

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Steve Pratt)

Fire, Emergency Services and Ambulance Authorities Bill 2003

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2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Steve Pratt)

Fire, Emergency Services and Ambulance Authorities Bill 2003

A Bill for

An Act to establish independent authorities to supervise bushfire-fighting services (including the rural firefighting service), the ACT emergency service, the fire brigade and the ambulance service

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Fire, Emergency Services and Ambulance*
4 *Authorities Act 2003*.

5 **2 Commencement**

6 This Act commences on a day fixed by the Minister by written
7 notice.

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

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

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

16 **3 Dictionary**

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

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

21 For example, the signpost definition ‘*built-up area*—see the *Bushfire*
22 *Act 1936*, section 2.’ means that the term ‘built-up area’ is defined in
23 that section and the definition applies to this Act.

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

1 **4 Notes**

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

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

4 **5 Offences against Act—application of Criminal Code etc**

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

6 *Note 1 Criminal Code*

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

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

13 *Note 2 Penalty units*

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

1 **Part 2 Bushfire authority**

2 **Division 2.1 General**

3 **6 Establishment of bushfire authority**

- 4 (1) The Bushfire Authority (*bushfire authority*) is established.
- 5 (2) The authority—
- 6 (a) is a corporation; and
- 7 (b) may have a seal.
- 8 (3) In exercising its functions, the authority has the same capacity as an
- 9 individual.

10 **7 Bushfire authority functions**

11 The bushfire authority has the following functions:

- 12 (a) to supervise the rural firefighting service;
- 13 *Note The rural firefighting service is established under the Bushfire*
- 14 *Act 1936, s 5A and s 5K.*
- 15 (b) to provide support to the fire brigade for fire prevention and
- 16 control operations in built-up areas, as directed by the Minister;
- 17 (c) to provide support for other Territory agencies, and for
- 18 Commonwealth and State authorities, during emergencies of
- 19 any kind, as directed by the Minister;
- 20 (d) to organise, develop and train the capability of the rural
- 21 firefighting service alone or in conjunction with other
- 22 authorities;
- 23 (e) to provide strategic planning services to counter the bushfire
- 24 threat to the ACT;

- 1 (f) to perform community services in accordance with any
2 agreement with the Minister;
- 3 (g) to advise the Minister on all significant issues relating to the
4 bushfire authority and its activities;
- 5 (h) to implement any directions by the Minister under this Act;
- 6 (i) to exercise any other function given to it under this Act, the
7 *Bushfire Act 1936* or any other Territory law;
- 8 (j) to carry out activities incidental to its other functions.

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

12 **8 Government agencies to assist bushfire authority**

- 13 (1) If requested by the bushfire authority or the bushfire authority chief
14 executive, an administrative unit or Territory authority must give the
15 bushfire authority any administrative and logistical assistance in
16 carrying out its functions that is reasonably practical.
- 17 (2) Administrative and logistical assistance given by an administrative
18 unit or Territory authority is subject to any direction given by the
19 authority or the bushfire authority chief executive.

20 **Division 2.2 Bushfire authority board of**
21 **management**

22 **9 Bushfire authority board—establishment**

23 A board of management for the bushfire authority is established.

- 1 **10 Bushfire authority board functions**
- 2 (1) The board has general responsibility for the policies and
3 management of the bushfire authority.
- 4 (2) Without limiting subsection (1), the board is required to—
- 5 (a) decide the strategies and policies to be followed by the
6 authority; and
- 7 (b) ensure that the authority exercises its functions in a proper,
8 efficient and effective way; and
- 9 (c) establish and monitor performance standards for the rural
10 firefighting service.
- 11 **11 Bushfire authority board constitution**
- 12 (1) The board consists of directors appointed by the Minister.
- 13 (2) Schedule 1 (Appointments to emergency authority boards) also
14 applies in relation to the appointment of the directors.
- 15 **12 Bushfire authority board—chairperson and deputy**
16 **chairperson**
- 17 (1) The Minister must appoint a director to be the chairperson of the
18 board.
- 19 (2) The directors must elect one of their number to be the deputy
20 chairperson of the board.
- 21 **13 Bushfire authority board procedures**
- 22 Schedule 2 (Emergency authority board procedures) applies in
23 relation to the procedure to be followed for board meetings.

Division 2.3 Bushfire authority chief executive

14 Appointment of bushfire authority chief executive

- (1) The bushfire authority must appoint a person as chief executive of the authority (the *bushfire authority chief executive*), after consulting the Minister.

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

- (2) The bushfire authority chief executive's conditions of appointment are the conditions agreed between the authority and the bushfire authority chief executive, subject to any determination under the *Remuneration Tribunal Act 1995*.

- (3) However, the authority may enter into an agreement mentioned in subsection (2) only after consultation between the Minister and the bushfire authority board.

- (4) Despite any agreement or determination under subsection (2), the authority may end the appointment of the bushfire authority chief executive without compensation if the chief executive contravenes section 16 (2) or division 5.3 (Standards of conduct).

15 First bushfire authority chief executive

- (1) The first bushfire authority chief executive is the person who, immediately before the day this section commenced, was the chief fire control officer under the *Bushfire Act 1936*.

- (2) The terms and conditions on which the first bushfire authority chief executive holds office are those which applied to his or her appointment as chief fire control officer, subject to any more favourable terms and conditions agreed between the chief executive and the bushfire authority, or that apply under any determination under the *Remuneration Tribunal Act 1995*.

- 1 (3) Despite any agreement or determination under subsection (2), the
2 authority may end the appointment of the first bushfire authority
3 chief executive without compensation if the chief executive
4 contravenes section 16 (2) or division 5.3 (Standards of conduct).
- 5 (4) This section expires 5 years after the day it commences.
- 6 (5) This section is a law to which the Legislation Act, section 88
7 (Repeal does not end the effect of transitional laws etc) applies.

8 **16 Functions of bushfire authority chief executive**

- 9 (1) The bushfire authority chief executive has the following functions:
- 10 (a) to lead the ACT bushfire fighting capacity;
- 11 (b) to manage the bushfire authority's affairs on a day-to-day basis
12 on behalf of the bushfire authority board;
- 13 (c) to advise the bushfire authority board on all aspects of planning
14 and operations in relation to countering the bushfire threat
15 posed to the ACT;
- 16 (d) to train members of the rural firefighting service to meet the
17 challenges presented by the bushfire threat;
- 18 (e) to train those members, and staff of the bushfire authority, to
19 national standards and best practices, as determined by the
20 board;
- 21 (f) any other function given to the bushfire authority chief
22 executive by the board.
- 23 (2) In performing these functions, the chief executive must act in
24 accordance with any policies decided, and directions given, by the
25 board.

Division 2.4 Bushfire authority staff and consultants

17 Bushfire authority staff

The staff of the bushfire authority are employed under the *Public Sector Management Act 1994*.

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

18 Bushfire authority consultants

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

Division 2.5 Bushfire Advisory Council

19 Establishment of BAC

- (1) The Bushfire Advisory Council (**BAC**) is established.
- (2) The BAC consists of members appointed by the Minister on the recommendation of the bushfire authority, for periods, and on other conditions, stated in the instruments of appointment (subject to this Act).
- (3) In making a decision about appointing a person as a member of the BAC, the Minister must consider the experience and expertise of the person in relation to the prevention and control of bushfires.
- (4) The procedure at meetings of the BAC must be determined by the BAC.

1 **20 BAC function**

- 2 (1) The BAC is to provide advice to the Minister and the board about
3 issues affecting the functions of the rural firefighting service.
- 4 (2) The BAC must provide advice as required by the Minister or the
5 board, and may provide advice on its own initiative.
- 6 (3) In carrying out its function, the BAC may consult members of the
7 public and with other entities interested in issues affecting the
8 functions of the rural firefighting service.

9 **21 Assistance by bushfire authority chief executive**

10 The bushfire authority chief executive officer must give the BAC
11 any assistance in carrying out its function that is reasonably
12 practical, in consultation with the BAC.

13 **22 BAC members' expenses**

- 14 (1) The bushfire authority must reimburse a member of the BAC for
15 expenses reasonably incurred by the member for attending a
16 meeting of the BAC.
- 17 (2) A member of the BAC is not otherwise entitled to be paid for
18 functions performed in connection with the work of the BAC.

Part 3 Emergency Services Authority

Division 3.1 General

23 Establishment of ESA

- (1) The Emergency Services Authority (*ESA*) is established.
- (2) The ESA—
- (a) is a corporation; and
- (b) may have a seal.
- (3) In exercising its functions, the ESA has the same capacity as an individual.

24 ESA functions

The ESA has the following functions:

- (a) to supervise the ACT emergency service;

Note The ACT emergency service is established under the Emergency Management Act 1999, pt 5.

- (b) to provide support for other Territory agencies, and for Commonwealth and State authorities, during emergencies of any kind, as directed by the Minister;
- (c) to organise, develop and train the capability of the ACT emergency service;
- (d) to perform community services in accordance with any agreement with the Minister;
- (e) to advise the Minister on all significant issues relating to the ESA and its activities;
- (f) to implement any directions by the Minister under this Act;

1 (g) to exercise any other function given to it under this Act, the
2 *Emergency Management Act 1999* or any other Territory law;

3 (h) to carry out activities incidental to its other functions.

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

7 **25 Government agencies to assist ESA**

8 (1) If requested by the ESA or the ESA chief executive, an
9 administrative unit or Territory authority must give the ESA any
10 administrative and logistical assistance in carrying out its functions
11 that is reasonably practical.

12 (2) Administrative and logistical assistance given by an administrative
13 unit or Territory authority is subject to any direction given by the
14 ESA or the ESA chief executive.

15 **Division 3.2 ESA board of management**

16 **26 ESA board—establishment**

17 A board of management for the ESA is established.

18 **27 ESA board functions**

19 (1) The board has general responsibility for the policies and
20 management of the ESA.

21 (2) Without limiting subsection (1), the board is required to—

22 (a) decide the strategies and policies to be followed by the ESA;
23 and

24 (b) ensure that the ESA exercises its functions in a proper,
25 efficient and effective way; and

- 1 (c) establish and monitor performance standards for the ACT
2 emergency service.

3 **28 ESA board constitution**

- 4 (1) The board consists of directors appointed by the Minister.
5 (2) Schedule 1 (Appointments to emergency authority boards) also
6 applies in relation to the appointment of the directors.

7 **29 ESA board—chairperson and deputy chairperson**

- 8 (1) The Minister must appoint a director to be the chairperson of the
9 board.
10 (2) The directors must elect one of their number to be the deputy
11 chairperson of the board.

12 **30 ESA board procedures**

- 13 Schedule 2 (Emergency authority board procedures) applies in
14 relation to the procedure to be followed for board meetings.

15 **Division 3.3 ESA chief executive**

16 **31 Appointment of ESA chief executive**

- 17 (1) The ESA must appoint a person as chief executive of the authority
18 (*ESA chief executive*), after consulting the Minister.

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

- 21 (2) The ESA chief executive's conditions of appointment are the
22 conditions agreed between the ESA and the ESA chief executive,
23 subject to any determination under the *Remuneration Tribunal Act*
24 *1995*.

33 Functions of ESA chief executive

- (1) The ESA chief executive has the following functions:
- (a) to lead the ACT capacity to deal with emergencies;
 - (b) to manage the ESA's affairs on a day-to-day basis on behalf of the ESA board;
 - (c) to advise the ESA board on all aspects of planning and operations in relation to emergencies in the ACT;
 - (d) to train members of the ACT emergency service to meet the challenges presented by emergencies in the ACT;
 - (e) to train those members, and staff of the ESA, to national standards and best practices, as determined by the board;
 - (f) any other function given to the ESA chief executive by the board.
- (2) In performing these functions, the chief executive must act in accordance with any policies decided, and directions given, by the board.

Division 3.4 ESA staff and consultants

34 ESA staff

The staff of the ESA are employed under the *Public Sector Management Act 1994*.

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

1 **35 ESA consultants**

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

5 **Division 3.5 Emergency Services Advisory**
6 **Council**

7 **36 Establishment of ESAC**

- 8 (1) The Emergency Services Advisory Council (**ESAC**) is established.
- 9 (2) The ESAC consists of members appointed by the Minister on the
- 10 recommendation of the ESA, for periods, and on other conditions,
- 11 stated in the instruments of appointment (subject to this Act).
- 12 (3) In making a decision about appointing a person as a member of the
- 13 ESAC, the Minister must consider the experience and expertise of
- 14 the person in relation to planning and operations to deal with
- 15 emergencies.
- 16 (4) The procedure at meetings of the ESAC must be determined by the
- 17 ESAC.

18 **37 ESAC function**

- 19 (1) The ESAC is to provide advice to the Minister and the board about
- 20 issues affecting the functions of the emergency service.
- 21 (2) The ESAC must provide advice as required by the Minister or the
- 22 board, and may provide advice on its own initiative.
- 23 (3) In carrying out its function, the ESAC may consult members of the
- 24 public and with other entities interested in issues affecting the
- 25 functions of the ACT emergency service.

1 **38 Assistance by ESA chief executive**

2 The ESA chief executive officer must give the ESAC any assistance
3 in carrying out its function that is reasonably practical, in
4 consultation with the ESAC.

5 **39 ESAC members' expenses**

- 6 (1) The ESA must reimburse a member of the ESAC for expenses
7 reasonably incurred by the member for attending a meeting of the
8 ESAC.
- 9 (2) A member of the ESAC is not otherwise entitled to be paid for
10 functions performed in connection with the work of the ESAC.

- 1 **Part 4** **Metropolitan Fire and**
2 **Ambulance Authority**
- 3 **Division 4.1** **General**
- 4 **40** **Establishment of MFAA**
- 5 (1) The Metropolitan Fire and Ambulance Authority (*MFAA*) is
6 established.
- 7 (2) The MFAA—
- 8 (a) is a corporation; and
- 9 (b) may have a seal.
- 10 (3) In exercising its functions, the MFAA has the same capacity as an
11 individual.
- 12 **41** **MFAA functions**
- 13 The MFAA has the following functions:
- 14 (a) to supervise the fire brigade and the ambulance service.
- 15 *Note 1* The fire brigade is established under the *Fire Brigade*
16 *(Administration) Act 1974*.
- 17 *Note 2* The ambulance service is established under the *Emergency*
18 *Management Act 1999*, pt 6.
- 19 (b) to provide support to the rural firefighting service for fire
20 prevention and control operations outside built-up areas, as
21 directed by the Minister;
- 22 (c) to provide support for other Territory agencies, and for
23 Commonwealth and State authorities, during emergencies of
24 any kind, as directed by the Minister;

- 1 (d) to organise, develop and train the capability of the fire brigade
2 alone or in conjunction with other authorities;
- 3 (e) to provide strategic planning services to counter the fire threat
4 in built-up areas;
- 5 (f) to perform community services in accordance with any
6 agreement with the Minister;
- 7 (g) to advise the Minister on all significant issues relating to the
8 MFAA and its activities;
- 9 (h) to implement any directions by the Minister under this Act;
- 10 (i) to exercise any other function given to it under this Act, the
11 *Fire Brigade Act 1957*, the *Fire Brigade (Administration) Act*
12 *1974*, the *Emergency Management Act 1999* or any other
13 Territory law;
- 14 (j) to carry out activities incidental to its other functions.

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

18 **42 Government agencies to assist MFAA**

- 19 (1) If requested by the MFAA or an MFAA chief executive, an
20 administrative unit or Territory authority must give the MFAA any
21 administrative and logistical assistance in carrying out its functions
22 that is reasonably practical.
- 23 (2) Administrative and logistical assistance given by an administrative
24 unit or Territory authority is subject to any direction given by the
25 MFAA or an MFAA chief executive.

Division 4.2 MFAA board of management

43 MFAA board—establishment

A board of management for the MFAA is established.

44 MFAA board functions

(1) The board has general responsibility for the policies and management of the MFAA.

(2) Without limiting subsection (1), the board is required to—

(a) decide the strategies and policies to be followed by the MFAA;
and

(b) ensure that the MFAA exercises its functions in a proper, efficient and effective way; and

(c) establish and monitor performance standards for the fire brigade and the ambulance service.

45 MFAA board constitution

(1) The board consists of directors appointed by the Minister.

(2) Schedule 1 (Appointments to emergency authority boards) also applies in relation to the appointment of the directors.

46 MFAA board—chairperson and deputy chairperson

(1) The Minister must appoint a director to be the chairperson of the board.

(2) The directors must elect one of their number to be the deputy chairperson of the board.

47 MFAA board procedures

Schedule 2 (Emergency authority board procedures) applies in relation to the procedure to be followed for board meetings.

Division 4.3 Fire brigade chief executive

48 Appointment of fire brigade chief executive

- (1) The MFAA must appoint a person to be a chief executive of the fire brigade (the *fire brigade chief executive*), after consulting the Minister.

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

- (2) A fire brigade chief executive's conditions of appointment are the conditions agreed between the MFAA and the chief executive, subject to any determination under the *Remuneration Tribunal Act 1995*.
- (3) However, the MFAA may enter into an agreement mentioned in subsection (2) only after consultation between the Minister and the MFAA board.
- (4) Despite any agreement or determination under subsection (2), the authority may end the appointment of the fire brigade chief executive without compensation if the chief executive contravenes section 50 (2) or division 5.3 (Standards of conduct).

49 First fire brigade chief executive

- (1) The first fire brigade chief executive is the person who, immediately before the day this section commenced, was the fire controller under the *Fire Brigade (Administration) Act 1974*.
- (2) The terms and conditions on which the first fire brigade chief executive holds office are those which applied to his or her appointment as fire controller, subject to any more favourable terms

- 1 and conditions agreed between the chief executive and the MFAA,
2 or that apply under any determination under the *Remuneration*
3 *Tribunal Act 1995*.
- 4 (3) Despite any agreement or determination under subsection (2), the
5 authority may end the appointment of the first fire brigade chief
6 executive without compensation if the chief executive contravenes
7 section 50 (2) or division 5.3 (Standards of conduct).
- 8 (4) This section expires 5 years after the day it commences.
- 9 (5) This section is a law to which the Legislation Act, section 88
10 (Repeal does not end the effect of transitional laws etc) applies.

11 **50 Functions of fire brigade chief executive**

- 12 (1) The fire brigade chief executive has the following functions:
- 13 (a) to lead the ACT firefighting capacity in built-up areas;
- 14 (b) to manage the fire brigade's affairs on a day-to-day basis on
15 behalf of the MFAA board;
- 16 (c) to advise the MFAA board on all aspects of planning and
17 operations in relation to countering the fire threat in built-up
18 areas;
- 19 (d) to train members of the fire brigade to meet the challenges
20 presented by the fire threat in built-up areas;
- 21 (e) to train those members, and staff of the MFAA, to national
22 standards and best practices, as determined by the board;
- 23 (f) any other function given to the fire brigade chief executive by
24 the board.
- 25 (2) In performing these functions, the chief executive must act in
26 accordance with any policies decided, and directions given, by the
27 board.

Division 4.4 Ambulance service chief executive

51 Appointment of ambulance service chief executive

- (1) The MFAA must appoint a person to be a chief executive of the ambulance service (the *ambulance service chief executive*), after consulting the Minister.

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

- (2) An ambulance service chief executive's conditions of appointment are the conditions agreed between the MFAA and the chief executive, subject to any determination under the *Remuneration Tribunal Act 1995*.

- (3) However, the MFAA may enter into an agreement mentioned in subsection (2) only after consultation between the Minister and the MFAA board.

- (4) Despite any agreement or determination under subsection (2), the authority may end the appointment of the ambulance service chief executive without compensation if the chief executive contravenes section 53 (2) or division 5.3 (Standards of conduct).

52 First ambulance service chief executive

- (1) The first ambulance service chief executive is the person who, immediately before the day this section commenced, was the chief officer of the ambulance service under the *Emergency Management Act 1999*, division 6.2.

- (2) The terms and conditions on which the first ambulance service chief executive holds office are those which applied to his or her appointment as chief officer, subject to any more favourable terms and conditions agreed between the chief executive and the MFAA, or that apply under any determination under the *Remuneration Tribunal Act 1995*.

- 1 (3) Despite any agreement or determination under subsection (2), the
2 authority may end the appointment of the first ambulance service
3 chief executive without compensation if the chief executive
4 contravenes section 53 (2) or division 5.3 (Standards of conduct).
- 5 (4) This section expires 5 years after the day it commences.
- 6 (5) This section is a law to which the Legislation Act, section 88
7 (Repeal does not end the effect of transitional laws etc) applies.

8 **53 Functions of ambulance service chief executive**

- 9 (1) The ambulance service chief executive has the following functions:
- 10 (a) to lead the provision of ambulance services in the ACT;
- 11 (b) to manage the ambulance service's affairs on a day-to-day
12 basis on behalf of the MFAA board;
- 13 (c) to advise the MFAA board on all aspects of planning and
14 operations in relation to the functions of the ambulance
15 service;
- 16 (d) to train members of the ambulance service to meet the
17 challenges presented by the requirements for ambulance
18 services in the ACT;
- 19 (e) to train those members, and staff of the MFAA, to national
20 standards and best practices, as determined by the board;
- 21 (f) any other function given to the ambulance service chief
22 executive by the board.
- 23 (2) In performing these functions, the chief executive must act in
24 accordance with any policies decided, and directions given, by the
25 board.

Division 4.5 MFAA staff and consultants

54 MFAA staff

The staff of the MFAA are employed under the *Public Sector Management Act 1994*.

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

55 MFAA consultants

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

Division 4.6 Metropolitan Fire and Ambulance Advisory Council

56 Establishment of MFAAC

- (1) The Metropolitan Fire and Ambulance Advisory Council (*MFAAC*) is established.
- (2) The MFAAC consists of members appointed by the Minister on the recommendation of the MFAA, for periods, and on other conditions, stated in the instruments of appointment (subject to this Act).
- (3) In making a decision about appointing a person as a member of the MFAAC, the Minister must consider the experience and expertise of the person in relation to the provision of ambulance services.
- (4) The procedure at meetings of the MFAAC must be determined by the MFAAC.

1 **57 MFAAC functions**

- 2 (1) The function of the MFAAC is to provide advice to the Minister and
3 the board about issues affecting the functions of the fire brigade and
4 the ambulance service.
- 5 (2) The MFAAC must provide advice as required by the Minister or the
6 board, and may provide advice on its own initiative.
- 7 (3) In carrying out its function, the MFAAC may consult with members
8 of the public and with other entities interested in issues affecting the
9 functions of the fire brigade and the ambulance service.

10 **58 Assistance by MFAA chief executives**

11 The MFAA chief executives must give the MFAAC any assistance
12 in carrying out its functions that is reasonably practical, in
13 consultation with the MFAAC.

14 **59 MFAAC members' expenses**

- 15 (1) The MFAA must reimburse a member of the MFAAC for expenses
16 reasonably incurred by the member for attending a meeting of the
17 MFAAC.
- 18 (2) A member of the MFAAC is not otherwise entitled to be paid for
19 functions performed in connection with the work of the MFAAC.

Part 5 **Emergency authorities—
general**

Division 5.1 **Interpretation**

60 **Meaning of *emergency authority***

In this Act:

emergency authority means the bushfire authority, the ESA or the MFAA.

Division 5.2 **Accountability**

61 **Requests for information**

- (1) An emergency authority must provide the Legislative Assembly with all the information the Legislative Assembly requests in relation to the authority or its functions.
- (2) The authority must provide the Minister with all the information the Minister requests in relation to the authority or its functions.

62 **Notice of significant events**

An emergency authority must, as soon as practicable, tell the Minister of any significant event that affects, or seems likely to affect, the performance of a significant function of the authority.

63 **Ministerial directions**

- (1) The Minister may give written directions to an emergency authority in relation to the exercise of its functions.
- (2) Before giving a direction the Minister must—
 - (a) tell the authority the effect of the proposed direction; and

- 1 (b) give the authority a reasonable opportunity to comment on the
2 proposed direction; and
- 3 (c) consider any comments made by the authority.
- 4 (3) On receiving a direction, the authority must comply with it.
- 5 (4) If the Legislative Assembly is sitting when the Minister gives the
6 direction to the authority—
- 7 (a) the Minister must, within 7 days after giving the direction, give
8 a copy of the direction to the Speaker; and
- 9 (b) the Speaker must present the copy of the direction to the
10 Legislative Assembly on the next sitting day.
- 11 (5) If the Legislative Assembly is not sitting when the Minister gives a
12 direction—
- 13 (a) the Minister must, within 7 days after giving the direction, give
14 a copy of the direction to the Speaker, together with a copy for
15 each member of the Legislative Assembly; and
- 16 (b) the copy of the direction is taken for all purposes to have been
17 presented to the Legislative Assembly on the day the Minister
18 gives it to the Speaker (the *report day*); and
- 19 (c) publication of the direction is taken to have been ordered by
20 the Legislative Assembly on the report day; and
- 21 (d) the Speaker must arrange for a copy of the direction to be
22 given to each member of the Legislative Assembly on the
23 report day; and
- 24 (e) the Speaker may give directions for the printing and
25 circulation, and in relation to the publication, of the direction;
26 and
- 27 (f) despite paragraph (b), the Speaker must present the copy of the
28 direction to the Legislative Assembly on the next sitting day.

(6) If subsection (4) (a) or (5) (a) is not complied with, the direction is taken to have been revoked 3 days after the direction was given to the authority.

(7) A direction is a notifiable instrument.

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

(8) In this section:

Speaker means—

(a) the Speaker; or

(b) the Deputy Speaker; or

(c) the clerk of the Legislative Assembly.

64 Audits

(1) The auditor-general must conduct an audit of each emergency authority's operational capability as at the end of each financial year.

(2) At the end of the financial year ending on 30 June 2005, and at the end of every second financial year after that, the audit must be conducted in partnership with a national auditing authority nominated by the Minister.

(3) The auditor-general must give a report of an audit to the Minister and a copy of the report to the board of the authority.

(4) If the Legislative Assembly is sitting when the Minister receives the report—

(a) the Minister must, within 7 days after receiving the audit report, give a copy of the report to the Speaker; and

(b) the Speaker must present the copy of the report to the Legislative Assembly on the next sitting day.

- 1 (5) If the Legislative Assembly is not sitting when the Minister receives
2 the audit report—
- 3 (a) the Minister must, within 7 days after receiving the audit
4 report, give a copy of the report to the Speaker, together with a
5 copy for each member of the Legislative Assembly; and
- 6 (b) the copy of the report is taken for all purposes to have been
7 presented to the Legislative Assembly on the day the Minister
8 gives it to the Speaker (the *report day*); and
- 9 (c) publication of the report is taken to have been ordered by the
10 Legislative Assembly on the report day; and
- 11 (d) the Speaker must arrange for a copy of the report to be given to
12 each member of the Legislative Assembly on the report day;
13 and
- 14 (e) the Speaker may give directions for the printing and
15 circulation, and in relation to the publication, of the report; and
- 16 (f) despite paragraph (b), the Speaker must present the copy of the
17 report to the Legislative Assembly on the next sitting day.
- 18 (6) A direction is a notifiable instrument.
- 19 *Note* A notifiable instrument must be notified under the Legislation Act.
- 20 (7) In this section:
- 21 *Speaker* means—
- 22 (a) the Speaker; or
- 23 (b) the Deputy Speaker; or
- 24 (c) the clerk of the Legislative Assembly.

Division 5.3 Standards of conduct

65 Meaning of *relevant person* for div 5.3

In this division:

relevant person means any of the following people:

- (a) a director of the board of an emergency authority;
- (b) a member of staff of an emergency authority;
- (c) a person performing services for an emergency authority.

66 Improper use of position

A relevant person commits an offence if the person intentionally makes improper use of his or her position as a relevant person to gain, directly or indirectly, an advantage for himself or herself or anyone else or to cause detriment to the authority.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

67 Improper use of information

A relevant person or former relevant person commits an offence if the person intentionally makes improper use of information acquired because of his or her position as a relevant person to gain, directly or indirectly, an advantage for himself or herself or anyone else or to cause detriment to the authority.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

1 **Division 5.4 General**

2 **68 Power to bind authority**

3 Anything done on behalf of the authority by the board or a chief
4 executive of an emergency authority is taken to have been done by
5 the authority.

6 **69 Annual report**

7 A report or information prepared by an emergency authority for the
8 *Annual Reports (Government Agencies) Act 1995*, section 8 must
9 include, for the reporting period—

10 (a) a copy of any direction given by the Minister under this Act
11 during the period; and

12 (b) a statement by the authority about action taken during the
13 period to give effect to the direction, whether during that
14 period or an earlier one.

15 **70 Regulation-making power**

16 The Executive may make regulations for this Act.

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

Schedule 1 Appointments to emergency authority boards

(see ss 11 (2), 28 (2) and 45 (2))

1 Constitution of emergency authority board

- (1) The Minister may appoint a person to be a director of an emergency authority board.

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

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) Before appointing a person to be a director, the Minister must consider the suitability of the person for appointment, having regard to the person's experience, expertise and knowledge in relation to the functions of the authority.

- (3) The number of directors must be between 4 and 6.

- (4) A director holds office, subject to this Act—

- (a) for the period stated in the instrument of appointment; and
 - (b) on the terms and conditions (if any) in relation to matters not provided for by this Act that are specified in the instrument of appointment.

- (6) An appointment must not be for a term longer than 3 years.

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

- 1 **2 Remuneration and allowances of directors**
- 2 A director is entitled to the remuneration, allowances and other
- 3 entitlements—
- 4 (a) that are determined by the remuneration tribunal in relation to
- 5 the director; or
- 6 (b) if there is no determination—that are determined by the Chief
- 7 Minister in relation to a director by an interim determination
- 8 under the *Remuneration Tribunal Act 1995*.
- 9 **3 Ending of appointment of director**
- 10 (1) The Minister must end the appointment of a director if the
- 11 director—
- 12 (a) becomes bankrupt, applies to take the benefit of any law for the
- 13 relief of bankrupt or insolvent debtors, compounds with
- 14 creditors or makes an assignment of remuneration for their
- 15 benefit; or
- 16 (b) is absent, except with the board's leave, from 3 consecutive
- 17 meetings of the board; or
- 18 (c) contravenes division 5.3 (Standards of conduct); or
- 19 (d) contravenes schedule 2, clause 5 (Disclosure of interests by
- 20 directors) without reasonable excuse; or
- 21 (e) is sentenced, in Australia or elsewhere, to imprisonment for at
- 22 least 1 year; or
- 23 (f) is convicted, in Australia or elsewhere, of an offence—
- 24 (i) punishable by imprisonment for 1 year or more; or
- 25 (ii) that involves fraud or arises out of the promotion,
- 26 formation or management of a corporation.
- 27 *Note* A director's appointment also ends if the director resigns (see
- 28 Legislation Act, s 210).

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- 1 (2) The Minister may end the appointment of a director if the board tells
 2 the Minister in writing that it has resolved, by a majority of at
 3 least $\frac{2}{3}$ of the directors, to recommend to the Minister that the
 4 director's appointment be ended.
- 5 (3) The board may only pass a resolution mentioned in subclause (2)
 6 if—
- 7 (a) at least 21 days written notice of the intention to consider the
 8 proposed resolution has been given to the director concerned;
 9 and
- 10 (b) the director has been given a reasonable opportunity to make
 11 submissions and present documents to a meeting of the board;
 12 and
- 13 (c) the board has considered any submission or documents
 14 mentioned in paragraph (b) and the minutes of the board
 15 meeting include both of the following:
- 16 (i) a summary of the director's arguments;
- 17 (ii) a copy of any documents presented by the director.

Schedule 2 Emergency authority board procedures

(see ss 13, 30 and 47)

1 Calling meetings of board

- (1) The chairperson or, if the chairperson cannot do so, the deputy chairperson—
 - (a) may at any time call a meeting of the board; and
 - (b) must call a meeting of the board if asked by the Minister or if asked, in writing, by at least 2 directors.
- (2) A person who calls a meeting of the board must give the other directors reasonable notice of the time and place of the meeting.

2 Who presides at board meetings?

- (1) The chairperson must preside at all meetings of the board at which he or she is present.
- (2) If the chairperson is not present at a meeting, the deputy chairperson must preside.
- (3) If the chairperson and the deputy chairperson are both absent from a meeting, the directors present must elect a director to preside.

3 Procedure at board meetings

- (1) Subject to any decision of the board, the procedures to be followed in connection with a meeting are as the presiding director decides.
- (2) If all the directors agree, a meeting may be held by means of a method of communication, or a combination of methods of communication, that enables all participants to hear what another participant says without being in each other's presence.

- 1 (3) A director who takes part in a meeting conducted under
2 subclause (2) is taken, for all purposes, to be present at the meeting.
- 3 (4) Questions arising at a meeting may be decided by a majority of the
4 votes of the directors present and voting.
- 5 (5) The presiding director has a deciding vote and, if the votes are
6 equal, a casting vote.
- 7 (6) The board must keep minutes of its proceedings in writing or in
8 such other form as the board decides.

9 **4 Quorum**

10 A majority of the directors is a quorum for a meeting.

11 **5 Disclosure of interests by directors**

- 12 (1) A director who has a relevant interest in a matter being considered,
13 or about to be considered, by the board must, as soon as practicable
14 after the relevant facts have come to the director's knowledge,
15 disclose the nature of the interest at a meeting of the board.
- 16 (2) The disclosure must be recorded in the minutes of the meeting.
- 17 (3) Unless the board otherwise decides, the director must not—
- 18 (a) be present during any deliberation of the board on the matter;
19 or
- 20 (b) take part in a decision of the board on the matter.
- 21 (4) A director who makes a disclosure must not—
- 22 (a) be present during any deliberation of the board for considering
23 whether to make a decision under subclause (3); or
- 24 (b) take part in the making of a decision under subclause (3).

1 (5) In this section:

2 ***relevant interest***, in a matter, means—

3 (a) a direct or indirect financial interest in the matter; or

4 (b) a direct or indirect interest of any other kind if the interest
5 could conflict with the proper exercise of the director's
6 functions in relation to the board's consideration of the matter.

7 **6 Reporting of disclosed interests to Minister**

8 (1) Within 14 days after the day a disclosure of an interest is made
9 under this schedule, clause 5 (1), the chairperson must report to the
10 Minister in writing about—

11 (a) the nature of the interest disclosed; and

12 (b) any decision by the board under this schedule, clause 5 (2).

13 (2) Within 14 days after the day the Minister receives the statement, the
14 Minister must give a copy of the statement to—

15 (a) a standing committee of the Legislative Assembly nominated
16 by the Speaker of the Legislative Assembly for subclause (1);
17 or

18 (b) if no nomination under paragraph (a) is in effect—the standing
19 committee of the Legislative Assembly responsible for the
20 scrutiny of public accounts.

Dictionary

(see s 3)

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:

- ambulance service
- corporation
- document
- entity
- exercise
- fire brigade
- function
- law, of the Territory
- person
- rural firefighting service
- the Territory.

ambulance service chief executive—see section 51 (1).

BAC—see section 19 (1).

board means the board of management of an emergency authority.

built-up area—see the *Bushfire Act 1936*, section 2.

bushfire authority—see section 6 (1).

bushfire authority chief executive—see section 14 (1).

chairperson means the chairperson of a board.

deputy chairperson means the deputy chairperson of a board.

director means a director of a board.

emergency authority—see section 60.

- 1 ***ESA***—see section 23 (1).
2 ***ESAC***—see section 36 (1).
3 ***ESA chief executive***—see section 31 (1).
4 ***fire brigade chief executive***—see section 48 (1).
5 ***MFAA***—see section 40 (1).
6 ***MFAAC***—see section 56 (1).
7 ***relevant person***, for division 5.3 (Standards of conduct)—see
8 section 65.