 am [A2006-30](#) amdt 1.8, amdt 1.9; [A2011-22](#) amdt 1.194;
[A2016-33](#) s 15

General powers of chief officers

s 34 am [A2006-30](#) amdt 1.36; [A2014-50](#) s 10; pars renum R21 LA

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s 35 am [A2006-30](#) amdt 1.10; [A2016-33](#) s 16

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s 36 sub [A2006-30](#) amdt 1.11

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s 38 am [A2006-30](#) amdt 1.36; [A2012-13](#) amdt 1.22; [A2016-33](#) s 63

Functions of ambulance service

s 41 am [A2012-13](#) amdt 1.23; [A2016-33](#) s 17

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pt 4.2 hdg sub [A2012-13](#) amdt 1.24; [A2016-33](#) s 18

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div 4.2.1 hdg sub [A2012-13](#) amdt 1.25; [A2016-33](#) s 19

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s 43 sub [A2012-13](#) amdt 1.26; [A2016-33](#) s 19

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s 44 hdg sub [A2012-13](#) amdt 1.27
s 44 am [A2012-13](#) amdt 1.36
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s 45 hdg sub [A2012-13](#) amdt 1.28
s 45 am [A2012-13](#) amdt 1.36, amdt 1.37
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Ranks for fire and rescue service members

s 46 hdg sub [A2012-13](#) amdt 1.29
 s 46 am [A2012-13](#) amdt 1.36, amdt 1.37
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s 47 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 63

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s 48 am [A2006-30](#) amdt 1.36; [A2012-13](#) amdt 1.37; [A2016-33](#) s 63

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s 49 am [A2012-13](#) amdt 1.36, amdt 1.37; [A2016-33](#) s 63

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s 50 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 63

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s 52 am [A2012-13](#) amdt 1.36; [A2016-33](#) s 20, s 21, s 62

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s 54 sub [A2005-56](#) s 6

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s 57 am [A2012-13](#) amdt 1.30; [A2016-33](#) s 22

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s 59 sub [A2005-56](#) s 7

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s 59A ins [A2005-56](#) s 8

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pt 4.5 hdg orig pt 4.5 hdg renum as pt 4.6 hdg
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Appointment of volunteer members

s 59B ins [A2006-30](#) amdt 1.12

Volunteer appointments in accordance with guidelines

s 59C ins [A2006-30](#) amdt 1.12
 am [A2016-33](#) s 23, s 24; ss renum R26 LA

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s 59CA ins [A2010-13](#) amdt 1.16

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s 59D ins [A2006-30](#) amdt 1.12

Other approved providers

pt 4.6 hdg orig pt 4.6 hdg renum as pt 4.7 hdg
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s 60 hdg sub [A2006-30](#) amdt 1.14

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s 62 am [A2006-30](#) amdt 1.35; [A2011-28](#) amdt 3.82

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pt 4.7 hdg (prev pt 4.6 hdg) renum as pt 4.7 hdg [A2006-30](#) amdt 1.13

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s 64 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 63

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s 65 am [A2006-30](#) amdt 1.35; [A2011-28](#) amdt 3.82; [A2012-13](#) amdt 1.36, amdt 1.37; [A2016-33](#) s 25, s 63

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s 66 am [A2012-13](#) amdt 1.36
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s 67 am [A2006-30](#) amdt 1.36; [A2012-13](#) amdt 1.36, amdt 1.37;
[A2016-33](#) s 27, s 62, s 63

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s 68 am [A2006-30](#) amdt 1.36; [A2012-13](#) amdt 1.36; [A2016-33](#) s 28,
s 62

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s 69 am [A2012-13](#) amdt 1.36, amdt 1.37; [A2016-33](#) s 62, s 63

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s 70 def *annual report* om [A2015-16](#) amdt 1.11

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s 71 sub [A2006-30](#) amdt 1.15

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s 72 am [A2006-30](#) amdt 1.35; [A2011-28](#) amdt 3.82; [A2014-50](#) s 11,
s 12; ss renum R21 LA; [A2014-59](#) amdt 2.8

Bushfire management plan committee

s 73 am [A2006-30](#) amdt 1.35

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s 74 am [A2005-56](#) s 9; [A2014-50](#) s 13

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s 75 am [A2005-56](#) s 10; [A2006-30](#) amdt 1.35; [A2009-20](#) amdt 3.67;
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s 76 am [A2005-56](#) s 11; [A2006-30](#) amdt 1.35

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s 77 hdg sub [A2014-50](#) s 14
 s 77 am [A2007-25](#) amdt 1.41; [A2014-50](#) s 15

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s 77A ins [A2014-50](#) s 16
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s 78 sub [A2005-56](#) s 12; [A2006-30](#) amdt 1.35; [A2014-50](#) s 17, s 18

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s 79 om [A2005-56](#) s 12

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s 82 sub [A2006-30](#) amdt 1.16
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s 86 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 34

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s 87 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 34, s 35

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s 91 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 36, s 37

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s 92 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 38

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s 95 am [A2019-17](#) s 9, s 10

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s 96 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 63

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s 99 am [A2012-13](#) amdt 1.36, amdt 1.37; [A2016-33](#) s 62, s 63

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s 100 am [A2012-13](#) amdt 1.36, amdt 1.37; [A2016-33](#) s 62, s 63

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s 109 am [A2016-33](#) s 39

Investigator's power to require name and address

s 113 am [A2009-49](#) amdt 3.57

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s 114 am [A2006-30](#) amdt 1.35

Publication of total fire ban

s 115 am [A2006-30](#) amdt 1.35; [A2009-20](#) amdt 3.67; [A2015-33](#) amdt 1.68

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s 116 am [A2006-30](#) amdt 1.35; [A2016-33](#) s 40

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s 116A ins [A2016-33](#) s 41

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s 117 am [A2006-30](#) amdt 1.35; [A2011-28](#) amdt 3.82

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s 118 am [A2005-56](#) s 13; [A2006-30](#) amdt 1.35; [A2016-33](#) s 42, s 43

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s 119 am [A2006-30](#) amdt 1.35; [A2011-28](#) amdt 3.82

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s 121 am [A2006-30](#) amdt 1.35; [A2012-13](#) amdt 1.36; [A2016-33](#) s 62

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s 122 am [A2005-56](#) s 14; [A2006-30](#) amdt 1.35; [A2012-30](#) amdt 1.17

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s 123 am [A2006-30](#) amdt 1.17, amdt 1.35; [A2006-42](#) amdt 1.1; [A2012-30](#) amdt 1.18

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s 124 am [A2006-30](#) amdt 1.35

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s 129 am [A2016-33](#) ss 44-46; ss renum R26 LA (7), (8) exp 21 June 2024 (s 129 (8))

Functions of bushfire council

s 130 sub [A2006-30](#) amdt 1.18
am [A2016-33](#) s 47; ss renum R26 LA

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s 131 hdg am [A2011-22](#) amdt 1.194
 s 131 sub [A2006-30](#) amdt 1.18
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s 132 am [A2009-49](#) amdt 3.58

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s 134 am [A2008-28](#) amdt 3.85

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Security and Emergency Management Senior Officials Group

s 141 sub [A2010-17](#) s 7

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s 142 hdg sub [A2010-17](#) s 8
 s 142 am [A2010-17](#) ss 9-12; pars renum R15 LA; [A2011-22](#)
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s 143 hdg sub [A2010-17](#) s 13
 s 143 am [A2006-30](#) amdt 1.35; [A2010-17](#) ss 14-16; pars renum R15
 LA; [A2018-49](#) s 6, s 7; pars renum R28 LA

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s 144 om [A2010-17](#) s 17

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s 145 am [A2008-28](#) amdt 3.86
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s 146 om [A2010-17](#) s 17

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s 147 am [A2010-17](#) s 18, s 19

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s 148 sub [A2018-49](#) s 8

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s 149 hdg sub [A2011-28](#) amdt 3.78
 s 149 am [A2006-30](#) amdt 1.35; [A2010-17](#) s 20; [A2018-49](#) s 9

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div 7.3.1A hdg ins [A2010-17](#) s 24

Appointment of emergency controller—no declared state of emergency

s 150A ins [A2010-17](#) s 24
am [A2018-49](#) ss 10-12; ss renum R28 LA

Functions of emergency controller—no declared state of emergency

s 150B ins [A2010-17](#) s 24
am [A2018-49](#) s 13

Emergency powers—no declared state of emergency

s 150C ins [A2010-17](#) s 24
am [A2014-50](#) s 19, s 20; pars renum R21 LA

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div 7.3.1B hdg ins [A2010-17](#) s 25

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s 154 hdg sub [A2005-56](#) s 15
s 154 am [A2005-56](#) s 16

Declaration of state of emergency

s 156 am [A2018-49](#) s 14

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s 159 hdg am [A2010-17](#) s 26
s 159 am [A2010-17](#) s 26; [A2018-49](#) s 15, s 16

Functions of emergency controller

s 160 hdg am [A2010-17](#) s 26
s 160 am [A2010-17](#) s 26; [A2018-49](#) s 17

Emergency powers—declared state of emergency

s 160A hdg (prev s 163 hdg) sub [A2010-17](#) s 31
s 160A (prev s 163) am [A2005-56](#) s 17; [A2010-17](#) s 32
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s 162 am [A2006-30](#) amdt 1.19
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s 164 am [A2010-17](#) s 34; [A2014-50](#) s 23

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s 166 hdg sub [A2010-17](#) s 36
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s 168 am [A2010-17](#) s 39

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s 172 am [A2010-17](#) s 43

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s 173 sub [A2010-17](#) s 44

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s 174 sub [A2006-30](#) amdt 1.20

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s 176 am [A2006-30](#) amdt 1.21

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s 177 am [A2006-30](#) amdt 1.35; [A2010-17](#) s 45

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s 178 am [A2006-30](#) amdt 1.35; [A2010-17](#) s 45

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s 179 am [A2006-30](#) amdt 1.35; [A2010-17](#) s 45

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s181 am [A2016-13](#) amdt 1.59

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s 182 am [A2006-30](#) amdt 1.22; [A2011-22](#) amdt 1.194; [A2011-28](#) amdt 3.82

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s 183 am [A2010-13](#) amdt 1.17, amdt 1.18

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s 184 am [A2006-30](#) amdt 1.35

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s 187 sub [A2008-37](#) amdt 1.158

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s 188 am [A2012-13](#) amdt 1.37; [A2016-33](#) s 63

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s 189 am [A2012-13](#) amdt 1.36; [A2016-33](#) s 62

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s 190 am [A2012-13](#) amdt 1.36; [A2016-33](#) ss 48-50; ss renum R26 LA

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s 195 am [A2011-28](#) amdt 3.82

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s 195A ins [A2016-33](#) s 51

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s 196 am [A2009-49](#) amdt 3.59; [A2010-17](#) s 46

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s 197 am [A2006-30](#) amdt 1.23, amdt 1.24

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s 198 am [A2005-56](#) s 18; [A2006-30](#) amdt 1.25-1.27; [A2010-13](#) amdt 1.19; pars renum R14 LA; [A2016-33](#) s 52

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s 199 am [A2010-17](#) s 47

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s 200 am [A2006-30](#) amdt 1.35; [A2011-28](#) amdt 3.82

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pt 11.1 hdg om LA s 89 (3)

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References to staff of authority

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s 213 exp 22 December 2004 (see s 211 (1), s 217 and [NI2004-486](#))

Fuel management plans

div 11.2.6A ins as mod [SL2004-26](#) s 10
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s 213A ins as mod [SL2004-26](#) s 10
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s 214 exp 22 December 2004 (see s 211 (1), s 217 and [NI2004-486](#))

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s 216 om LA s 89 (3)

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Ambulance levy

sch 1 ss renum R5 LA
am [A2009-49](#) amdt 3.60

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sch 1A ins [A2016-33](#) s 54

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sch 2 am [A2005-56](#) s 19
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Consequential amendments

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def **bushfire operational plan** sub [A2005-56](#) s 20
def **casual volunteer** sub [A2006-30](#) amdt 1.30
def **chief officer** am [A2012-13](#) amdt 1.31; [A2016-33](#) s 63
def **chief officer (fire and rescue)** ins [A2012-13](#) amdt 1.32
om [A2016-33](#) s 56
def **chief officer (fire and rescue service)** ins [A2016-33](#) s 57
def **chief officer (fire brigade)** om [A2012-13](#) amdt 1.32
def **city area** om [A2016-33](#) s 58
def **commissioner** sub [A2005-56](#) s 21
def **commissioner's guidelines** ins [A2010-13](#) amdt 1.20
def **committee** ins [A2016-33](#) s 59
def **contributor** am [A2011-28](#) amdt 3.80
def **cooperative arrangement** sub [A2011-28](#) amdt 3.81
def **eligible person** om [A2008-37](#) amdt 1.161
def **emergency** am [A2005-56](#) s 22
def **emergency controller** ins [A2010-17](#) s 49
def **emergency management** am [A2010-17](#) s 50
def **emergency management committee** om [A2010-17](#) s 51
def **emergency service** am [A2012-13](#) amdt 1.36; [A2016-33](#) s 62
def **emergency services** am [A2006-30](#) amdt 1.31
def **emergency services support volunteer** ins [A2010-13](#) amdt 1.20
def **emergency sub-plan** ins [A2018-49](#) s 18
def **fire and rescue** ins [A2012-13](#) amdt 1.33
om [A2016-33](#) s 60
def **fire and rescue service** ins [A2016-33](#) s 61
def **firefighting services** am [A2006-30](#) amdt 1.31
def **hazardous material incident** pars renum R26 LA
def **information holder** ins [A2016-33](#) s 61

Endnotes

4 Amendment history

def **land management agreement** sub [A2007-25](#) amdt 1.42
def **member** am [A2006-30](#) amdt 1.32
def **protected information** ins [A2016-33](#) s 61
def **relevant chief officer** ins [A2016-33](#) s 61
def **rescue services** am [A2006-30](#) amdt 1.33
def **response operation** am [A2006-30](#) amdt 1.33
def **reviewable decision** sub [A2008-37](#) amdt 1.162
def **rural fire service** ins [A2012-13](#) amdt 1.34
def **SEMSOG** ins [A2010-17](#) s 52
def **sensitive information** ins [A2016-33](#) s 61
def **SES** sub [A2012-13](#) amdt 1.35
def **territory controller** om [A2010-17](#) s 53
def **volunteer member** sub [A2006-30](#) amdt 1.34

5 Earlier republications

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

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

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 July 2004	1 July 2004– 18 July 2004	not amended	new Act and modifications by SL2004-26
R2 23 July 2004	19 July 2004– 31 Aug 2004	not amended	commenced provisions
R3 1 Sept 2004	1 Sept 2004– 22 Dec 2004	not amended	commenced provisions
R4 5 Jan 2005	23 Dec 2004– 7 Sept 2005	not amended	commenced expiry
R5 8 Sept 2005	8 Sept 2005– 23 Nov 2005	A2005-44	amendments by A2005-44
R6 24 Nov 2005	24 Nov 2005– 30 June 2006	A2005-56	amendments by A2005-56
R7 1 July 2006	1 July 2006– 15 Nov 2006	A2006-30	amendments by A2006-30
R8 16 Nov 2006	16 Nov 2006– 30 Mar 2008	A2006-42	amendments by A2006-42
R9 31 Mar 2008	31 Mar 2008 25 Aug 2008	A2007-25	amendments by A2007-25
R10 26 Aug 2008	26 Aug 2008– 1 Feb 2009	A2008-28	amendments by A2008-28
R11 2 Feb 2009	2 Feb 2009– 21 Sept 2009	A2008-37	amendments by A2008-37
R12 22 Sept 2009	22 Sept 2009– 16 Dec 2009	A2009-20	amendments by A2009-20

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5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R13 17 Dec 2009	17 Dec 2009– 27 Apr 2010	A2009-49	amendments by A2009-49
R14 28 Apr 2010	28 Apr 2010– 19 Aug 2010	A2010-13	amendments by A2010-13
R15 20 Aug 2010	20 Aug 2010– 30 June 2011	A2010-17	amendments by A2010-17
R16 1 July 2011	1 July 2011– 20 Sept 2011	A2011-22	amendments by A2011-22
R17 21 Sept 2011	21 Sept 2011– 4 Apr 2012	A2011-28	amendments by A2011-28
R18 5 Apr 2012	5 Apr 2012– 11 Apr 2012	A2012-12	amendments by A2012-12
R19 12 Apr 2012	12 Apr 2012– 13 June 2012	A2012-13	amendments by A2012-13
R20 14 June 2012	14 June 2012– 10 Nov 2014	A2012-30	amendments by A2012-30
R21 11 Nov 2015	11 Nov 2015– 2 June 2015	A2014-50	amendments by A2014-50
R22 3 June 2015	3 June 2015– 10 June 2015	A2015-16	amendments by A2015-16
R23 11 June 2015	11 June 2015– 13 Oct 2015	A2015-16	amendments by A2014-59
R24 14 Oct 2015	14 Oct 2015– 31 Mar 2016	A2015-33	amendments by A2015-33
R25 1 Apr 2016	1 Apr 2016– 20 June 2016	A2016-13	amendments by A2016-13
R26 21 June 2016	21 June 2016– 15 Nov 2017	A2016-33	amendments by A2016-33
R27 16 Nov 2017	16 Nov 2017– 6 Dec 2018	A2017-38	amendments by A2017-38
R28 7 Dec 2018	7 Dec 2018– 20 June 2019	A2018-49	amendments by A2018-49

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