



Fire and Rescue Service Act 1990

Reprinted as in force on 1 July 2007

Reprint No. 6E

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Also see endnotes for information about—

- **when provisions commenced**
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Queensland

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[as amended by all amendments that commenced on or before 1 July 2007]

An Act to establish the Queensland Fire and Rescue Service and to provide for the prevention of and response to fires and certain other incidents endangering persons, property or the environment and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Fire and Rescue Service Act 1990*.

6 Definitions

The dictionary in schedule 6 defines particular words used in this Act.

6A Authorised fire officers

- (1) The commissioner may authorise a fire officer or fire officers belonging to a class of fire officer specified by the commissioner to exercise—
 - (a) all the powers conferred by this Act on an authorised fire officer; or
 - (b) any power or class of power conferred by this Act on an authorised fire officer.
- (2) A reference in this Act to an authorised fire officer is a reference to—
 - (a) the commissioner; and

- (b) a fire officer authorised by the commissioner pursuant to this section.
- (3) A fire officer authorised by the commissioner immediately before the commencement of this section to exercise any power under this Act as an authorised fire officer is taken, on and from the commencement, to be authorised pursuant to this section.

7 Act binds all persons

- (1) This Act binds all persons, including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Act makes the Commonwealth or a State liable to be prosecuted for an offence.

Part 2 Queensland Fire and Rescue Service

Division 1 Queensland Fire and Rescue Service

8 Establishment of service

The Queensland Fire and Rescue Service is established.

8A Membership of service

The service consists of—

- (a) the commissioner; and
- (b) fire service officers.

8B Functions of service

The functions of the service are—

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- (a) to protect persons, property and the environment from fire and hazardous materials emergencies; and
- (b) to protect persons trapped in a vehicle or building or otherwise endangered, to the extent that the service's personnel and equipment can reasonably be deployed or used for the purpose; and
- (c) to provide an advisory service, and undertake other measures, to promote—
 - (i) fire prevention and fire control; and
 - (ii) safety and other procedures if a fire or hazardous materials emergency happens; and
- (d) to cooperate with any entity that provides an emergency service; and
- (e) to perform other functions given to the service under this Act or another Act; and
- (f) to perform functions incidental to its other functions; and
- (g) to identify and market products and services incidental to its functions.

8C Chief executive's responsibility

- (1) The chief executive is responsible for the way the service performs its functions.
- (2) Without limiting subsection (1), the chief executive is responsible for—
 - (a) defining the objectives, strategies and policies to be followed by the service; and
 - (b) ensuring the service performs its functions in an appropriate, effective and efficient way.

Example—

The chief executive could establish performance measures for the service.

- (3) This section does not affect the chief executive's responsibilities for the department under another Act.

Division 3 Commissioner

9 Appointment of commissioner

- (1) The Governor in Council, acting on the recommendation of the Minister, shall appoint a commissioner for the service.
- (2) A person who does not have professional experience in fire prevention and firefighting is not eligible for appointment as commissioner.
- (4) The commissioner is to be appointed under this Act, and not under the *Public Service Act 1996*.

10 Salary and conditions

The Governor in Council shall from time to time approve the salary, allowances, and conditions of employment of a person holding office as commissioner.

11 Acting commissioner

- (1) The Minister may appoint a person, who is eligible for appointment as commissioner, to act in the office of commissioner during—
 - (a) any vacancy, or all vacancies, in the office; or
 - (b) any period, or all periods, when the commissioner is absent from duty, or can not, for another reason, perform the functions of the office.
- (2) The Minister's power to appoint a person to act in the office of commissioner does not limit the Governor in Council's powers under the *Acts Interpretation Act 1954*, section 25(1)(b)(iv) and (v).¹

12 Role of commissioner

- (1) The commissioner must, under the objectives, strategies and policies defined by the chief executive—

¹ *Acts Interpretation Act 1954*, section 25 (Powers of appointment imply certain incidental powers)

- (a) manage the service's operations; and
 - (b) perform the commissioner's functions and exercise the commissioner's powers under this Act.
- (2) Without limiting subsection (1), the commissioner is to prepare an annual strategic plan incorporating performance targets approved by the Minister.

18 Codes of practice

- (1) The commissioner may from time to time issue codes of practice relating to—
- (a) the functions, powers, conduct and appearance of fire service officers; or
 - (b) any functions imposed or powers conferred by or under this Act on any other person other than the Minister or chief executive.
- (2) The commissioner may at any time amend or revoke a code of practice.
- (3) A provision of a code of practice is of no effect if inconsistent with a provision of this Act.
- (4) Provisions of a code of practice may differ according to differences in time, place or circumstance or according to the fire service officers or classes of fire service officers to whom they are expressed to apply.
- (5) Evidence of any provision of a code of practice may be given by the production of a document purporting to be certified by the commissioner as being a true copy of the provision.

19 Delegation by commissioner

- (1) The commissioner may delegate the commissioner's powers under this Act to a fire service officer, an officer of a rural fire brigade, a fire coordinator, a chief fire warden or a fire warden.
- (2) In subsection (1), a reference to the commissioner's powers includes a reference to the commissioner's powers as an authorised fire officer.

Division 4 Other matters about the service

19C Delegation

- (1) The chief executive may delegate the chief executive's powers under this Act to the commissioner or an appropriately qualified fire service officer.
- (2) A delegation of a power by the chief executive to the commissioner may permit the subdelegation of the power by the commissioner, under section 19, to an appropriately qualified fire service officer.
- (3) In subsection (1)—
appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

A person's classification level in the service.

Part 3 Financial provisions

20 Fund

- (1) The Queensland Fire and Rescue Service Fund is established.
- (2) Accounts for the fund must be kept as part of the departmental accounts of the department.
- (3) Amounts received for the fund must be deposited in a departmental financial-institution account of the department but may be deposited in an account used for depositing other amounts of the department.
- (4) Amounts received for the fund include the following received by the department—
 - (a) amounts received for prescribed property as contributions under part 10;²

2 Part 10 (Funding)

- (b) amounts received by the department from other sources for the fund or amounts that must be paid into the fund;
 - (c) amounts received for the disposal of an asset that the chief executive considers was purchased substantially with amounts paid from the fund or the QFRA Fund;
 - (d) interest from investment of the fund.
- (5) An amount is payable from the fund for the purposes of this Act.
 - (6) The *Financial Administration and Audit Act 1977* applies to the fund.
 - (7) In this section—

departmental accounts, of the department, means the accounts of the department under the *Financial Administration and Audit Act 1977*, section 12.

departmental financial-institution account, of the department, means an account of the department kept under the *Financial Administration and Audit Act 1977*, section 18.

other amounts, of the department, means amounts received by the department other than amounts received for the fund.

QFRA Fund means the QFRA Fund mentioned in the *Financial Administration and Audit Act 1977*, schedule 2, immediately before the commencement of the *Emergency Services Legislation Amendment Act 2001*.

Part 4 Provisions affecting personnel

Division 1 Appointments and conditions

25 Staff of service

The chief executive may employ the persons the chief executive considers necessary to perform the service's functions.

25A Fire service officers employed under this Act

Fire service officers are to be employed under this Act, and not under the *Public Service Act 1996*.

26 Conditions of employment

- (1) Subject to any applicable industrial award or industrial agreement, persons employed under section 25 shall be paid salary, wages and allowances at such rates and shall be employed under such conditions of employment as the chief executive determines.
- (2) However, if a person mentioned in subsection (1) is employed on contract for a fixed term, the conditions of the person's employment are not subject to any industrial award or agreement.

27 Additional remuneration

A fire service officer must not seek or accept on account of anything done in the course of employment in the service any fee or reward not authorised by the chief executive.

Division 2 Termination of office**28 Retirement**

- (1) A fire service officer—
 - (a) must retire from employment with the service upon attaining the age of 65 years;
 - (b) may elect to retire from employment with the service upon or at any time after attaining the age of 55 years.
- (2) If the chief executive suspects on reasonable grounds that a fire service officer, by reason of mental or physical infirmity, has not the capacity or is unfit—
 - (a) to discharge efficiently the duties of office; and

- (b) to discharge efficiently any other duties that the chief executive might reasonably direct the officer to discharge;

the chief executive must obtain medical opinion on the officer's condition.

- (3) The chief executive may appoint any medical practitioner or medical practitioners to examine the officer and report upon the officer's mental or physical condition or both and may direct the officer to submit to the examination.
- (4) If the chief executive believes on reasonable grounds that a fire service officer, by reason of mental or physical infirmity, has not the capacity or is unfit as prescribed by subsection (2), the chief executive may call upon the officer to retire within the time specified by the chief executive.
- (5) If the officer does not retire within the time specified, the chief executive may dismiss the officer.

29 Retrenchment

Where the chief executive is satisfied that—

- (a) the services of a fire service officer can no longer be gainfully utilised in the office held by the officer because the office has become redundant; and
- (b) it is not practicable to retrain or redeploy the officer; and
- (c) the redundancy arrangements approved by the Governor in Council have been complied with in relation to the officer;

the chief executive may terminate the services of the officer by way of retrenchment in accordance with those redundancy arrangements.

Division 3 Discipline and appeals

30 Discipline

- (1) A fire service officer is liable to disciplinary action upon any of the following grounds shown to the satisfaction of the chief executive to exist—
 - (a) incompetence or inefficiency in the discharge of duties;
 - (b) negligence, carelessness or indolence in the discharge of duties;
 - (c) wilful failure to comply with a provision of a code of practice for fire service officers;
 - (d) absence from duty except—
 - (i) upon leave duly granted; or
 - (ii) with reasonable cause;
 - (e) wilful failure to comply with a lawful direction of the chief executive or another person having authority over the officer;
 - (f) misconduct.
- (2) In subsection (1)(f)—

misconduct means—

 - (a) disgraceful or improper conduct that shows unfitness to be or continue as a fire service officer; or
 - (b) behaviour that does not satisfy a standard of behaviour generally expected of fire service officers.
- (3) Where action against an officer is contemplated on the ground of absence from duty, the chief executive may appoint any medical practitioner or medical practitioners to examine the officer and to report upon the officer's mental or physical condition or both, and may direct the officer to submit to the examination.
- (4) An officer may be disciplined in any manner the chief executive believes to be warranted.

- (4A) Without limiting the range of disciplines that may be imposed, the disciplines may consist of any of the following—
- (a) dismissal;
 - (b) reprimand;
 - (c) forfeiture or deferment of a salary increment or increase;
 - (d) reduction in the officer's level of salary;
 - (e) a deduction from the officer's salary of an amount not exceeding 2 penalty units.
- (5) Every order made pursuant to subsections (4) and (4A) shall take effect in law and shall be given effect.

31 Implementation of order

An order about disciplinary action must not be implemented—

- (a) if an appeal about the disciplinary action is started—until after the determination or withdrawal of the appeal or the appeal lapses, whichever happens first; or
- (b) if an appeal about the disciplinary action is not started—until the time for starting an appeal has ended.

32 Suspension

(1) Where—

- (a) it appears on reasonable grounds to the chief executive that a fire service officer is liable to disciplinary action or is suspected of involvement in circumstances such that the proper and efficient discharge of the functions of the service might be prejudiced if the officer's services are continued; or
- (b) an officer is charged in Queensland with having committed an indictable offence or is charged elsewhere with having committed an offence which if it had been

committed in Queensland would be an indictable offence;

the officer may be suspended from duty by the chief executive.

- (2) A suspension may be lifted at any time by the chief executive.
- (3) An officer suspended from duty is not entitled to receive salary for any period during which the officer does not perform that duty, unless the chief executive otherwise determines.
- (4) An officer suspended from duty, who is not entitled to salary for the period of suspension and who resumes duty upon the lifting of the suspension, is entitled to receive a sum equivalent to the amount of salary payable had the officer not been suspended diminished by the amount of salary or fees (if any) to which the officer became entitled from any other source during the period of suspension, unless the chief executive otherwise determines.

33 Mode of dismissal or suspension

- (1) Dismissal or suspension must be effected in accordance with this Act and the principles of natural justice.
- (2) Dismissal or suspension is effected by giving the officer concerned a written notice signed by the chief executive.

Part 4A Emergency Services Advisory Council

34 Establishment of council

The Emergency Services Advisory Council is established.

35 Functions of council

- (1) The council's function is to advise the Minister about—

- (a) the extent to which current service delivery by the service—
 - (i) satisfies community needs; and
 - (ii) contributes to the achievement of the Government's desired outcomes for the community; and
 - (iii) satisfies the performance targets mentioned in the service's annual strategic plan; and
 - (b) anything else referred to it by the Minister—
 - (i) that is relevant to the functions of the service; or
 - (ii) that relates to activities carried out or funded by the department.
- (2) However, the council does not have the function of advising about the matters mentioned in section 49.³
- (3) The council also has the functions given to it under the *Ambulance Service Act 1991* and any other Act.

36 Membership of council

- (1) The council consists of not more than 16 members appointed by the Governor in Council.
- (2) A member may be appointed at any time.
- (3) Nominees for appointment to the council must be persons who the Minister considers are competent to assist the council to perform its functions.

37 Chairperson of council

- (1) The Governor in Council is to appoint a member as the chairperson of the council.
- (2) The chairperson is to preside at all council meetings at which the chairperson is present.

3 Section 49 is about the functions of the Rural Fire Council.

- (3) If the chairperson is not present at a council meeting, a member chosen by the members present at the meeting is to preside.
- (4) If appointed a member of the council, the following are not eligible to be appointed chairperson—
 - (a) the commissioner;
 - (b) the commissioner of the Queensland Ambulance Service;
 - (c) the chief executive;
 - (d) a public service officer.

38 How appointments made

- (1) An appointment under section 36 or 37 is to be by gazette notice.
- (2) The appointment starts on the day the notice is published in the gazette or, if a later day is stated in the notice, the later day.
- (3) A person's appointment as chairperson may be combined with the person's appointment as a member of the council.

39 Term of office

The term of office of a member is not to exceed 3 years.

40 Removal from office

- (1) The Governor in Council may remove a member from office at any time.
- (2) The removal takes effect on notice of the removal being given to the member by the Minister.
- (3) It is unnecessary for any reasons to be given for the removal.

41 Quorum

A quorum for the council is the number equal to one-half of the number of its members for the time being, and if one-half is not a whole number, the next higher whole number.

42 Conduct of business

Subject to this part, the council may conduct its meetings and other business in the way it considers appropriate.

43 Minutes

The council must keep minutes of its meetings.

44 Remuneration of members

A member is entitled to be paid the fees and allowances decided by the Governor in Council.

Part 5 Rural Fire Advisory Council**47 Definition for pt 5**

In this part—

council means the Rural Fire Advisory Council.

48 Rural Fire Council continued in existence

The Rural Fire Council previously established under this Act is continued in existence under the name the Rural Fire Advisory Council.

49 Functions of council

The council's function is to advise the Minister about the following matters—

- (a) preparing for, and responding to, fire in rural areas including the operation of rural fire brigades and the fire fighting or fire prevention function of emergency service units;
- (b) fire safety, fire prevention and the reduction of fire danger in rural areas;
- (c) using fire as a means of sustainable land management in rural areas;
- (d) the extent to which the delivery of rural fire services in rural areas—
 - (i) meets community needs; and
 - (ii) contributes to the achievement of the government's desired outcomes for the community; and
 - (iii) meets community expectations about the use of fire as a means of hazard reduction and sustainable land management; and
 - (iv) impacts on the environment;
- (e) other matters referred to it by the Minister.

50 Membership of council

- (1) The council is to consist of not more than 12 members appointed by the Governor in Council by gazette notice.
- (2) The Minister may nominate a person for membership of the council only if the Minister considers the person is competent to assist the council to perform its function.
- (3) An appointment starts on the later of the following—
 - (a) the day the gazette notice is published;
 - (b) the day, if any, stated in the gazette notice.

51 Term of appointment

A member of the council holds office for the term, not more than 3 years, stated in the member's instrument of appointment.

52 Vacation of office

The office of a member of the council becomes vacant if the member—

- (a) resigns office by signed notice given to the Minister; or
- (b) is removed from office as a member under section 52A.

52A Removal from office

The Governor in Council may remove a member of the council from office if—

- (a) the member has become mentally or physically incapable of performing the member's duties; or
- (b) the Minister is satisfied the member has neglected the member's duties or performed the member's duties incompetently or inefficiently.

52B Chairperson of council

- (1) The Governor in Council is to appoint, by gazette notice, a member of the council as the chairperson of the council.
- (2) The appointment of a member as chairperson starts on the later of the following—
 - (a) the day the gazette notice is published;
 - (b) the day, if any, stated in the gazette notice.
- (3) A person may be appointed as chairperson by the same gazette notice that appoints the person as a member of the council.
- (4) The chairperson is to preside at all council meetings at which the chairperson is present.
- (5) If the chairperson is not present at a council meeting, a member chosen by the members present at the meeting is to preside.
- (6) If appointed as a member of the council, the following are not eligible to be appointed chairperson—
 - (a) the commissioner;

- (b) the chief executive;
- (c) a public service officer.

52C Quorum

A quorum for the council is the number equal to one-half of the number of its members for the time being holding office or, if one-half is not a whole number, the next higher whole number.

52D Conduct of business

Subject to this part, the council may conduct its business, including its meetings, in the way it considers appropriate.

52E Minutes

The council must keep minutes of its meetings.

52F Remuneration of members

A member of the council is entitled to be paid the fees and allowances decided by the Governor in Council.

Part 6 Powers of authorised fire officers

53 Powers of authorised officer in dangerous situations

- (1) An authorised fire officer may take any reasonable measure—
 - (a) to protect persons, property or the environment from danger or potential danger caused by a fire or a hazardous materials emergency; or
 - (b) to protect persons trapped in any premises or otherwise endangered.

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- (2) Without limiting the measures that may be taken for a purpose described in subsection (1), an authorised fire officer may for that purpose do any of the following—
- (a) enter any premises;
 - (b) open any receptacle, using such force as is reasonably necessary;
 - (c) bring any apparatus or equipment onto premises;
 - (d) destroy, damage, remove or otherwise deal with any vegetation or any other material or substance, flammable or not flammable;
 - (e) destroy (wholly or in part) or damage any premises or receptacle;
 - (f) shore up any building;
 - (g) close any road or access, whether public or private;
 - (h) shut off the supply of water from any main, pipe or other source to obtain a greater pressure or supply or take water from any source whether natural or artificial;
 - (i) cause to be shut off or disconnected the supply of gas, electricity or any other source of energy to any premises or area;
 - (j) require any person who, in the opinion of the authorised fire officer, is—
 - (i) the occupier of premises, being the site of or near to the site of the danger; or
 - (ii) in charge of anything that is the source of the danger or likely (in the opinion of the officer) to increase the danger;to take any reasonable measure for the purpose of assisting the officer to deal with the danger or answer any question or provide any information for that purpose;
 - (k) require any person not to enter or remain within a specified area around the site of the danger;

- (l) remove from any place a person who fails to comply with an order given pursuant to paragraph (k) and use such force as is reasonably necessary for that purpose;
 - (m) if unable to identify the person entitled to possession of property found at or near the site of the danger, take possession of the property and retain it for safe custody.
- (3) The owner of any building shored up pursuant to an exercise of the power conferred by subsection (2)(f) must pay to the chief executive upon demand all reasonable expenses thereby incurred and those expenses may be recovered in a court of competent jurisdiction as a debt due to the State.
- (4) A local government, other authority or a person supplying water or any source of energy is not liable for any interruption of supply caused by the exercise of the power conferred by subsection (2)(h) or (i).

54 Disposal of property

- (1) Any property retained for safe custody pursuant to section 53(2)(m) must, as soon as is practicable, be delivered into the possession of a person authorised by, or a person belonging to a class of person authorised by, the commissioner for the purposes of this section.
- (2) The authorised person—
- (a) must cause the property to be returned to the person the authorised person believes is entitled to possession of it; or
 - (b) if unable to form such a belief, must dispose of or otherwise deal with the property in accordance with any code of practice or any direction given by the commissioner.
- (3) Subject to subsection (4), any dealing with property pursuant to subsection (2) does not affect the right of any person to recover the property by action from any person who has possession of it as a result of that dealing.
- (4) An action referred to in subsection (3) must be commenced within 6 months of the date on which the property was dealt with pursuant to subsection (2).

55 Powers of authorised fire officer for preventative or investigative purposes

- (1) At any time an authorised fire officer may enter any premises or open (using such force as is reasonably necessary) any receptacle for any of the following purposes—
- (a) to prevent, or reduce the likelihood of, the occurrence of a fire or a hazardous materials emergency;
 - (b) to investigate whether or not fire safety measures and fire prevention measures, including the implementation of a fire safety management plan as required under part 9A,⁴ have been taken or are being maintained;
 - (c) to ascertain the cause of a fire or hazardous materials emergency;
 - (d) to ascertain whether any provision of this Act or any notice, notification, order (written or verbal) or permit given under this Act has been or is being complied with;
 - (e) to ascertain whether a power conferred by this Act upon an authorised officer should be exercised, or to exercise a power under this Act.
- (2) The power of entry conferred by subsection (1) must not be exercised in respect of—
- (a) a building that is a dwelling or such part of a building as is a dwelling; or
 - (b) a vehicle or vessel used as a dwelling; or
 - (c) a tent or other structure used as a dwelling;
- unless the occupier has given approval to enter or unless entry is made during or in the aftermath of a fire or hazardous materials emergency occurring at the dwelling, for the purpose of ascertaining its cause.
- (2A) However, subsection (2)(a) does not apply to a budget accommodation building if the entry is made to investigate whether the owner of the building is implementing a fire safety management plan.

4 Part 9A (Building fire safety)

- (3) An authorised fire officer who enters premises under this section may—
- (a) for subsection (1)(a)—burn, remove or otherwise deal with any vegetation or other material or substance whether flammable or inflammable at the premises; or
 - (b) for subsection (1) generally—
 - (i) search any part of the premises; or
 - (ii) inspect, measure, test, photograph or film any part of the premises or anything at the premises; or
 - (iii) take a thing, or a sample of or from a thing, at the premises for analysis or testing; or
 - (iv) copy a document at the premises; or
 - (v) make inquiries or conduct surveys and tests; or
 - (vi) take into or onto the premises any persons, equipment and materials the authorised fire officer reasonably requires for exercising a power under this part.

56 Extent of power of entry

The right of entry conferred by section 53(2)(a) or 55—

- (a) includes the right to enter all parts of the premises for which the right is exercised; and
- (b) authorises the person exercising the right to use a reasonable degree of force to ensure the proper exercise of the right.

56A Power to seize evidence etc.

An authorised fire officer who enters premises under section 55 may seize a thing at the premises if the authorised fire officer reasonably believes—

- (a) the thing is evidence of an offence against this Act; or
- (b) the thing has just been used in committing an offence against this Act; or

- (c) the seizure is necessary to prevent the thing being hidden, lost or destroyed; or
- (d) seizure of the thing is necessary for the purposes mentioned in section 55.

56B Powers supporting seizure

- (1) Having seized a thing, an authorised fire officer may—
 - (a) move the thing from the premises where it was seized (the *premises of seizure*); or
 - (b) leave the thing at the premises of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

- sealing a thing and marking it to show access to it is restricted
- sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted

- (2) If an authorised fire officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing or something restricting access to the thing without an authorised fire officer's approval.

Maximum penalty—40 penalty units.

- (3) To enable a thing to be seized, an authorised fire officer may require the person in control of it—
 - (a) to take it to a stated reasonable place by a stated reasonable time; and
 - (b) if necessary, to remain in control of it at the stated place for a reasonable time.
- (4) The requirement—
 - (a) must be made by notice in the approved form; or
 - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.
- (5) The person must comply with the requirement unless the person has a reasonable excuse for not complying.

Maximum penalty—40 penalty units.

- (6) A further requirement may be made under this section in relation to the same thing if it is necessary and reasonable to make the further requirement.

56C Receipt for seized things

- (1) As soon as practicable after an authorised fire officer seizes a thing, the authorised fire officer must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised fire officer must leave the receipt in a conspicuous position and in a reasonably secure way at the premises of seizure.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt required by the section (given the thing's nature, condition and value).

56D Forfeiture of seized things

- (1) A seized thing is forfeited to the State if the authorised fire officer who seized the thing—
 - (a) cannot find its owner after making reasonable inquiries; or
 - (b) cannot return it to its owner, after making reasonable efforts.
- (2) Subsection (1)(a) does not require the authorised fire officer to make inquiries if it would be unreasonable to make inquiries to find the owner, and subsection (1)(b) does not require the authorised fire officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) In deciding whether and, if so, what inquiries and efforts are reasonable about a thing, regard must be had to the thing's nature, condition and value.

56E Return of seized things

- (1) If a seized thing has not been forfeited, the authorised fire officer must return it to its owner at the end of—
 - (a) 6 months; or
 - (b) if a proceeding for an offence involving it is started within 6 months—the proceeding and any appeal from the proceeding.
- (2) Despite subsection (1), unless the thing has been forfeited, the authorised fire officer must immediately return a thing seized as evidence to its owner if the authorised fire officer stops being satisfied its continued retention as evidence is necessary.

56F Access to seized things

- (1) Until a seized thing is forfeited or returned, an authorised fire officer must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

57 Power to require name and address

- (1) This section applies if—
 - (a) an authorised fire officer finds a person committing an offence against this Act; or
 - (b) an authorised fire officer finds a person in circumstances that lead, or has information that leads, the authorised fire officer to reasonably suspect the person has just committed an offence against this Act.
- (2) The authorised fire officer may require the person to state the person's name and residential address.
- (3) When making the requirement, the authorised fire officer must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

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- (4) The authorised fire officer may require the person to give evidence of the correctness of the stated name or address if the authorised fire officer reasonably suspects the stated name or address is false.
- (5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.
- Maximum penalty—10 penalty units.
- (6) The person does not commit an offence against subsection (5) if—
- (a) the person was required to state the person's name and address by an authorised fire officer who suspected the person had just committed an offence against this Act; and
 - (b) the person is not proved to have committed the offence.

58A Reasonable assistance to be provided

- (1) An authorised fire officer who enters any premises under this part may require any person having responsibilities in relation to the premises (whether as owner or occupier of the premises or as a person employed to work thereon or otherwise) to provide the officer with such facilities and assistance with respect to matters or things to which the person's responsibilities extend as are reasonably necessary to enable the officer to exercise the powers conferred upon the authorised officer by this Act.
- (2) A person who is required to provide facilities and assistance to an authorised fire officer under subsection (1) must comply with the requirement unless the person has a reasonable excuse.
- Maximum penalty—10 penalty units.
- (3) It is not a reasonable excuse for the person to fail to comply with the requirement that complying with it might tend to incriminate the person.
- (4) However, if—
- (a) the person is an individual; and

- (b) the requirement is to give information or produce a document;

evidence of, or evidence directly or indirectly derived from, the information or document that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity or misleading nature of the information or document.

- (5) If a person is convicted of an offence against subsection (2), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

58B Power to inquire into fire or hazardous materials emergency

- (1) This section—
- (a) applies if an authorised fire officer becomes aware, or reasonably suspects, that a fire or hazardous materials emergency (the *emergency*) has happened; and
- (b) applies for section 55 and for this Act generally.
- (2) The authorised fire officer may inquire into the circumstances and probable causes of the emergency.
- (3) The authorised fire officer may require a person who has knowledge, or whom the authorised fire officer reasonably suspects to have knowledge, of the circumstances of the emergency to give the authorised fire officer reasonable help, as stated in the requirement, to inquire under subsection (2).
- (4) A requirement under subsection (3) may be given orally or in writing.
- (5) A person must comply with a requirement under subsection (3) unless the person has a reasonable excuse for not complying.

Maximum penalty—10 penalty units.

- (6) If the requirement is to be complied with by a person who is an individual giving information or producing a document, other than a document required to be kept by the person under this Act, it is a reasonable excuse for the person to fail to

comply with the requirement if complying with the requirement might tend to incriminate the person.

58C Power to require production of certain documents

- (1) An authorised fire officer may require a person to make available for inspection by an authorised fire officer, or produce to the authorised fire officer for inspection, at a reasonable time and place stated by the authorised fire officer—
 - (a) a document issued to the person under this Act or required to be kept by the person under this Act; or
 - (b) a document about the person's obligations under this Act for fire safety, including about the maintenance of fire safety installations in a building.

- (2) The person must comply with a requirement under subsection (1), unless the person has a reasonable excuse for not complying.

Maximum penalty—10 penalty units.

- (3) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement under subsection (1) if complying with the requirement might tend to incriminate the person.
- (4) The authorised fire officer may keep the document to copy it.
- (5) If the authorised fire officer copies the document, or an entry in the document, the authorised fire officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (6) The person responsible for keeping the document must comply with the requirement, unless the person has a reasonable excuse for not complying.

Maximum penalty—20 penalty units.
- (7) The authorised fire officer must return the document to the person as soon as practicable after copying it.

59 Person acting at direction of authorised fire officer

Any power conferred upon an authorised fire officer may be exercised by any person acting at the direction of an authorised fire officer and any power so exercised is taken to have been exercised by an authorised fire officer.

60 Directions concerning exercise of powers

The exercise of a power conferred by or under this part on an authorised fire officer or any other person must be in accordance with any direction given by the commissioner and with any code of practice.

Part 6A Decontamination**60A Decontamination**

- (1) An authorised fire officer may ask a person the authorised fire officer is satisfied may be, is, or may have been affected by a chemical substance, to agree to undergo decontamination.
- (2) The person may agree or refuse to agree to the request.
- (3) If the person agrees, it is lawful for the authorised fire officer to take the steps the authorised fire officer considers reasonably necessary to decontaminate the person, including, for example, asking the person to stay where the person is or to move to a stated place for the purpose.
- (4) The authorised fire officer may not direct another person to perform the decontamination.
- (5) In this section—

decontaminate, in relation to a chemical substance, means make the chemical substance harmless.

Part 7 Control and prevention of fires

Division 1 Powers of commissioner relating to fires

61 Interpretation and application of division

- (1) For the purposes of this division a person is taken to light a fire if the person—
 - (a) lights, maintains or uses the fire; or
 - (b) aids, procures or counsels another to light, maintain or use the fire; or
 - (c) being the owner or occupier of the land on which the fire is lit—permits another to light, maintain or use the fire.
- (2) This division does not apply in respect of the lighting of a fire inside any building in circumstances that prevent the escape from the building of fire or any material or substance that is likely to cause fire.
- (3) In this division—

occupier of land includes, where there is no person in actual occupation of the land, the person charged by the owner or by law with the management of the land.

62 Offence to light unauthorised fire

A person who lights a fire that is not authorised by this division or by any notification, notice or permit given under this division commits an offence against this Act.

Maximum penalty—50 penalty units or 6 months imprisonment.

63 Authorisation of fires by commissioner

The commissioner may, by notification published in the gazette, authorise the lighting of fires for purposes and in circumstances specified in the notification.

64 Prohibition by commissioner against lighting of fires

- (1) Notwithstanding any notification under section 63 authorising the lighting of fires the commissioner may, by giving a notice to the occupier of land, prohibit the lighting on the land of all fires or all fires other than those lit for a purpose or in circumstances specified in the notice.
- (2) The commissioner must consider any request made by an occupier of land that a notice be given to the occupier of adjoining land prohibiting the lighting of fires on the adjoining land unless the commissioner believes the request is frivolous or vexatious.
- (3) In this section—
occupier of adjoining land means the occupier of land that—
 - (a) touches some part of the land in question; or
 - (b) would touch some part of that land but for the existence of a watercourse, road or firebreak, that is 10m or less in width or, although wider than 10m, is not clear of vegetation or other flammable material for at least 10m in every direction.

65 Granting of permits

- (1) A person may apply to the commissioner (orally or in writing) for a permit to light a fire on any land.
- (2) The commissioner may grant or refuse to grant an application.
- (3) Subject to subsection (4), the commissioner must refuse to grant a permit to light a fire on any land unless satisfied—
 - (a) that reasonable steps have been taken to notify every occupier of adjoining land (within the meaning of section 64) of the making of the application; and
 - (b) that a reasonable opportunity has been given to every occupier so notified to object (orally or in writing) to the granting of the permit.
- (4) The commissioner may grant a permit without complying with subsection (3) if satisfied that extraordinary circumstances exist for so doing.

66 Fires in State forests etc.

- (1) The provisions of this division do not apply to the lighting of a fire—
 - (a) in a protected area by a person acting in the performance of duties under the *Nature Conservation Act 1992*; or
 - (b) in a State forest, timber reserve or forest entitlement area by a person acting in the performance of duties under the *Forestry Act 1959*.
- (2) The commissioner must not authorise the lighting of fires—
 - (a) in a protected area without the approval of the chief executive of the department that deals with matters arising under the *Nature Conservation Act 1992*; or
 - (b) in a State forest, timber reserve or forest entitlement area without the approval of the chief executive of the department that deals with matters arising under the *Forestry Act 1959*.

67 Occupier to extinguish fire

Where a fire is burning on any land and the lighting of the fire is not authorised by or under this or any other Act, the occupier of the land, immediately upon becoming aware of the fire (regardless of who lit it)—

- (a) must take all reasonable steps to extinguish or control the fire; and
- (b) must, as soon as is practicable, report the existence and location of the fire to a fire officer, an officer of a rural fire brigade, a member of an emergency service unit, a chief fire warden or fire warden, a forest officer (within the meaning of the *Forestry Act 1959*), a conservation officer within the meaning of the *Nature Conservation Act 1992* or a police officer.

Maximum penalty—50 penalty units or 6 months imprisonment.

68 Powers of occupier of entry etc.

- (1) Subject to subsections (2) and (3), an occupier of land, who believes on reasonable grounds that a grass fire (that is, a fire that predominantly consumes vegetation) burning within 1.6km of that land constitutes a fire risk to that land may, together with persons acting at the direction of the occupier—
 - (a) enter the land on which the fire is burning and any other land in order to gain access to the land on which the fire is burning; and
 - (b) take on to that land equipment for extinguishing or controlling the fire; and
 - (c) take all reasonable measures to extinguish or control the fire.
- (2) An occupier of land must not do or direct the doing of any act referred to in subsection (1) if prior notice (oral or written) of the intention to light the fire has been given to the occupier by the person lighting it or by a prescribed person unless the occupier believes on reasonable grounds that the fire has been unlawfully lit or is out of control.
- (3) If it is practicable to contact a prescribed person, an occupier of land—
 - (a) must not do or direct the doing of any act referred to in subsection (1) unless the prescribed person has been notified of the situation; and
 - (b) must comply with any direction given by the prescribed person in respect of the doing of any act.
- (4) In this section—

prescribed person means a fire officer, an officer of a rural fire brigade, a fire coordinator, a chief fire warden or fire warden, a forest officer (within the meaning of the *Forestry Act 1959*), a conservation officer within the meaning of the *Nature Conservation Act 1992* or a police officer.

69 Requisition by commissioner to reduce fire risk

- (1) The commissioner may require any occupier of premises to take measures for the purpose of reducing the risk of a fire

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occurring on the premises or reducing potential danger to persons, property or the environment in the event of a fire occurring on the premises.

- (2) A requisition may be given—
- (a) in a particular case—by giving a notice to the occupier concerned; or
 - (b) by notification published in the gazette in which case each occupier of land to whom the notification applies must comply with the requisition.
- (3) A person to whom a requisition is given must comply with the requisition.

Maximum penalty—50 penalty units or 6 months imprisonment.

- (4) Without limiting the measures that may be required to be taken, an occupier may be required to do any of the following—
- (a) make and maintain firebreaks in accordance with any directions contained in the notification or notice;
 - (b) remove, dispose of or otherwise deal with any vegetation or other flammable material in accordance with any directions contained in the notification or notice;
 - (c) obtain equipment and keep it available for use for fire fighting purposes;
 - (d) take measures to ensure an adequate supply of water or any other substance for fire fighting purposes;
 - (e) ensure that the means of escape from the premises in the event of fire can be safely and effectively used at all material times;
 - (f) suspend such operations as may be specified for the period specified.
- (5) A notice under subsection (2)(a) must also state—
- (a) the reason for the requisition; and
 - (b) that the occupier may object to the giving of the notice; and

- (c) how the occupier may make an objection, including the time by which it must be made.
- (6) Where an occupier of premises fails to comply with a notification or notice an authorised fire officer and any assistant may enter the premises and take any of the measures directed by the notification or notice to be taken and any expenses incurred in taking those measures may be recovered by the chief executive in a court of competent jurisdiction from the occupier.
- (7) An authorised fire officer or an assistant who takes the measure of removing vegetation or other flammable material from premises, may take possession of and retain the material until it is disposed of pursuant to subsection (8) or until the person entitled to possession of it is determined.
- (8) Where the chief executive is satisfied that anything retained pursuant to subsection (7) is the property of the occupier who failed to comply with the notification or notice the chief executive may sell or otherwise dispose of the material and the proceeds of the disposal may be applied by the chief executive in payment of expenses incurred in consequence of the failure to comply.
- (9) Where the proceeds of the disposal of any material—
 - (a) are insufficient to cover the expenses incurred—the amount of the expenses that may be recovered under subsection (6) must be reduced by the amount of those proceeds;
 - (b) exceed the expenses incurred—the balance must be paid to the person whose property the chief executive believes the material to have been.

70 Restriction on sale of notified articles

The commissioner may, by notification published in the gazette, prohibit or regulate the sale, use or possession of any article or substance that the commissioner believes may constitute a fire risk.

71 Notifications, notices and permits

- (1) Any notification published in the gazette pursuant to this division—
 - (a) may be expressed so as to have effect either generally throughout the State or in part of the State only;
 - (b) may be expressed so as to apply differently in different circumstances;
 - (c) may, where it authorises or requires the doing of any act, specify conditions to be observed in respect of the doing of the act;
 - (d) may be expressed so as to be of unlimited duration or so as to have effect for a specified period or until the occurrence of a specified event;
 - (e) may be amended or revoked at any time by the commissioner by notification published in the gazette.
- (2) Any permit granted or notice given pursuant to this division to a person—
 - (a) may, where it authorises or requires the doing of any act, specify conditions to be observed in respect of the doing of the act;
 - (b) may be expressed so as to be of unlimited duration or so as to have effect for a specified period or until the occurrence of a specified event;
 - (c) may be amended or revoked at any time by the commissioner by giving a notice to that effect to that person.

72 Offences re lighting fires

- (1) A person commits an offence against this Act if the person does or, as the case may be, fails to do any of the following acts—
 - (a) fails to comply with any condition or direction contained in a notification, notice or permit given under this division in respect of the lighting of any fire;

Fire and Rescue Service Act 1990

- (b) leaves unattended or fails to take reasonable measures to extinguish a fire in such circumstances as to cause or be likely to cause danger from fire to any person or property or to the environment;
- (c) not acting in accordance with a notification, notice or permit given under this division, discards, propels or places any burning article or substance (or anything otherwise capable of causing fire)—
 - (i) thereby causing a fire that endangers or is likely to endanger any person or property or the environment; or
 - (ii) in such circumstances as to be likely to cause a fire that would be likely to endanger any person or property or the environment;
- (d) wilfully and unlawfully destroys, damages, removes, covers or otherwise interferes with a notice relating to the lighting of fires displayed by the commissioner or by a rural fire brigade for the purposes of this Act;
- (e) knowingly provides any false or misleading information in respect of an application for a permit under section 65;⁵
- (f) without the consent of the commissioner, alters any particular shown in a permit granted under section 65.

Maximum penalty—

- (a) if the offence is committed during a state of fire emergency at a place to which the declaration of emergency applies—250 penalty units or 1 year's imprisonment; or
 - (b) otherwise—50 penalty units or 6 months imprisonment.
- (2) In subsection (1)—

property does not include property of the person alleged to have committed the offence in question.

5 Section 65 (Granting of permits)

73 Liability of person for fire lit by agent or employee

- (1) Notwithstanding the Criminal Code, sections 7 and 23⁶ where any person commits an offence against this division in respect of the lighting of a fire as an agent or employee, the principal or employer of that person is taken to have committed the offence and may be prosecuted and punished for the offence unless it is proved that the agent or employee was acting contrary to instructions and that the principal or employer could not have prevented the commission of the offence by exercising reasonable supervision.
- (2) Subsection (1) applies without prejudicing any liability imposed under this division upon the person by whom an offence is actually committed.

74 Liability for damage caused by certain fires

- (1) A person who lights a fire—
 - (a) authorised to be lit by notification given under section 63⁷ or by a permit granted under section 65; or
 - (b) in order to comply with a notification or notice given under section 69;⁸

and who, in lighting the fire, complies with any condition or direction contained in the notification, notice or permit and does not contravene any provision of this Act does not incur any liability at common law for any loss, injury or damage caused by the fire unless it is shown that the person acted recklessly or maliciously caused the loss, injury or damage.

- (2) Subsection (1) applies only in respect of a fire lit for the purpose of or likely to have the effect of burning off vegetation.

6 Criminal Code, sections 7 (Principal offenders) and 23 (Intention—motive)

7 Section 63 (Authorisation of fires by commissioner)

8 Section 69 (Requisition by commissioner to reduce fire risk)

Division 2 Fire wardens

75 Chief fire wardens and fire wardens

- (1) Such number of chief fire wardens and fire wardens may be appointed as the commissioner thinks necessary or expedient for the purposes of this Act.
- (2) Subject to subsection (3), appointments must be made in writing by the commissioner.
- (3) Where the appointee is a public service officer or a police officer, the appointment must be made by the Governor in Council by notification published in the gazette—
 - (a) specifying the name of the appointee; or
 - (b) specifying that the appointment is made to the holder of a specified office in which case each person who, for any period, holds or performs the duties of that office is, for that period, a chief fire warden or, as the case may be, a fire warden.
- (4) A person may hold an office under this section in conjunction with any office held with the service, the public service or the police service.
- (5) The commissioner may, by giving a notice to an appointee, cancel the appointment, whether the appointment was made by the commissioner or the Governor in Council.
- (6) The Governor in Council may, by notification published in the gazette, amend or rescind any notification made under subsection (3)(b).

76 Powers and functions

- (1) The powers of a chief fire warden or fire warden are the same as those of an authorised fire officer subject to any limitation imposed by the commissioner.
- (2) The commissioner may direct a chief fire warden or a fire warden to discharge functions in addition to those imposed by this Act.

- (3) In exercising a power or discharging a function a chief fire warden or fire warden must comply with any code of practice and with any direction of the commissioner.

77 Expenses

A chief fire warden or a fire warden may be paid such expenses as are approved by the Governor in Council.

78 Appeals from decisions of fire wardens

- (1) Where pursuant to a delegation of the commissioner's powers a chief fire warden or a fire warden is empowered to issue notices under section 64 or 69⁹ or to determine applications for permits under section 65, any person aggrieved by a decision made by the chief fire warden or fire warden in the exercise of the power may appeal against the decision by notice in writing given to the commissioner.
- (2) The commissioner may allow or dismiss an appeal and may, where an appeal is allowed, make any order that appears just.

Division 3 Rural fire brigades

79 Formation of rural fire brigade

- (1) Any group of persons may apply to the commissioner for registration as a rural fire brigade.
- (2) The commissioner may grant or refuse an application and, in the case of the granting of an application, must assign a registration number to the rural fire brigade.
- (3) The commissioner may at any time cancel the registration of a rural fire brigade.

9 Section 64 (Prohibition by commissioner against lighting of fires) or 69 (Requisition by commissioner to reduce fire risk)

80 Rural fire brigade may make rules

- (1) A rural fire brigade may make rules, not inconsistent with this Act, for the purpose of regulating its proceedings and the conduct of its operations including the acquisition, vesting and disposal of its property and funds.
- (2) A rule has no effect unless approved by the commissioner.
- (3) The commissioner may at any time direct a rural fire brigade to amend, revoke or make rules in the manner and for the purpose specified in the direction.

81 Officers of rural fire brigade

- (1) A rural fire brigade must elect a first officer to be in charge of the brigade.
- (2) A rural fire brigade may also elect such other officers as it considers necessary.
- (3) Any election must be conducted in accordance with the commissioner's directions and has no effect unless approved by the commissioner.
- (4) A person holds office for the period specified by the commissioner.
- (5) The commissioner may dismiss a person from any office held with a rural fire brigade or may disqualify a person from holding any office.

82 Functions of a rural fire brigade

- (1) The functions of a rural fire brigade are fire fighting and fire prevention and such other functions as the commissioner may direct.
- (2) The commissioner must notify a rural fire brigade of the area for which and the circumstances in which the brigade is in charge of fire fighting and fire prevention.
- (3) In this section—

fire prevention includes taking measures in readiness for fire so as to reduce potential danger to persons, property or the environment.

83 Powers of first officer

- (1) Where, pursuant to notification given under section 82(2), a rural fire brigade is in charge of operations for controlling and extinguishing a fire, the first officer of the brigade has, for that purpose—
 - (a) the powers of an authorised fire officer, subject to any limitation imposed by the commissioner; and
 - (b) the control and direction of any person (including any fire officer) whose services are available at the fire.
- (2) Any power exercisable by the first officer of a rural fire brigade may be exercised by any person acting at the direction of the first officer.
- (3) Any person exercising a power or discharging a function under this section must comply with any code of practice and with any direction of the commissioner.
- (4) In this section—

first officer includes, where the first officer of a rural fire brigade is unavailable to act, the next senior officer of the brigade who is available.
- (5) Where a rural fire brigade is assisting in operations for controlling or extinguishing a fire, the person who pursuant to this Act or any direction given by the commissioner is in charge of those operations has the control and direction of the members of the rural fire brigade.

84 Equipment for rural fire brigade

- (1) The chief executive may provide any rural fire brigade with equipment for carrying out its responsibilities or may, for that purpose, subsidise the purchase of equipment by a rural fire brigade.
- (2) All equipment provided by, or the purchase of which is subsidised by, the chief executive is and remains the property of the State and may at any time be repossessed by the chief executive.
- (3) A justice, acting upon the complaint of the commissioner, may issue a warrant authorising any person named in it or

belonging to a class of person specified in it to search for and seize any equipment that pursuant to subsection (2) is the property of the State.

- (4) A person authorised to execute a warrant may, for that purpose—
- (a) enter any premises in which the person believes the equipment may be located;
 - (b) break open anything the person believes may contain the equipment.

- (5) In this section—

equipment, without limiting the meaning of the term, includes plant and any liquid or gaseous substance.

85 Chief executive's role relating to rural fire brigades

The chief executive is responsible for the efficiency of rural fire brigades and may provide training and other assistance to them.

86 Powers of officers of other States to fight fires in Queensland

- (1) In this section—

officer of another State means an officer of any body or organisation that, pursuant to any law of another State, is responsible for extinguishing fires in rural areas in that State.

State means the State of New South Wales or the State of South Australia or the Northern Territory.

- (2) Where an officer of another State determines in good faith—

- (a) that a fire burning in Queensland may continue burning into the other State; or
- (b) that a fire burning in the other State may continue burning into Queensland;

the officer may take measures in Queensland for extinguishing or controlling the fire.

- (3) If an officer of another State, in Queensland for the purpose of taking measures authorised by subsection (2) to be taken, is the senior officer present of the relevant body or organisation, the officer may exercise, subject to subsection (4), any of the powers of a first officer of a rural fire brigade.
- (4) Where, pursuant to this Act or any direction given by the commissioner, any person has control of operations at a fire in Queensland at which an officer of another State is present, that officer must obey any direction given by the person having control of operations.

Part 8 Fire emergency

Division 1 Local fire bans

86A Imposing local fire ban

- (1) If the commissioner considers a fire emergency exists in a local government's area, the commissioner may impose a fire ban (a *local fire ban*) in the area.
- (2) A local fire ban may—
 - (a) be imposed for an entire local government area or part of a local government area; and
 - (b) prohibit the lighting of all, or only certain, types of fires.
- (3) The area to which a local fire ban applies is called the *fire ban area*.

86B Publicising local fire ban

- (1) A local fire ban may be imposed—
 - (a) by notice (a *newspaper notice*) published in a newspaper circulating in the fire ban area; or

- (b) by notice (a ***broadcast notice***) transmitted by a broadcasting service generally able to be received by persons in the fire ban area.
- (2) However, a local fire ban may be imposed by a broadcast notice only if the commissioner considers—
 - (a) it is necessary because of urgent circumstances relating to the fire emergency; and
 - (b) imposing the ban by a newspaper notice would result in a delay that was undesirable, having regard to the urgent circumstances.
 - (3) The newspaper or broadcast notice must—
 - (a) state the local government area to which the ban applies and, if appropriate, describe the part of the local government area to which it applies; and
 - (b) state the fires the lighting of which is prohibited; and
 - (c) state the period of the ban (not longer than 14 days).
 - (4) As well as using a newspaper or broadcast notice to impose a local fire ban, the commissioner may cause the ban to be publicised in any other way the commissioner considers appropriate.

86C Cancellling local fire ban

- (1) If, while a local fire ban is in force, the commissioner considers the fire emergency for which the ban was imposed has ceased to exist, the commissioner must cancel the ban.
- (2) The cancellation may be made—
 - (a) by notice (a ***newspaper notice***) published in a newspaper circulating in the fire ban area; or
 - (b) by notice (a ***broadcast notice***) transmitted by a broadcasting service generally able to be received by persons in the fire ban area.
- (3) However, a local fire ban may be cancelled by a broadcast notice only if the commissioner considers a newspaper notice would unnecessarily delay the cancellation of the ban.

- (4) As well as using a newspaper or broadcast notice to cancel a local fire ban, the commissioner may cause the cancellation of the ban to be publicised in any other way the commissioner considers appropriate.

86D Period of local fire ban

- (1) A local fire ban imposed by a notice published in a newspaper takes effect from the day the notice is published.
- (2) A local fire ban imposed by a notice transmitted by a broadcasting service takes effect from the day and time stated in the notice.
- (3) For subsection (2), the day and time must not be before the notice is transmitted.
- (4) A local fire ban remains in force until 1 of the following events happens—
- (a) the period of the ban stated in the notice imposing the ban ends;
 - (b) the ban is cancelled.

86E Effect of local fire ban on other authorisations to light fires

While a local fire ban remains in force, any authority given under this or another Act to light a fire in the fire ban area ceases to have effect, to the extent to which the authority applies to fires the lighting of which is prohibited under the ban.

86F Contravening local fire ban

While a local fire ban is in force, a person must not light a fire in the fire ban area if the lighting of the fire is prohibited under the ban.

Maximum penalty—50 penalty units or 6 months imprisonment.

86G Evidentiary aid about local fire ban

In a proceeding for an offence against section 86F, a certificate purporting to be signed by the commissioner stating the following matters is evidence of the matters—

- (a) on a stated day, or during a stated period, a local fire ban was in force at a stated place;
- (b) the types of fire the lighting of which was prohibited under the ban.

Division 2 Declarations of state of fire emergency**87 Declaration of state of fire emergency**

- (1) The commissioner may, with the approval of the Minister, declare that a state of fire emergency exists within Queensland.
- (2) A declaration of a state of fire emergency—
 - (a) may have effect throughout the State or in part of the State, as specified in the declaration;
 - (b) may apply differently according to factors specified in the declaration;
 - (c) may, if it does not prohibit the lighting of all types of fires, prescribe conditions to be observed in lighting fires of any type not prohibited;
 - (d) may order that the lighting of any fire of a type not prohibited be subject to the granting of a permit under section 65 by the commissioner or by a person belonging to a class of person specified in the declaration;
 - (e) may order that any person finding a fire burning in the open air take all possible steps to extinguish it and, as soon as is practicable, report the existence and locality of the fire to any person belonging to a class of person specified in the declaration;

- (f) may prohibit the use of any appliance, material or substance specified in the declaration that, in the opinion of the commissioner, is or is likely to cause a fire risk;
- (g) may order the suspension of such operations as may be specified for the period specified;
- (h) may, with the approval of the Minister, be amended or revoked at any time.

88 Publication of declaration

- (1) Every declaration of a fire emergency or amendment or revocation of a declaration must be notified in the gazette.
- (2) A declaration of a fire emergency or an amendment or revocation of a declaration takes effect from—
 - (a) the date on which it is notified in the gazette; or
 - (b) where it is notified throughout the area to which it applies by newspaper, radio or television, the date on which it is so notified;whichever date occurs sooner.
- (3) For the purpose of ensuring public knowledge of the declaration of a state of fire emergency in the area to which it applies, the commissioner must take measures to give widespread publicity to the declaration but any alleged failure to do so is not an excuse for failure to comply with the declaration.

89 Period of state of fire emergency

A state of fire emergency declared by the commissioner remains in force—

- (a) where a period for which it is to remain in force is specified in the declaration, until that period expires unless the declaration is sooner amended by extending that period or revoked; or
- (b) where no period is specified, until the declaration is revoked.

90 Effect of emergency on existing authorities to light fires

- (1) Upon the declaration of a state of fire emergency, any authority given under this or any other Act to light a fire, whether given before or during the state of emergency, ceases to have effect while the state of emergency remains in force.
- (2) Subsection (1) applies subject to any authority to light a fire specified in the declaration or any permit granted after the commencement of the state of emergency in accordance with the declaration.

91 Commissioner's power during fire emergency

- (1) While a state of fire emergency remains in force, the commissioner may take any reasonable measure to abate the fire emergency.
- (2) Without limiting those measures, they include requisitioning any premises, plant, equipment, materials or substance for fire fighting or fire prevention.

92 Failure to comply with declaration

Any person who fails to comply with a declaration of a state of fire emergency or with any requisition made pursuant to section 91(2) commits an offence against this Act.

Maximum penalty—250 penalty units or 2 years imprisonment.

93 Certificate re declaration

In any proceeding for—

- (a) an offence defined in section 92; or
- (b) any other offence against this Act where it is alleged as a circumstance of aggravation that the offence was committed during a state of fire emergency at a place to which the declaration of the emergency applied;

any certificate signed by the commissioner stating that a state of fire emergency declared under section 87 existed at a specified place and during a specified period and specifying

any of the provisions of the declaration is evidence of the matters contained in the certificate.

Part 9 **Off-site plans for dangerous goods**

95 **Application of part**

- (1) This part does not apply in respect of—
 - (a) persons or substances in or about a mine to which the *Mining and Quarrying Safety and Health Act 1999* applies;
 - (b) persons or substances in or about a mine to which the *Coal Mining Safety and Health Act 1999* applies;
 - (c) persons or substances in or about a well to which the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* applies.
- (2) This part does not derogate from the provisions of the *Radiation Safety Act 1999*, the *Transport Operations (Marine Safety) Act 1994* or the *Workplace Health and Safety Act 1995* and where there is any conflict between the provisions of this and the provisions of those Acts, the provisions of those Acts prevail, to the extent of the inconsistency.

96 **Occupier to provide information concerning dangerous goods**

- (1) Where a person—
 - (a) is an occupier of premises in or on which any dangerous goods are stored; or
 - (b) is to be the occupier of premises presently under construction, in or on which any dangerous goods are to be stored;

the commissioner may give a notice requiring the person to provide such information concerning the dangerous goods as is specified in the notice.

- (2) A person to whom a notice is given must provide the information sought within the time specified in the notice.

97 Off-site emergency plans

- (1) In any case in which the commissioner has power to give a person a notice requiring information concerning any dangerous goods, the commissioner may by notice in writing require the person, within the time specified in the notice, to prepare and lodge with the commissioner a plan relating to those dangerous goods (an *off-site emergency plan*).
- (2) A notice may be given to a person under subsection (1) whether or not a notice has been given under section 96 or, where a notice has been given under that section, whether or not the person has complied with the notice.
- (3) A person required by notice given under subsection (1) to prepare and lodge an off-site emergency plan is referred to in this part as the *person responsible for the plan*.
- (4) An off-site emergency plan must provide for measures to be taken in preparation for a hazardous materials emergency or upon a hazardous materials emergency occurring so that danger that may thereby arise to any person who or property that is outside the premises to which the plan relates or to the environment is avoided or limited.

98 Assistance with plans

- (1) The commissioner must provide an advisory service and, to the extent practicable, assist in the preparation and implementation of off-site emergency plans.
- (2) A person responsible for a plan is liable to pay to the chief executive charges for any advice or other assistance provided.

99 Approval of plans

Where an emergency plan is lodged, the commissioner—

- (a) may approve or refuse to approve the plan;
- (b) may, if approving the plan, subject approval to conditions;
- (c) must, if rejecting the plan, give the person responsible for the plan notice in writing specifying the manner in which the plan is deficient and requiring that a new or amended plan be lodged within the time specified in the notice.

100 Amendment of plan

- (1) An off-site emergency plan may be amended with the approval of the commissioner.
- (2) The commissioner may give a notice to a person responsible for an off-site emergency plan requiring that the plan be amended and lodged with the commissioner for approval.

101 Duty to implement plan

- (1) Where an off-site emergency plan has been approved by the commissioner, the person responsible for the plan must ensure that all measures provided for in the plan (and in any amendment approved to the plan) are taken.
- (2) A person who fails to discharge that duty commits an offence against this Act.
- (3) If the commissioner believes that any measure provided for in a plan has not been taken, the commissioner may give a notice to the person responsible for the plan requiring that the measure be taken within the time specified in the notice.

102 Notice of changed circumstances

- (1) Where any change of circumstances occurs that substantially reduces the effectiveness of an off-site emergency plan or that renders the plan unnecessary, the person responsible for the plan must immediately give notice in writing of that fact to the commissioner.
- (2) The commissioner, if aware that an off-site emergency plan is no longer necessary because of any change of circumstances,

must give approval to the person responsible for the plan to discontinue giving effect to the plan.

103 Keeping copies of plans

The chief executive must keep a copy of every off-site emergency plan lodged for approval and of every amendment to a plan.

104 Punishment for certain offences against this part

A person convicted of—

- (a) an offence defined in section 101(2); or
- (b) an offence consisting in a failure to notify a change of circumstances, as required by section 102(1), that substantially reduces the effectiveness of a plan; or
- (c) an offence consisting in a failure to comply with a notice given under this part;

is liable to a maximum penalty of 250 penalty units or 1 year's imprisonment.

Part 9A Building fire safety

Division 1 Interpretation

104A Interpretation

In this part (other than division 5A) and in schedule 5—

building means a fixed structure that is wholly or partly enclosed by walls and is roofed and includes a floating building and any part of a building but does not include—

- (a) a single dwelling house, being either a detached dwelling house or a town, terrace, row, villa or like house attached to another such house or other such houses only by a wall on 1 or more of its sides; or

- (b) a building treated as part of a coal mine for the purposes of the *Coal Mining Safety and Health Act 1999* or as part of a mine for the purposes of the *Mining and Quarrying Safety and Health Act 1999*.

fire safety installation means a fire safety installation within the meaning of the *Building Act 1975*.

ground level has the same meaning for the purposes of this part as the term has as defined in the Queensland Appendix to the Building Code of Australia for the purposes specified therein.

IPA means the *Integrated Planning Act 1997*.

maintain includes install or establish and maintain.

prescribed fire safety installation means a prescribed fire safety installation within the meaning of section 104D.

104B Application to prisons

This part applies in relation to a building that is, or that is treated as part of, a prison for the purposes of the *Corrective Services Act 2006*, but an authorised fire officer is not competent to exercise a power conferred by sections 55 to 58C in relation to such a building without the consent of the person in charge of the prison within the meaning of the *Corrective Services Act 2006*.

Division 2 Obligations of persons for fire safety

Subdivision 1 Means of escape and prescribed fire safety installations

104C Occupier of building to maintain means of escape from building

The occupier of a building must maintain at all times free from obstruction adequate means of escape in the event of fire threatening any part of the building.

Maximum penalty—

- (a) if the contravention causes multiple deaths—2000 penalty units or 3 years imprisonment; or
- (b) if the contravention causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or
- (c) if the contravention causes bodily harm—750 penalty units or 1 year's imprisonment; or
- (d) otherwise—100 penalty units.

104D Occupier of building to maintain prescribed fire safety installations

- (1) The occupier of a building must maintain at all times every prescribed fire safety installation to a standard of safety and reliability in the event of fire.

Maximum penalty—

- (a) if the contravention causes multiple deaths—2000 penalty units or 3 years imprisonment; or
 - (b) if the contravention causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or
 - (c) if the contravention causes bodily harm—750 penalty units or 1 year's imprisonment; or
 - (d) if the contravention causes substantial property loss—500 penalty units or 6 months imprisonment; or
 - (e) otherwise—100 penalty units.
- (2) It is a defence to a charge made under this Act that an occupier of a building, in contravention of subsection (1), has failed to maintain in the building a prescribed fire safety installation for the defendant to prove—
 - (a) that the prescribed fire safety installation would not be required to be maintained in the building if the building were constructed at the time of the alleged offence and was unnecessary for the purposes of fire safety; or
 - (b) that in lieu of the prescribed fire safety installation there is maintained a fire safety installation of equivalent or greater effectiveness.

- (3) For the purposes of this section—

Act includes any Act and any proclamation, order in council, regulation, rule, local law or other instrument of subordinate legislation made under any Act, whenever passed or made whether or not it has ceased to exist.

prescribed fire safety installation means a fire safety installation—

- (a) that was at any time required to be maintained in the building in question by or under any Act, including as a prerequisite to the granting of any approval or the issue of any notice, certificate or instrument; and
- (b) that was not at any time authorised by or under any Act to be no longer maintained.

104DA Additional requirement for monitored systems

- (1) The occupier of a building must maintain each monitored system for the building to ensure an unacceptable number of unwanted alarms are not signalled from the system.
- (2) For subsection (1), the number of unwanted alarms signalled from a monitored system is unacceptable if the number signalled since the end of the last financial year is—
 - (a) more than 4; and
 - (b) more than the average number for the last financial year published under subsection (4).
- (3) However, the commissioner may decide that, despite subsection (2), the number of unwanted alarms signalled from a monitored system is acceptable, having regard to—
 - (a) the size and other characteristics of the building; and
 - (b) how the building is used; and
 - (c) the number of detector heads in the building; and
 - (d) whether the system also relates to other buildings.
- (4) As soon as practicable after 30 June each year, the commissioner must calculate, and notify in the gazette, the average number of unwanted alarms for monitored systems for the last financial year.

- (5) The number must be calculated by dividing the total number of unwanted alarms signalled from all monitored systems during the last financial year by the total number of monitored systems in operation during the last financial year.

- (6) In this section—

detector head means a part of a monitored system that detects smoke or heat and sends a signal to another part of the system.

emergency means a situation in which there is danger of harm to persons or property from a fire or hazardous materials emergency.

emergency alarm means an alarm, from a monitored system for a building, signalled to the service to attend the building.

maintain, a monitored system, includes—

- (a) ensure the system is in good repair; and
- (b) ensure each part of the system is properly installed and appropriately located; and
- (c) ensure the system is able to distinguish between a fire and normal conditions in the building; and
- (d) implement measures for avoiding unwanted alarms from the system.

Examples of implementing measures for paragraph (d)—

- establishing requirements for persons working near the system to isolate the system while using tools that may cause an unwanted alarm
- giving information sheets to guests in the building about the sensitivity of the system and how to avoid causing an unwanted alarm
- for a building used to provide residential accommodation that has a high level of unwanted alarms, installing an alarm acknowledgement facility under AS1670.1—2004

monitored system, for a building, means an automatic smoke detection and alarm system—

- (a) that is a prescribed fire safety installation for the building; and
- (b) that is monitored by the service.

unwanted alarm means an emergency alarm signalled at a time when the commissioner is satisfied there was no emergency requiring the attendance of the service.

Subdivision 2 Fire and evacuation plan

104E Fire and evacuation plan

- (1) The occupier of a building must—
 - (a) maintain at all times a plan of the action to be taken by persons within the building in the event of fire threatening the building adequate to ensure their own and other persons safety (a *fire and evacuation plan*); and
 - (b) provide adequate instructions to prescribed persons in the building concerning the action to be taken by them in the event of fire threatening the building in order to ensure their own and other persons safety.

Maximum penalty—

- (a) if the contravention causes multiple deaths—2000 penalty units or 3 years imprisonment; or
 - (b) if the contravention causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or
 - (c) if the contravention causes bodily harm—750 penalty units or 1 year's imprisonment; or
 - (d) otherwise—100 penalty units.
- (2) In this section—

prescribed person means a person who works or resides in or visits the building for more than a total time, during a period, prescribed under a regulation.

104F Assistance with plan

- (1) The commissioner may provide assistance to the occupier of a building in the preparation and implementation of the plan required to be maintained by the occupier pursuant to section

104E(a) and any regulations made under this part in relation to such a plan.

- (2) An occupier to whom assistance is provided is liable to pay to the chief executive the amounts charged by the chief executive for the assistance.

Subdivision 3 Fire safety management plan

104FA Obligation to prepare fire safety management plan

- (1) This section applies to a budget accommodation building only if—
 - (a) construction of the building started before the commencement of this section; or
 - (b) construction of the building was—
 - (i) approved under IPA before the commencement; and
 - (ii) started on or after the commencement; or
 - (c) an application for approval to construct the building—
 - (i) was made under IPA before the commencement; and
 - (ii) the approval is given on or after the commencement.
- (2) The owner of the budget accommodation building must prepare a fire safety management plan for the building within 1 year after the commencement.

Maximum penalty—

- (a) if the contravention causes multiple deaths—2000 penalty units or 3 years imprisonment; or
- (b) if the contravention causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or
- (c) if the contravention causes bodily harm—750 penalty units or 1 year's imprisonment; or
- (d) otherwise—100 penalty units.

104FB Other obligations about fire safety management plan

- (1) The owner of a budget accommodation building who is required, under section 104FA or the *Building Act 1975*, section 27, to prepare a fire safety management plan for the building must ensure the plan is updated as soon as practicable, but not later than 1 month, after a change in circumstances affecting the plan's compliance with the fire safety standard.

Maximum penalty—

- (a) if the contravention causes multiple deaths—2000 penalty units or 3 years imprisonment; or
 - (b) if the contravention causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or
 - (c) if the contravention causes bodily harm—750 penalty units or 1 year's imprisonment; or
 - (d) otherwise—100 penalty units.
- (2) A change in circumstances mentioned in subsection (1) includes, for example, a change in the fire safety standard.
 - (3) The owner must ensure the current fire safety management plan is implemented.

Maximum penalty for subsection (3)—

- (a) if the contravention causes multiple deaths—2000 penalty units or 3 years imprisonment; or
- (b) if the contravention causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or
- (c) if the contravention causes bodily harm—750 penalty units or 1 year's imprisonment; or
- (d) otherwise—100 penalty units.

104FC Meaning of *fire safety management plan*

- (1) A *fire safety management plan* for a building is a plan that states each of the following and complies with subsections (2) and (3)—
 - (a) the allowable number of occupants for the building;

- (b) the proposed maintenance schedule for the building's prescribed fire safety installations;
 - (c) the evacuation plan for evacuating the building's occupants, including occupants with an intellectual or physical disability, in the event of a fire in the building;
 - (d) proposed training programs for occupants and persons employed in the building about—
 - (i) fire management and prevention; and
 - (ii) emergency evacuation;
 - (e) a list of the building's prescribed fire safety installations, together with the brand name and model number of each installation, if applicable.
- (2) The matters mentioned in subsection (1)(a) to (d) must comply with the fire safety standard.
 - (3) The fire safety management plan must have attached to it, or be accompanied by, a copy of the building plans, in a reasonable scale, identifying the location of the building's prescribed fire safety installations.

104FD Guidelines for preparing fire safety management plans

- (1) The chief executive may issue guidelines for preparing fire safety management plans.
- (2) Before issuing the guidelines, the chief executive must consult with any entity the chief executive considers appropriate.

104FE Public notice of guidelines

- (1) After issuing the guidelines, the chief executive must give notice of the guidelines.
- (2) The notice must—
 - (a) be published in a newspaper the chief executive considers appropriate; and
 - (b) state the places where copies of the guidelines may be inspected or brought.

104FF Access to guidelines

- (1) The chief executive must keep a copy of the guidelines and any document applied, adopted or incorporated by the guidelines available for inspection—
 - (a) without charge, during normal business hours at the department's head office; and
 - (b) on the department's web site on the internet.¹⁰
- (2) On payment of the fee, if any, decided by the chief executive, a person may obtain a copy of the guidelines.
- (3) The fee decided by the chief executive must be not more than the chief executive's reasonable cost of producing the copy.

104FG Accessing fire safety management plan

The owner of a budget accommodation building must ensure a copy of the building's current fire safety management plan is kept in the building and is available for inspection, free of charge, by the building's occupants and other members of the public whenever the building is open for business.

Maximum penalty—20 penalty units.

Subdivision 3A Matters relating to particular proceedings under this division**104FGA Provisions applying for particular proceedings**

- (1) This section applies for sections 104C, 104D, 104E, 104FA and 104FB (each *the section*).
- (2) A person *causes* something mentioned in the section if the person's act or omission is a substantial or significant cause of the thing or substantially contributes to the thing.
- (3) The section applies despite the Criminal Code, sections 23(1) and 24.

¹⁰ The department's head office is at Emergency Services Complex, corner Park and Kedron Park Roads, Kedron 4031 and its web site on the internet is <www.fire.qld.gov.au>.

- (4) It is a defence in a proceeding against a person for a contravention of the section for the person to prove the person took reasonable precautions and exercised proper diligence to prevent the contravention.
- (5) Also, it is defence in a proceeding against a person for a contravention of the section for the person to prove the contravention was due to causes over which the person had no control.

Subdivision 4 Obligations of entities about guidelines for fire safety standard and fire safety management plans

104FH Obligations about guidelines for fire safety standard and fire safety management plans

- (1) In carrying out a function or power conferred on an entity under this Act, the entity must have regard to—
 - (a) for a matter relating to the fire safety standard—the information in the fire safety standard guidelines; or
 - (b) for a matter relating to the fire safety management plan—the information in the fire safety management plan guidelines.
- (2) In ensuring a budget accommodation building conforms with the fire safety standard, the owner of the building must have regard to the information in the fire safety standard guidelines.
- (3) In preparing a fire safety management plan for a budget accommodation building, the owner of the building must have regard to the information in—
 - (a) the fire safety standard guidelines; and
 - (b) the fire safety management plan guidelines.
- (4) In this section—

fire safety management plan guidelines means the guidelines made under section 104FD.

fire safety standard guidelines means the guidelines made under the *Building Act 1975*, section 218.¹¹

Subdivision 5 Commissioner's notice about occupier's and owner's obligations

104G Notice by commissioner about occupier's or owner's obligations

- (1) The commissioner may give to the occupier or owner of a building a notice in writing requiring the occupier or owner to take steps as directed by or in accordance with the notice, within such time as is specified therein, in order to remedy any matter in respect of which the commissioner is of the opinion that the occupier or owner has failed to comply with this division or with regulations made under this part.
- (2) A notice under subsection (1) to the extent that it specifies that an alteration is to be made to the structure of a building is not valid unless the commissioner first consults the local government in whose area the building is situated.
- (3) A person who is given a notice pursuant to subsection (1) must comply with the notice.
- (3A) In a case where such a person fails to comply with the notice within a time specified therein then—
 - (a) notwithstanding that the time has passed, the person's obligation to comply continues until the person complies with the notice; and
 - (b) section 150¹² applies.
- (4) The giving of a notice under this section does not prejudice any other proceedings under this Act in respect of the noncompliance to which the notice relates, with the exception that the person to whom the notice is given is not liable, during the period afforded by the notice to comply and any further period during which that person is relieved by this part

11 *Building Act 1975*, section 218 (Guidelines for fire safety standard)

12 Section 150 (Continuing offences)

from any penalty for failure to comply with the notice, to any penalty prescribed by section 150 for continuing offences.

Division 3 Prohibition on prescribed use without certificate of compliance

104H Prohibition on prescribed use without certificate of compliance

- (1) A regulation may prohibit the use of a building as prescribed under the regulation unless there is in existence a certificate of compliance issued under section 104I in relation to that building use.
- (2) A regulation made under subsection (1)—
 - (a) must be expressed to apply in relation to a building use specified in schedule 5 unless the Governor in Council is satisfied that urgent action is required to reduce the risk of fire in relation to a building use not specified in schedule 5; and
 - (b) may be expressed to apply in relation to all buildings or any building of a description defined in the regulation.
- (3) A regulation may revoke a certificate of compliance or class thereof issued before the regulation is made that authorised a building use to which the regulation applies.
- (4) An occupier of a building who uses the building in contravention of a regulation made under subsection (1) commits an offence against this Act.
- (5) An occupier of a building is not liable to any penalty prescribed by this Act by reason of the building being used in contravention of subsection (4) on and from the date the occupier makes application for a certificate of compliance under section 104I to and including the date the occupier is issued a certificate of compliance or given a notice refusing the application pursuant to section 104I.
- (6) Subsection (5) does not apply in relation to an application made after a previous application has been refused.

104I Certificate of compliance

- (1) An occupier of a building to which a regulation made under section 104H(1) applies may apply to the commissioner to be issued a certificate of compliance under this section in relation to a building use to which the regulation applies.
- (2) An application must—
 - (a) be accompanied by the fee prescribed under a regulation; and
 - (b) provide the information prescribed under a regulation; and
 - (c) specify the building and the building use to which the certificate of compliance is to apply.
- (3) An application must be referred to an authorised fire officer for consideration and determination.
- (4) The authorised fire officer must then inspect the building.
- (5) An applicant is to provide to the commissioner or the authorised officer such information in relation to the application as either may require.
- (6) If the authorised fire officer who inspects the building, having regard to the building use specified in the application, is satisfied—
 - (a) that sections 104C, 104D and 104E are being complied with; and
 - (b) that the regulations made pursuant to this part that apply in relation to building use are being complied with; and
 - (c) that adequate fire safety measures and fire prevention measures generally have been taken or are being maintained;the authorised fire officer must issue a certificate of compliance in relation to the building authorising the building use specified in the application.
- (7) If the authorised officer who inspects the building is not satisfied of any matter prescribed by subsection (6)(a) to (c), the authorised officer must give notice to the applicant—

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- (a) specifying the steps required to be taken before the application will be granted; and
 - (b) allowing a reasonable period within which those steps may be taken before the application is refused.
- (7A) The authorised officer may at any time extend the period so allowed.
- (8) If—
 - (a) the applicant declines to take the steps referred to in subsection (7)(a); or
 - (b) upon inspection of the building at the expiration of the period allowed to the applicant to take the steps referred to in subsection (7)(a), the authorised officer is not satisfied that those steps have been taken;the authorised officer must refuse the application by notice given to the applicant.
- (8A) The notice must state the grounds of the refusal and any steps required to be taken by the applicant before any further application will be granted.
- (9) A notice under subsection (7) or (8) to the extent that it specifies that an alteration is to be made to the structure of a building before an application will be granted is not valid unless the authorised fire officer who issues the notice first consults the local government in whose area the building is situated.
- (10) If an authorised officer—
 - (a) fails to issue a certificate of compliance or any notice under this section before a date 30 days after the receipt by the commissioner of an application; or
 - (b) in a case where a notice under subsection (7) has been given to the applicant—fails to issue a certificate of compliance or a notice of refusal before a date 30 days after the expiration of the time allowed by the notice to take steps specified in the notice;the provisions of division 4 apply as if the authorised officer had given to the applicant on that date a notice of refusal.

104J Form of certificate of compliance

A certificate of compliance—

- (a) subject to this Act, may be issued in any convenient form and if convenient be in respect of more than 1 building or building use;
- (b) must state specifically or by reference the fire safety installations the maintenance of which were required for the issue of the certificate.

104K Certificate of compliance—limitations on requirements

An authorised fire officer who inspects a building for the purposes of section 104I must not impose—

- (a) more onerous requirements for the maintenance of fire safety installations than the occupier was required to maintain pursuant to section 104D immediately before the inspection; or
- (b) in relation to any particular matter provided for by the regulations—more onerous requirements than those imposed in relation to the matter by the regulations;

as a prerequisite to the officer being satisfied that adequate fire safety measures and fire prevention measures generally have been taken or are being maintained by the occupier.

Division 3A Occupancy limits for particular licensed buildings**Subdivision 1 Preliminary****104KA Definitions for div 3A**

In this division—

clear floor surface area means an area of floor on or above which there is nothing that would unduly restrict a person in going across the area.

fire safety system, for a building, means the building's features, and procedures established for the building, providing for all or any of the following—

- (a) warning the building's occupants about a fire emergency;
- (b) safe evacuation of the building's occupants;
- (c) extinguishing or restricting the spread of fire in the building.

licensed building means a building, or the part of a building, that comprises particular licensed premises under the *Liquor Act 1992*.

occupancy notice see section 104KF.

occupancy number, for a building, means the occupancy number stated in an occupancy notice in force for the building.

risk of overcrowding, for a building, means a risk that not all occupants of the building would be able to safely evacuate if a fire or hazardous materials emergency happened.

104KB Object of div 3A

- (1) The object of this division is to help ensure the occupants of licensed buildings can safely evacuate if a fire or hazardous materials emergency happens.
- (2) The object is to be achieved by—
 - (a) identifying licensed buildings with an unacceptable risk of overcrowding; and
 - (b) for each of the identified buildings, establishing and implementing a safe limit on the number of persons who may be present in the building at any one time.

104KC Application of div 3A to a part of a licensed building

Except where it states otherwise, this division applies to a part of a licensed building in the same way it applies to a whole licensed building.

Example—

Under section 104KD(1), the commissioner may decide a particular room in a licensed building is an at risk licensed building. In deciding the level of the risk of overcrowding for the room, the commissioner must have regard to the matters stated in section 104KD(2) as if a reference in that subsection to the building were a reference to the room.

Subdivision 2 Occupancy notices**104KD Deciding if a building is an at risk licensed building**

- (1) The commissioner may decide a licensed building is an at risk licensed building if the commissioner is satisfied there is an unacceptable risk of overcrowding for the building.
- (2) In deciding the level of the risk of overcrowding, the commissioner must have regard to the following matters—
 - (a) the building's characteristics, including—
 - (i) the number and location of exits in the building; and
 - (ii) the clear floor surface areas in the building; and
 - (iii) the flammability of the fixtures and fittings in the building; and
 - (iv) the prescribed fire safety installations in the building; and
 - (v) whether occupants of the building can exit directly into open space or another place of safety;
 - (b) how the building is used, including its classification under the Building Code of Australia;
 - (c) the number of persons that use, or are likely to use, the building at any given time;

- (d) the mobility and other characteristics of the persons who use, or are likely to use, the building;
- (e) any fire safety system for the building.

104KE Deciding an occupancy number

- (1) This section applies to a licensed building that the commissioner has decided is an at risk licensed building.
- (2) In deciding an occupancy number for the building, the commissioner must have regard to the building's characteristics and other matters stated in section 104KD(2).
- (3) The occupancy number must not be more than—
 - (a) the maximum number that may be accommodated under—
 - (i) for a budget accommodation building to which the *Building Act 1975*, chapter 7, part 3 applies—the Queensland Development Code, part 14, items P3 and A3; or
 - (ii) otherwise—the Building Code of Australia, part D1.13; or
 - (b) the maximum number that allows compliance with the Building Code of Australia, part D1.6.

104KF Commissioner may give occupancy notice to occupier

If the commissioner decides under section 104KD that a licensed building is an at risk licensed building, the commissioner may give the occupier of the building a notice (an *occupancy notice*) stating the following—

- (a) that the commissioner has decided the building is an at risk licensed building;
- (b) the occupancy number for the building decided under section 104KE;
- (c) the day, not less than 30 days after the occupancy notice is given, on which it takes effect;
- (d) the occupier's obligations under subdivision 3;

- (e) the reasons for the decisions mentioned in paragraphs (a) and (b);
- (f) that the occupier may object to the giving of the occupancy notice;
- (g) how the occupier may make an objection, including the time by which it must be made.

104KG Occupancy number applying during particular uses or circumstances

If the commissioner considers the risk of overcrowding for a building varies because of the different ways the building is used from time to time, the commissioner may give the occupier an occupancy notice stating—

- (a) an occupancy number for the building that applies only when the building is used in a stated way or in stated circumstances; or
- (b) 2 or more occupancy numbers for the building, each of which applies only when the building is used in a stated way or in stated circumstances.

Example for paragraph (b)—

A building used occasionally for concerts may be given an occupancy number that applies only for that use and another occupancy number that applies for its usual uses.

104KH Application and currency of occupancy notice

An occupancy notice applies to the person stated in it, in relation to the licensed building stated in it, until the occupancy notice is revoked or the person stops being the occupier of the building.

104KI Re-assessment of risk of overcrowding

- (1) This section applies to a licensed building for which an occupancy notice (the *current occupancy notice*) is in force.
- (2) At any time, on request by the occupier or on the commissioner's own initiative, the commissioner may carry out a re-assessment for the building.

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- (3) The commissioner must carry out a re-assessment for the building if—
- (a) since the current occupancy notice was given, any of the matters stated in section 104KD(2)¹³ has changed in a way that is relevant to the risk of overcrowding for the building; and
 - (b) the occupier gives the commissioner a written notice of the change and asks the commissioner to carry out the re-assessment.
- (4) If, on a request mentioned in subsection (3)(b), the commissioner carries out a re-assessment and decides not to revoke the current occupancy notice, the commissioner must give the occupier a notice (a ***decision notice***) stating the following—
- (a) the decision not to revoke the current occupancy notice;
 - (b) the reason for the decision;
 - (c) that the occupier may object to the giving of the decision notice;
 - (d) how the occupier may make an objection, including the time by which it must be made.
- (5) In this section—
- carry out a re-assessment***, for the building, means—
- (a) re-assess the level of the risk of overcrowding for the building under this division; and
 - (b) decide whether to revoke the current occupancy notice and, if revoking the notice, whether to give another occupancy notice for the building.

13 Section 104KD (Deciding if a building is an at risk licensed building)

Subdivision 3 Obligations of occupiers of at risk licensed buildings

104KJ Application of sdiv 3

- (1) This subdivision applies if an occupancy notice is in force for a licensed building.
- (2) A reference in this subdivision to the occupier is a reference to each occupier of the building to whom the occupancy notice states it applies.

104KK Ensuring the occupancy number is not exceeded

The occupier must ensure the number of persons in the building at any one time is not more than the occupancy number for the building.

Maximum penalty—50 penalty units.

104KL Ensuring staff are aware of the occupancy number

- (1) The occupier must ensure each relevant staff member is aware of the occupancy number for the building.

Maximum penalty—50 penalty units.

- (2) In this section—

relevant staff member means an employee of the occupier who is present in the building when members of the public may enter the building.

104KM Implementing a counting system

- (1) This section does not apply if—
 - (a) the building is only a part of a licensed building; or
 - (b) the occupancy number for the building is less than 200.
- (2) The occupier must ensure the required counting system is implemented at all times the building is open to the public.

Maximum penalty—50 penalty units.

- (3) The required counting system is—
- (a) if the occupancy number is at least 200 but less than 1000—a manual counting system or an automatic counting system; or
 - (b) if the occupancy number is at least 1000—an automatic counting system.

- (4) In this section—

automatic counting system means a counting system capable of operating without human intervention.

Example—

a machine that counts the number of persons passing through an entrance after detecting them by way of a lightbeam across the doorway or a sensor under the floor

counting system means a system for counting the number of persons entering or leaving a building.

manual counting system means a counting system other than an automatic counting system.

Examples of manual counting systems—

- a staff member issuing a numbered ticket to each person entering the building and a passout to each person leaving the building
- a staff member clicking a counting device once for each person entering or leaving the building

104KN Displaying signs stating the occupancy number

- (1) This section does not apply if—
- (a) the building is only a part of a licensed building; or
 - (b) the occupancy number for the building is less than 200.
- (2) The occupier must display conspicuously above each public entrance to the building a sign stating the occupancy number for the building.

Maximum penalty—50 penalty units.

104KO Including the occupancy number in the fire and evacuation plan

The occupancy number must be stated in the occupier's fire and evacuation plan.

Maximum penalty—50 penalty units.

104KP Notifying the commissioner of relevant changes

- (1) If any of the matters stated in section 104KD(2)¹⁴ changes in a way that may increase the risk of overcrowding for the building, the occupier must immediately give written notice to the commissioner.

Maximum penalty—50 penalty units.

- (2) If a person stops being the occupier of the building, the person must immediately give written notice to the commissioner.

Maximum penalty—50 penalty units.

104KQ Action if an officer knows or suspects the occupancy number is being exceeded

- (1) This section applies if, at any time, an authorised fire officer knows or reasonably suspects the number of persons in the building is more than the occupancy number for the building.
- (2) The officer may require the occupier to do, or stop doing, a stated thing for the purpose of reducing the number of persons in the building or reducing the risk to the safety of persons in the building.
- (3) The officer may, for example, ask the occupier to—
 - (a) stop anyone else entering the building; or
 - (b) stop serving alcohol in the building; or
 - (c) turn on the lights in the building; or
 - (d) stop music being played or other entertainment happening in the building; or
 - (e) ask persons in the building to leave.

14 Section 104KD (Deciding if a building is an at risk licensed building)

- (4) The requirement may be made orally or in writing.
- (5) If the requirement is made orally, the officer must confirm the requirement in writing as soon as practicable.
- (6) The occupier must comply with the requirement unless the occupier has a reasonable excuse.
Maximum penalty—50 penalty units.
- (7) This section does not limit another power of the officer under this Act.
- (8) In this section—
occupier includes a person in charge, or apparently in charge, of the building.

Subdivision 4 Miscellaneous

104KR Commissioner may give copies of notices to chief executive (liquor licensing)

The commissioner may give copies of occupancy notices to the chief executive (liquor licensing).

104KS Commissioner may publish occupancy numbers

For the performance of the service's functions, the commissioner may publish the occupancy numbers for buildings to the public.

Division 5 Injunctions relating to high risk buildings

104R Injunctions

- (1) Where the commissioner is satisfied in relation to any building that the risk to persons in the event of fire, or in the event of a hazardous materials emergency, or the risk of spread of fire is so serious that the use of the building should be prohibited or restricted until steps have been taken to reduce the risk to a reasonable level, the commissioner, by

action in the Supreme Court, may claim against the occupier of the building an injunction prohibiting or restricting the use of the building.

- (2) Jurisdiction is hereby conferred upon the Supreme Court and a judge thereof to hear and determine any such action and to grant an injunction to prohibit or restrict the use of the building.
- (3) An injunction may be—
 - (a) for a limited period of time specified in the order or for an indefinite period of time;
 - (b) in respect of every use of a building or for a use or uses specified in the order.
- (4) Unless the contrary intention appears in the terms of the injunction, an injunction against any occupier of a building is taken to be made against all the occupiers from time to time of the building.

Division 5A Smoke alarms for domestic dwellings

104RA Definitions for div 5A

In this division—

chief executive (land) means the chief executive of the department in which the *Land Act 1994* is administered.

class 1a building means a building that, under the 2005 edition of the Building Code of Australia, part A3.2, is classified as a class 1a building.

class 2 building means a building that, under the 2005 edition of the Building Code of Australia, part A3.2, is classified as a class 2 building.

date of possession, for residential land, means the date the transferee of the land enters into possession of the land.

domestic dwelling means—

- (a) a class 1a building; or

(b) a sole-occupancy unit in a class 2 building.

form of assignment see the *Manufactured Homes (Residential Parks) Act 2003*, section 47(1).

home owner see the *Manufactured Homes (Residential Parks) Act 2003*, section 8.

information statement, in relation to a tenant, means the statement given to the tenant under the *Residential Tenancies Act 1994*, section 43.

lessor means a lessor within the meaning of the *Residential Tenancies Act 1994*, but does not include a tenant who has given, or is to give, the right to occupy residential premises to a subtenant.

manufactured home see the *Manufactured Homes (Residential Parks) Act 2003*, section 10.

manufacturer's instructions, for a smoke alarm, means the instructions from the manufacturer, packaged with the alarm, dealing with the operation, testing and maintenance of the alarm.

property transfer information form means a form that—

- (a) gives smoke alarm information and information about a change of ownership required under other Acts; and
- (b) may be given to the chief executive (land) or the registrar.

registrar see the *Land Title Act 1994*, schedule 2.

residential land means land on which a domestic dwelling is constructed.

residential park see the *Manufactured Homes (Residential Parks) Act 2003*, section 12.

site see the *Manufactured Homes (Residential Parks) Act 2003*, section 13.

site agreement see the *Manufactured Homes (Residential Parks) Act 2003*, section 14.

smoke alarm information see section 104RL.

sole-occupancy unit means a room or other part of a building that, under the 2005 edition of the Building Code of Australia, part A1.1, is defined as a sole-occupancy unit.

tenant means a person to whom the right to occupy residential premises is given under a residential tenancy agreement to which the *Residential Tenancies Act 1994* applies, and includes the subtenant of a tenant.

transfer date, for residential land, means the date the transferee of the land is entitled to possession of the land.

transferee, of residential land, means the person who, on becoming entitled to possession of the land, may lodge an application for registration—

- (a) under the *Land Act 1994*, as a lessee, or personal representative of a deceased lessee, of the land; or
- (b) under the *Land Title Act 1994*, as an owner, or personal representative of a deceased owner, of the land.

transferor, of residential land, means—

- (a) if, immediately before the transfer date for the residential land, a mortgagee in possession under the *Property Law Act 1974* is in possession of the land—the mortgagee in possession; or
- (b) otherwise—the person registered, immediately before the transfer date for the land—
 - (i) under the *Land Act 1994*, as a lessee, or personal representative of a deceased lessee, of the land; or
 - (ii) under the *Land Title Act 1994*, as an owner, or the personal representative of a deceased owner, of the land.

104RB Owner must install smoke alarm

- (1) The owner of a domestic dwelling must install smoke alarms in the dwelling in compliance with this section.

Maximum penalty—5 penalty units.

- (2) Each smoke alarm must comply with AS 3786-1993 and must be installed in accordance with—

- (a) for a sole-occupancy unit in a class 2 building—specification E 2.2a, clause 3(c)(i) of the Building Code of Australia; or
 - (b) for a class 1a building—specification 3.7.2.3 of the Building Code of Australia.
- (3) An owner of a sole-occupancy unit complies with this section if the owner installs a heat alarm or an alarm acknowledgement facility in accordance with specification E 2.2a, clause 3(b) of the Building Code of Australia.
- (4) If it is impracticable for an owner of a domestic dwelling to put a smoke alarm at the location required under subsection (2), the owner may put the alarm at another location that will provide a warning to occupants of the dwelling.

Example for subsection (4)—

A smoke alarm that is regularly activated by steam from a bathroom or smoke or fumes from a kitchen may be moved to another appropriate location.

104RC Lessor must replace smoke alarm

- (1) This section applies during a tenancy in a domestic dwelling.
- (2) The lessor must replace a smoke alarm in the dwelling before it reaches the end of its service life.

Maximum penalty—5 penalty units.

- (3) If a smoke alarm in the dwelling reaches the end of its service life before it is replaced, the lessor must replace it immediately.

Maximum penalty—5 penalty units.

104RD Testing smoke alarms

- (1) Within 30 days before the start of a tenancy in a domestic dwelling, the lessor must test each smoke alarm in the dwelling in compliance with this section.

Maximum penalty—5 penalty units.

- (2) During a tenancy in a domestic dwelling, the tenant must test each smoke alarm in the dwelling, in compliance with this section, at least once every 12 months.

Maximum penalty—5 penalty units.

- (3) An alarm must be tested as follows—
- (a) for an alarm that can be tested by pressing a button or other device to indicate whether the alarm is capable of detecting smoke—by pressing the button or other device;
 - (b) otherwise—
 - (i) for the lessor—by testing the alarm in the way stated in the manufacturer’s instructions; or
 - (ii) for the tenant—by testing the alarm in the way stated in the information statement.

104RE Replacing the batteries

- (1) This section applies to batteries in smoke alarms installed in a domestic dwelling.
- (2) Within 30 days before the start of a tenancy in the dwelling, the lessor must replace, in accordance with the manufacturer’s instructions, each battery that is spent or that the lessor is aware is almost spent.

Maximum penalty—5 penalty units.

- (3) During a tenancy in the dwelling, the tenant must replace, in accordance with the information statement, each battery that is spent or that the tenant is aware is almost spent.

Maximum penalty—5 penalty units.

Note—

A smoke alarm may emit a warning signal (for example, a chirping sound) when its battery is almost spent.

105RF Tenant must advise lessor if smoke alarm needs replacing

- (1) This section applies during a tenancy in a domestic dwelling.

- (2) If the tenant is aware a smoke alarm in the dwelling has failed or is about to fail, other than because the battery is spent or almost spent, the tenant must advise the lessor as soon as practicable.

Maximum penalty—5 penalty units.

104RG Cleaning smoke alarms

- (1) Within 30 days before the start of a tenancy in a domestic dwelling, the lessor must clean each smoke alarm in the dwelling in the way stated in the manufacturer's instructions.

Maximum penalty—5 penalty units.

- (2) During a tenancy in a domestic dwelling, the tenant must clean each smoke alarm in the dwelling, in the way stated in the information statement, at least once every 12 months.

Maximum penalty—5 penalty units.

Example—

The manufacturer's instructions or information statement may require cleaning with a vacuum cleaner to remove dust and other materials that may hinder smoke alarm performance.

104RH Person must not interfere with smoke alarm

- (1) A person must not—
- (a) remove a smoke alarm installed in a domestic dwelling; or
 - (b) remove the battery from a smoke alarm installed in a domestic dwelling; or
 - (c) do anything that would reduce the effectiveness of the warning provided by a smoke alarm installed in a domestic dwelling.

Maximum penalty—5 penalty units.

- (2) However, nothing in this section stops a person from doing any of the following—

- (a) removing a smoke alarm to comply with section 104RC;

- (b) removing a smoke alarm to put it in a location that complies with this division;
- (c) removing the battery from a smoke alarm to comply with section 104RE.

104RI Division applies for all alarms

- (1) This division, other than section 104RB, applies in relation to a smoke alarm installed in a domestic dwelling even though the smoke alarm is not required to be installed under section 104RB.
- (2) However, nothing in this division stops the owner of a domestic dwelling from removing a smoke alarm that is not required to be installed under section 104RB.

104RJ Agent may act for owner

- (1) A requirement imposed on an owner to comply with this division in relation to a smoke alarm at a domestic dwelling may be complied with for the owner by the owner's agent.
- (2) However, if the owner is a lessor, subsection (1) does not permit the lessor's tenant to be, and the lessor's tenant must not be, the lessor's agent for the purpose of complying with this division.

104RK Notice to transferee of residential land about smoke alarms

- (1) The transferor of residential land must, on or before the date of possession for the land, give the transferee of the land written notice of whether smoke alarms complying with this division are installed in the domestic dwelling on the land.

Maximum penalty—5 penalty units.

- (2) However, subsection (1) does not apply if—
 - (a) the transferor became transferor of the residential land under an agreement to transfer the land; and
 - (b) the date of the agreement is before 1 July 2007.

- (3) The transferor must not state anything in the notice that the transferor knows is false or misleading in a material particular.
- Maximum penalty for subsection (3)—5 penalty units.

104RL Notice to chief executive about smoke alarms and other matters

- (1) The transferor of residential land must, within 90 days after the date of possession for the land, give the chief executive a written notice stating the following information (*smoke alarm information*)—
- (a) the full names of the transferor and transferee;
 - (b) the addresses of the transferor and transferee immediately after the date of possession for the land;
 - (c) the property details of the land;
 - (d) the current use of the land;
 - (e) if there was an agreement for the transfer of the land—the date of the agreement;
 - (f) the date of possession for the land;
 - (g) whether smoke alarms complying with section 104RB were installed in the domestic dwelling on the land at the date of possession;
 - (h) whether the transferor has given the transferee written notice of whether smoke alarms complying with section 104RB were installed in the domestic dwelling on the land at the date of possession.

Maximum penalty—5 penalty units.

- (2) However, subsection (1) does not apply if—
- (a) the transferor became transferor of the residential land under an agreement to transfer the land; and
 - (b) the date of the agreement is before 1 July 2007.
- (3) Also, the transferor is not required to comply with subsection (1) if a properly completed property transfer information form, together with an application for registration, is given to—

- (a) for an application for registration under the *Land Act 1994*—the chief executive (land); or
 - (b) for an application for registration under the *Land Title Act 1994*—the registrar.
- (4) If a property transfer information form is given under subsection (3), the chief executive may be given access to the form but may use only the smoke alarm information on the form.

104RM Notice to buyer of manufactured home about smoke alarms

- (1) This section applies if the home owner for a site in a residential park (the *seller*) on which a manufactured home is positioned proposes—
- (a) to sell the home to a person (the *buyer*); and
 - (b) to assign the seller's interest in the site agreement for the site to the buyer.
- (2) The seller must give the buyer a written notice in the form of assignment of whether smoke alarms complying with this division are installed in the manufactured home.
- Maximum penalty—5 penalty units.
- (3) However, the seller does not have to give written notice if the form of assignment is signed by the seller and the buyer before 1 July 2007.
- (4) The seller must not state anything in the notice that the seller knows is false or misleading in a material particular.
- Maximum penalty for subsection (4)—5 penalty units.

Division 6 Regulations

104S Regulations relating to this part

The power of the Governor in Council to make regulations under section 154 includes the power to make regulations for or with respect to—

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- (a) the maintenance free from obstruction of adequate means of escape in the event of fire threatening any part of a building;
- (b) the maintenance of fire safety installations in buildings including authorisation of the removal, replacement or substitution of any fire safety installation;
- (ba) regulating the installation and maintenance of smoke alarms;
- (c) regulating the presence or use within buildings of furniture, furnishings, fittings, equipment, paints or finishes of any description in order to reduce the risk of fire;
- (d) requiring the maintenance of fire and evacuation plans in a specified form—
 - (i) setting forth the action to be taken in the event of fire threatening a building;
 - (ii) imposing obligations to provide instructions in preparation for the event of fire or to take specified action in the event of fire threatening a building;
- (e) requiring a fire and evacuation plan or class of such a plan to be approved by the commissioner;
- (f) requiring instruction or training of persons visiting, working in or inhabiting a building in relation to fire prevention and fire safety generally;
- (g) imposing obligations to take specified action in the event of fire threatening a building;
- (h) regulating the numbers of persons using a building at any one time;
- (i) requiring the stationing of persons at places within a building under specified circumstances;
- (j) the prevention, control or extinguishing of fires in buildings generally;
- (k) matters necessary to protect persons, property and the environment from fire and hazardous materials emergencies;

- (l) applying the provisions of this part, with adaptations or modifications, to any premises or class of premises other than buildings;
- (m) imposing obligations for the purpose of the regulations not only upon occupiers of buildings but also other persons where necessary or convenient.

Part 9B Objections to notices

104SA Application of pt 9B to notices under s 69

This part applies to an objection relating to a notice given under section 69(2)(a) as if a reference in this part to a building were a reference to premises.

104SB Persons aggrieved by notice may object

- (1) A person who is aggrieved because the person has been given a notice under section 69(2)(a) or part 9A or by the terms of such a notice within 21 days may object in writing to the commissioner.
- (2) An objection is not valid unless it is accompanied by the fee, if any, prescribed under a regulation.

104SC Panel of referees to be convened

Upon receipt by the commissioner of an objection under this part, the commissioner or a person nominated by the commissioner must convene within 30 days a panel of referees to determine the objection.

104SD Membership of panel of referees

- (1) A panel of referees is to consist of—
 - (a) a chair referee who is to be a person nominated by the convenor of the panel; and

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- (b) 1 person nominated by the local government in whose area is situated the building to which the notice objected to relates; and
 - (c) 1 person nominated by the chief executive of the department administering the *Building Act 1975*; and
 - (d) for an objection relating to an occupancy notice or to a decision notice under section 104KI, 1 person nominated by the chief executive (liquor licensing).
- (2) No objection is to be taken or allowed to the nomination of a chair referee on the ground that the person nominated is a fire service officer unless the person was involved in the decision to issue the notice in question.
 - (3) The referee nominated pursuant to subsection (1)(b)—
 - (a) if the local government is not the person objecting—is to be a person appointed to be a building certifier by the local government; and
 - (b) if the local government is the person objecting—is to be a person appointed to be a building certifier by a local government other than the objector.
 - (4) Subsection (3) does not apply to an objection relating to a notice given under section 69(2)(a) that relates to premises other than a building.
 - (5) In the event of a failure of a local government or a chief executive mentioned in subsection (1)(c) or (d) for any reason to nominate a person to be a referee for the purposes of subsection (1)(b) to (d), in the stead of that person the convenor of the panel may appoint any person to be a referee.
 - (6) Referees are entitled to such fees and expenses for attendance at meetings of a panel as may be approved by the Governor in Council, with the exception that an officer of the public service of the State is not to receive fees for attendance as a referee during ordinary hours of duty.

104SE Determination of objection

- (1) A person who convenes a panel of referees pursuant to section 104SC, as soon as practicable thereafter and upon consultation with the chair referee, must give a notice in

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writing to each referee and the objector appointing a time and place when and where the panel is to consider the objection and any further representations.

- (2) At the time and place so appointed, or at any time and place to which the matter is adjourned from time to time, the panel must consider and determine the objection.
- (3) A panel is not bound by the rules or the practice of any court or tribunal as to evidence or procedure in the consideration and determination of an objection, but, subject to this Act, may inform itself on any matter and conduct its proceedings in such manner as it thinks proper.
- (4) A panel may authorise a person to be represented before it by an agent with the exception that a person is not to be represented by counsel or solicitor.
- (5) A determination of the panel is to be decided by majority vote of its members.
- (6) If the panel has 4 members and the votes are equal, the chair referee has a casting vote.
- (7) In determining the objection, a panel may—
 - (a) confirm, cancel or vary the notice to which objection is made in such a manner and to such an extent as it thinks fit; and
 - (b) give such directions as are necessary to give effect to its determination.
- (8) If the panel confirms or varies a notice it may extend any period for compliance with the notice.
- (9) The convenor of the panel must give written notification of the determination of the panel to the objector within 7 days of the determination being made.

104SF Relief from penalty pending determination of objection

If an objection is validly made pursuant to section 104SB to a notice given under section 104G or 104I(8) or an occupancy notice, the objector is not liable to a penalty under this Act—

- (a) in the case of a notice given under section 104G or an occupancy notice—for any failure on the objector's part

to comply with the notice on and before the date on which the objector is given notice of the determination of the objection; and

- (b) in the case of a notice given under section 104I(8)—for any use of a building, being a building use to which the notice relates, on and from the date the objector is given the notice to and including the date the objector is given notice of the determination of the objection.

104SG Stay of operation of s 69 notice

- (1) This section applies if the objection relates to a notice given under section 69(2)(a).
- (2) The objection does not stay the notice.
- (3) However, on application by the objector, the panel may stay the notice to secure the effectiveness of the objection and any later appeal under section 104SH.
- (4) The stay may be granted on conditions the panel considers appropriate and has effect for the period stated by the panel.
- (5) The period of the stay must not extend past the time when the panel decides the objection and any later period the panel allows to enable the objector to appeal under section 104SH.

104SH Appeal from panel of referees

- (1) A person aggrieved by a determination of a panel of referees notified to the person pursuant to section 104SE, may appeal against the determination within 7 days of being so notified to a stipendiary magistrate sitting as a Magistrates Court in the district appointed for such courts under the *Justices Act 1886* within which is situated the building to which the determination relates.
- (2) In order to institute an appeal, an aggrieved person must file a notice of appeal specifying the grounds of appeal in the office of the registrar of the Magistrates Court and give a copy of the notice to the convenor of the panel of referees.
- (3) An appeal is to be limited to 1 or both of the grounds of—
 - (a) denial of natural justice; or

- (b) error of law.
- (4) The stipendiary magistrate has jurisdiction—
 - (a) to hear and determine the appeal, to dismiss or allow it, or to strike it out for want of prosecution;
 - (b) upon allowing the appeal—
 - (i) to remit the matter to the panel of referees, or to the convenor of the panel of referees for rehearing by another panel, in either case with such directions as the magistrate thinks fit; and
 - (ii) to make such other orders, including relating to costs, as are necessary to dispose of the appeal.

Part 10 Funding

Division 1 Interpretation

105 Definitions

- (1) In this part—

component local government means a local government whose area, or part of whose area, comprises an urban district or part of an urban district.

owner, used with reference to real property, means the person (other than the Crown) who is entitled to receive the rent of property or who, if the property were let, would be entitled to receive the rent, and includes—

- (a) any lessee or licensee from the Crown; and
- (b) a purchaser (including a purchaser from the Crown) under any agreement giving possession of the property; and
- (c) a statutory corporation (whether or not representing the Crown).

prescribed property means real property, whether or not occupied by any person, that is within an urban district and that is—

- (a) a parcel of land separately held by an owner except either a parcel to which paragraph (b) applies or a parcel on which is situated a building containing lots (within the meaning of the *Building Units and Group Titles Act 1980*); or
- (b) a portion of a parcel of land separately held by an owner, where the local government for the local government area in which the portion is situated determines that the portion should be classed as a separate parcel for the purposes of this part; or
- (c) a lot within the meaning of the *Building Units and Group Titles Act 1980*;

the term does not include—

- (d) property vested in the Aboriginal and Islander Affairs Corporation; or
 - (e) property belonging to any class of property prescribed under a regulation not to be prescribed property.
- (2) To avoid doubt, it is declared that, for the definition *prescribed property*, paragraph (a)—

parcel of land includes a lot under the *Land Title Act 1994* that is also a lot included in a community titles scheme under the *Body Corporate and Community Management Act 1997*.

Division 2 Funding for urban fire brigades

106 Constitution of urban districts

- (1) A regulation may—
 - (a) constitute any portion of the State an urban district for the purposes of this Act;
 - (b) assign a name to or alter the name of an urban district;
 - (c) abolish an urban district;

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- (d) alter the boundaries of an urban district;
 - (e) amalgamate 2 or more urban districts;
 - (f) divide an urban district into 2 or more urban districts.
- (2) In any proceeding the production of any map purporting to be certified by the chief executive as showing the boundary of any urban district or alteration of the boundary of any urban district is evidence of the matters shown or stated.
- (3) Each district constituted under the *Fire Brigades Act 1964* and in existence immediately before the appointed day shall, on that day, be taken to be an urban district constituted under subsection (1).

107 Liability to contribute

- (1) For each financial year the owners of prescribed properties must contribute in accordance with this part to the cost of administering and giving effect to this Act.
- (1A) An owner of prescribed property is not liable to contribute unless the service provides services to prescribed properties in the urban district in which that prescribed property is situated or provided those services at the time when the liability to contribute arose.
- (2) For each financial year there must be paid from the consolidated fund to the department, for the fund—
- (a) an amount representing one-seventh of the estimates for the financial year in question of the amount to be received from the owners of prescribed properties other than prescribed properties owned by a Commonwealth public trading enterprise; and
 - (b) such further amount as the Treasurer may authorise.
- (3) If, for any financial year, the Treasurer believes that any anticipated reduction by the Commonwealth in financial assistance payments to the State (not including any grant related to the provision of fire services to properties owned by the Commonwealth) will be attributable to the amount payable under this part by Commonwealth public trading enterprises as owners of prescribed properties, the Treasurer

may make a corresponding reduction in the amount payable under subsection (2)(a).

(4) In this section—

Commonwealth public trading enterprises means instrumentalities of the Commonwealth liable to pay the taxes and other charges of the State.

108 Annual contributions of owners of prescribed properties

- (1) A regulation may prescribe the amounts of the contributions to be paid by owners of prescribed properties for a financial year.
- (2) A regulation under subsection (1) shall prescribe the amounts of the contributions by categorising prescribed properties and prescribing differing amounts of contributions in accordance with those categories.
- (3) Categorisation of prescribed properties is to be on the bases stated in the regulation.

Examples of the bases on which prescribed properties may be categorised—

- 1 The purposes for which properties are used.
 - 2 The nature and availability of services supplied by fire service entities servicing properties.
 - 3 The nature and availability of facilities of fire service entities servicing properties.
 - 4 The urban district or class of urban districts in which properties are located.
 - 5 A combination of all or any of examples 1, 2, 3 and 4.
- (4) As soon as is practicable after a regulation is made under this section, the chief executive must give notice in writing to each component local government of the amounts of contributions payable by owners of prescribed properties in respect of the financial year to which the regulation relates.

109 Annual returns by component local governments

- (1) To enable the amounts of contributions payable by owners of prescribed properties to be assessed in respect of each

financial year, each component local government must furnish to the chief executive a return disclosing the particulars prescribed under a regulation relating to properties that—

- (a) are within its area and within an urban district; and
 - (b) are or will be prescribed properties during the financial year to which the return relates.
- (2) A return must be furnished—
- (a) before the last day of April immediately preceding the financial year to which it relates; or
 - (b) before such other date as the chief executive appoints, by notification published in the gazette.

110 Discount for pensioners

- (1) In this section—

pensioner means a person in receipt of a pension under any law of the Commonwealth or of the State declared, or belonging to a class of pension declared, under a regulation for the purposes of this section.

- (2) The Governor in Council may by regulation declare that each pensioner, who is the owner of a prescribed property that is the principal place of residence of that pensioner, be granted a discount on the contributions payable pursuant to this part in respect of that property at such rate as is specified in the regulation.
- (3) If a pensioner entitled to a discount in respect of prescribed property is not the sole owner, the discount is an amount that bears to the amount of the discount to which the pensioner would have been entitled as the sole owner, the same proportion as the pensioner's interest in the property bears to the total of the interests of all owners of the property.
- (4) For the purposes of subsection (3)—
- (a) owners who hold interests in a property as joint tenants are taken to hold interests in the property as tenants in common in equal shares; and

- (b) a pensioner who holds an interest in a property is taken to also hold any interest in the property held by the spouse of the pensioner.

111 Duties of owner of prescribed property and component local government

- (1) An owner of prescribed property must, in accordance with this part, pay to the component local government in whose area the property is situated the annual contributions in respect of the property and any other amounts the local government is authorised to impose pursuant to this part.
- (2) Subject to this part a component local government must collect those annual contributions and other amounts.

112 Determinations and notifications of contributions

- (1) In respect of each financial year, a component local government as at the first day of the financial year—
 - (a) must determine the prescribed properties within its area; and
 - (b) must determine the annual contributions payable in respect of prescribed properties by reference to the categories prescribed under a regulation made under section 108.
- (2) After a local government makes its determinations for any financial year, it must give the owner of each prescribed property within its area a fire levy notice stating—
 - (a) the annual contribution in respect of the property; and
 - (b) the amount of any arrears (including interest and other charges) of annual contribution in respect of the property.

113 Appeal against local government's determination

- (1) An owner of property to whom a fire levy notice is given may appeal to the chief executive on any of the following grounds and on no other grounds—

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- (a) that the property is not prescribed property;
 - (b) that an amount shown in the notice is incorrect because of typographical or similar error, mathematical error or because the local government wrongly categorised the property in terms of a regulation made under section 108;
 - (c) that, for the purpose of determining the contributions payable, the prescribed property should in the circumstances be taken to be within a category (prescribed under a regulation made under section 108) other than that on which the local government based its determination.
- (2) A person wishing to appeal must lodge a notice to that effect with the chief executive setting out the grounds of the appeal within 30 days after the fire levy notice is given.
- (3) The chief executive may require an appellant or the local government concerned to provide information relevant to the determination of the appeal.
- (4) The chief executive may allow or reject an appeal.
- (5) If the chief executive allows an appeal, the relevant local government must—
- (a) amend the levy notice; or
 - (b) revoke the levy notice; or
 - (c) revoke the levy notice and give a new levy notice;
- in accordance with the determination of the chief executive.
- (6) If the chief executive allows an appeal, the relevant local government must refund to the appellant any amount paid in respect of contributions, for the financial year to which the notice relates and for any previous financial year, in excess of the amount calculated in accordance with the chief executive's determination.
- (6A) If the local government has already made payments to the State in respect of those contributions, the amount refundable must be paid to the appellant by the department.
- (7) The determination of the chief executive in respect of an appeal is final.

114 Manner of giving notification

- (1) A fire levy notice may be given to the owner of prescribed property—
 - (a) as an item on a rate notice given to the owner in respect of that property; or
 - (b) as a separate notice given before 1 January of the financial year to which the notice relates.
- (2) Where for any financial year a component local government gives to the owner of prescribed property in respect of that property 2 or more rate notices, each relating to part of that financial year, a fire levy notice is taken to be given to the owner in accordance with subsection (1)(a) if each rate notice contains an item for the payment in respect of that property of—
 - (a) such amount as bears to the total of the annual contribution for the financial year the same proportion as the period (in months) for which the rate notice is given bears to 12; and
 - (b) the amount of any arrears of annual contribution.
- (3) Where notification is given as a separate notice, that notice is taken to be a rate notice under the *Local Government Act 1993* or, in the case of Brisbane City Council, the *City of Brisbane Act 1924*.
- (4) A notification must not be given as an item on a rate notice unless—
 - (a) where only 1 rate notice is given for a financial year—that rate notice is given before 1 January of that financial year;
 - (b) where 2 or more rate notices are given for a financial year—the first of those notices is given before 1 January of that financial year.

115 Annual contribution etc. deemed to be rates

- (1) An amount shown in a fire levy notice, whether given by way of a separate notice or an item on a rate notice, is taken to be a general rate levied by the local government and the relevant

provisions relating to general rates apply with all necessary modifications.

(2) In this section—

relevant provisions means—

- (a) the *Local Government Act 1993*, chapter 14 (Rates and charges) other than the following provisions—
- section 964 (Making of rates and charges)
 - section 1051A (Resolution to remove valueless land from land record)
 - section 1008(3) (Levying rates)
 - part 5 (Levying and payment of rates), division 4 (Discounts and other benefits for prompt payment of rates)
 - section 1027 (Change in unimproved value of land)
 - section 1028 (Land becomes or ceases to be rateable land)
 - section 1030 (Entitlement to occupy land is ended)
 - part 6 (Concessions)
 - part 7 (Recovery of rates), division 4 (Acquisition by local government of valueless land); and
- (b) for the Brisbane City Council—any corresponding provisions of the *City of Brisbane Act 1924*, part 3 (Rates and charges).
- (3) Notwithstanding subsections (1) and (2), rates made and levied under either Act mentioned in subsection (2) are in priority to amounts that, pursuant to subsection (1), are taken to be general rates.

116 Contribution to be paid into fund of component local government

An amount received or recovered by a component local government under this part must be paid into—

- (a) for the Brisbane City Council—the city fund; or
- (b) for any other local government—its operating fund.

117 Retention of administration fee by component local governments

- (1) For each financial year, a component local government is entitled to an amount (an *administration fee*) for performing functions under this part, including determining the annual contributions payable for prescribed properties, giving fire levy notices and collecting contributions for prescribed properties.
- (2) The administration fee for a financial year may be kept from annual contributions for prescribed properties paid or payable for the financial year.
- (3) Each component local government may decide the way in which it keeps the administration fee.
- (4) A regulation may prescribe the way in which the administration fee is to be calculated.

118 Payments by component local governments to department

- (1) A component local government must from time to time make payments to the department, for the fund, out of its operating fund (or, in the case of Brisbane City Council, out of the city fund) from moneys received or recovered by the local government pursuant to this part.
- (2) The amount of a payment shall be the total of the moneys received or recovered by the local government during the relevant financial year or declared period less the total of all amounts retained by the local government pursuant to section 117.
- (3) An amount payable under this section must be paid within 14 days after the expiration of the financial year or declared period to which the amount relates or within such further time as the chief executive may allow.
- (4) Every payment must be accompanied by a return in the approved form.
- (5) In this section—
declared period means a period in a financial year declared under a regulation as a declared period.

119 Failure by component local government to make payment

- (1) Where a component local government fails to pay an amount payable under section 118 within the required period, the local government, from the day on which the period expires, is liable to pay to the department, for the fund, interest on the amount at the percentage prescribed under a regulation under the *Local Government Act 1993*, section 1018(3)(a).¹⁵
- (2) Any interest not paid by a component local government within the time specified in a written demand for payment given by the chief executive is recoverable, together with expenses of recovery, in a court of competent jurisdiction.

120 Payments and interest to be debt

All payments required to be paid to the department pursuant to section 118 and all interest payable by a local government pursuant to section 119 constitute a debt due to the State and may be sued for and recovered by the State in any court of competent jurisdiction.

121 Payment of arrears

- (1) Where any amount relating to contributions payable in respect of prescribed property is in arrears, the owner may apply in writing to the component local government in whose area the property is situated for approval to pay the outstanding amount in instalments.
- (2) The local government may refuse the application or may grant it subject to any conditions it thinks fit.

122 Notices about contributions

- (1) Where a component local government—

¹⁵ The *Local Government Act 1993*, section 1018 (Overdue rates may bear interest) sets out various matters about overdue rates under that Act. Specifically, section 1018(3) provides that for overdue rates ‘the rate of interest must not be more than ... the percentage prescribed by regulation ...’.

- (a) fails to notify the owner of prescribed property of any amount relating to contributions payable in respect of that property; or
- (b) in the opinion of the chief executive has underestimated any amount so payable;

the chief executive may give a notice to the owner requiring payment of the amount specified in the notice within such time and in such instalments (if any) as are specified.

- (2) In a case referred to in subsection (1)(b), a notice may be given by the chief executive whether or not the amount as calculated by the local government has been paid.

123 Recovery of arrears

- (1) Where any amount relating to contributions remains unpaid at the expiration of the period specified for payment in a fire levy notice or a notice given pursuant to section 122 and proceedings for recovery of the amount have not been instituted or have not been completed by the component local government in whose area the relevant prescribed property is situated, the chief executive may take action in a court of competent jurisdiction to recover that amount and interest on that amount.
- (2) For subsection (1), the rate of the interest is the percentage decided by the component local government, under the *Local Government Act 1993*, section 1018(1), in relation to an overdue rate for the period for which the amount remains unpaid.¹⁶
- (3) For the purpose of subsection (1), the chief executive may take any action (including the selling of land) that a local government may take to recover unpaid rates and for that purpose—
 - (a) the amount outstanding is taken to be rates unpaid to a local government and, notwithstanding section 115(3), to be in priority to any rates made and levied in respect

¹⁶ The *Local Government Act 1993*, section 1018(1) (Overdue rates may bear interest) provides that an 'overdue rate bears interest at the percentage decided by the local government ...'.

- of the prescribed property by the component local government in whose area the property is situated; and
- (b) the chief executive is taken to be the mayor of that local government; and
 - (c) any document signed by the chief executive is taken to be under the common seal of that local government.
- (4) Where a court makes an order against the owner of prescribed property for the recovery of any amount in an action referred to in subsection (1), it may also make an order for the recovery of any other outstanding amount relating to contributions payable in respect of that property that has not been paid in accordance with notification given under this part.

124 Remitting contributions

If the chief executive believes that it is not practicable to pursue the recovery of an amount relating to contributions, the chief executive may—

- (a) remit and wholly discharge the amount or any part of it; or
- (b) enter into an agreement with the person concerned for the payment of a composition in respect of the amount.

125 Proof of amounts owing re contributions

In any proceeding for the recovery of any amount relating to contributions, a certificate signed by the chief executive stating in respect of property identified in the certificate—

- (a) that the property was, during a specified period, prescribed property; and
- (b) that during that period the property was within a specified urban district and within the area of a specified component local government; and
- (c) that during that period a person was the owner of the property; and

- (d) that the person owes any specified amount in respect of contributions;

is evidence of the matters stated.

126 Where services of commercial agent engaged

- (1) Where the chief executive or a component local government engages the services of a commercial agent (licensed as such under the *Property Agents and Motor Dealers Act 2000*) for the purpose of collecting any arrears of annual contribution payable by an owner of prescribed property, then, despite section 347¹⁷ of that Act, the owner may be required by the chief executive or the local government by notice in writing to pay an amount, not exceeding an amount representing the prescribed per centum of the amount of arrears, by way of a collection fee.
- (2) The amount, if not paid as required, is recoverable by the chief executive or the local government, together with any expenses of recovery, in a court of competent jurisdiction.

127 Application of Crown Proceedings Act

Any proceeding for the recovery of any amount (including costs) taken under this Act by a local government is taken to be a proceeding in respect of a claim by the Crown within the meaning of the *Crown Proceedings Act 1980* and the provisions of that Act apply accordingly.

128 Fire levies not revenue in determining remuneration of employees of local government

Notwithstanding any industrial award providing for the classification or remuneration of any employee of a local government according to revenue received by it, in calculating revenue for that purpose—

- (a) money retained as a collection fee under section 117 is included;

¹⁷ *Property Agents and Motor Dealers Act 2000*, section 347 (Recovery of costs of commercial agent)

- (b) all other money received or recovered under this part is excluded.

Division 3 Funding for rural fire brigades

128A Local government may make and levy certain rates or charges and contribute amounts raised to rural fire brigades

A local government may make and levy the following rates or charges and contribute amounts raised to rural fire brigades operating in its local government area—

- (a) for Brisbane City Council—a separate rate or charge under the *City of Brisbane Act 1924*, section 57;
- (b) for another local government—
 - (i) a special rate or charge under the *Local Government Act 1993*, section 971; or
 - (ii) a separate rate or charge under the *Local Government Act 1993*, section 972.

Part 11 General

129 Protection for acts done pursuant to Act

- (1) No matter or thing done or omitted to be done by any person pursuant to this Act or bona fide and without negligence for the purposes of this Act subjects that person to any liability.
- (2) A person (and any assistant) who discharges a function or exercises a power under this Act in order to avert or reduce actual danger to any person or property or to the environment may use force to a person that is reasonable in the circumstances and that does not cause and is not likely to cause death or grievous bodily harm and is not liable to be charged with any offence in respect of the use of that force.

- (3) Where any question arises as to whether a person's liability for any act or omission, the subject of any proceedings, is negatived under subsection (1) and the person claims to have acted pursuant to or for the purposes of this Act, the burden of proof of negligence and the absence of good faith lies upon the person alleging to the contrary.
- (4) If a person against whom proceedings are taken in any court for an act or omission alleges that the act was done or omission made for the purposes of this Act, the court may, on application, order a stay of proceedings if satisfied—
 - (a) that there is no reasonable ground for alleging either negligence or want of good faith; or
 - (b) that the proceedings are frivolous or vexatious.
- (5) This section does not take away any defence a person has independently of this section.

131 Representation of chief executive at inquiries

At an inquiry concerning any fire, whether an inquiry referred to in section 130 or not, an authorised representative of the chief executive may appear and adduce evidence, cross-examine any witness and address the tribunal conducting the inquiry.

132 Construction of policies of fire insurance

Where a person has insured an interest in property against loss by fire—

- (a) any loss incurred by the person arising from damage to the property; or
- (b) any charge or expense (other than one incurred as a punishment) incurred by the person;

by reason of the doing of an act in relation to a fire or suspected fire by a person in the exercise of a power or the performance of a function under this Act is taken to be loss or damage by fire within the meaning of the relevant policy of fire insurance which shall, notwithstanding its provisions, be construed accordingly.

133 Report of fire

The chief executive may, upon a request by or on behalf of an insurance company, furnish to the company details of any report in the possession of the chief executive relating to the attendance at a fire or other incident of a fire service officer or any other person who is subject to the direction of the commissioner.

134 Right of way to fire officers

- (1) A driver of a vehicle (other than a train) must, to the extent practicable, give clear and uninterrupted passage to any fire officer or any person acting under the direction of a fire officer who appears to be doing any act for the purpose of controlling or extinguishing a fire or dealing with any other emergency.
- (2) A person who fails to comply with subsection (1) commits an offence against this Act.

135 Exemption from tolls

A fire officer driving a fire engine or similar vehicle, and that vehicle, are exempt from payment of any toll in passing any tollgate or in respect of the use of any road, bridge or vehicular ferry.

137 Inspection of records of local governments and building certifiers

- (1) A person authorised by the commissioner for the purpose of this section (an *authorised officer*) may—
 - (a) enter any premises in which a local government or building certifier carries on business, during the ordinary hours of business;
 - (b) examine, make copies of or take extracts from any document or record (in whatever form it is kept) relating to—
 - (i) for a local government's premises—a function of the local government under this Act or a function of the commissioner; or

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- (ii) for a building certifier's premises—something done by the building certifier under the following Acts, if the document or record is not available from a local government—
 - (A) *Building Act 1975*;
 - (B) *Integrated Planning Act 1997*;
 - (c) make inquiries for the purposes of this Act.
- (2) A person who has custody of or control over documents or records of the type described in subsection (1)(b) must, when required to do so by an authorised officer—
 - (a) produce any of those documents or records to the officer;
 - (b) furnish information to the officer concerning any of those documents or records and otherwise assist the officer.
- (3) A person who fails to comply with any requirement made by an authorised officer pursuant to subsection (2) commits an offence against this Act.

Maximum penalty—10 penalty units.
- (4) Nothing in this section authorises an authorised fire officer to enter any part of premises that are a dwelling if the part is not also a workplace within the *Workplace Health and Safety Act 1995*.

138 Use of equipment on roads while unregistered

- (1) The provisions of the *Transport Operations (Road Use Management) Act 1995* that prohibit the use on a road of an unregistered vehicle unless the use is authorised by a permit under that Act do not apply in respect of a vehicle used on a road where—
 - (a) it is being used by a rural fire brigade or an emergency service unit to carry persons or equipment for the purpose of preventing, controlling or extinguishing a fire or for training purposes or is being used for any other purpose authorised in writing by the commissioner; and

- (b) it bears a clear identification as a vehicle of a rural fire brigade or an emergency service unit; and
 - (c) there is in force a contract of insurance providing an indemnity, such as is prescribed by the *Motor Accident Insurance Act 1994*, section 23(1)¹⁸ in respect of injury caused by, through or in connection with the vehicle.
- (2) For subsection (1)(a), training purposes in relation to an emergency service unit only includes training for the purposes of fire fighting or fire prevention.

139 Interstate assistance at fire

- (1) In this section—

officer in charge, used with reference to a fire, means the person who pursuant to this Act or any direction of the commissioner or any code of practice is in charge at that fire.

- (2) Every member of a fire brigade (or similar body having the function of extinguishing fire) from outside Queensland who is present at a fire in Queensland to assist at the fire and any plant and equipment in the member's charge is at the disposal of the person in charge at the fire and is taken to be under the control and direction of that person.
- (3) If there is no person in charge at a fire, the member of the brigade or similar body from outside Queensland who is in charge of other members of that brigade or body in attendance, has the control and direction of all persons assisting at the fire and has all the powers conferred by or pursuant to this Act on an authorised fire officer.

140 Ownership of property

For the purpose of this Act and any proceeding (whether under this Act or not), the State is taken to be the owner of—

- (a) any premises occupied in an official capacity by any fire service officer;

18 *Motor Accident Insurance Act 1994*, section 23 (Statutory policy of insurance)

- (b) anything (whether animate or inanimate) appropriated to the use of the service or anything, not being the private property of any person, used by the commissioner or a fire service officer in performing duties.

141 Surrender of equipment

- (1) A person, upon ceasing to be a fire service officer, must surrender to the chief executive—
 - (a) any form of identification; and
 - (b) anything issued to the person for official use;unless otherwise ordered by the chief executive.
- (2) A justice, acting upon the complaint of the chief executive, may issue a warrant authorising any person named in it or belonging to a class of person specified in it to search for and seize anything not surrendered in accordance with subsection (1).
- (3) A person authorised to execute a warrant may, for that purpose—
 - (a) enter any premises in which the person believes the thing sought may be located;
 - (b) break open anything the person believes may contain the thing sought.

142 Vacating premises

- (1) A person, upon ceasing to be a fire service officer, must immediately vacate any premises the property of the State or to the possession of which the State is entitled, unless the chief executive otherwise orders.
- (2) If the premises are not vacated immediately or, as the case may be, within any period ordered by the chief executive, the chief executive may give the person a notice to quit.
- (3) If the premises are not vacated within 14 days after the notice to quit is given, a stipendiary magistrate, acting upon the complaint of the chief executive, may issue a warrant authorising all police officers to enter the premises and remove all persons and property not authorised by the chief

executive to be on the premises and to deliver possession of the premises to the State.

142A Confidentiality

- (1) A person who discloses information that has come to the person's knowledge because the person is concerned in the administration of this Act commits an offence against this Act unless—
 - (a) the information is not of a confidential or privileged nature or would normally be available to any member of the public on request; or
 - (aa) the disclosure relates to fire safety at premises and is made to 1 or more of the following—
 - (i) the owner of the premises;
 - (ii) a person with an interest in the premises;
 - (iii) an occupier of the premises; or
 - (ab) the disclosure is reasonably necessary for enforcement of the criminal law; or
 - (b) the disclosure is made in the course of the administration of this Act; or
 - (c) the disclosure occurs in accordance with a requirement imposed or authorisation granted by or under a law of the State or the Commonwealth.
- (2) For the purposes of this section—
 - (a) a person is concerned in the administration of this Act if the person holds office, is appointed or employed, exercises a power or discharges a function pursuant to this Act;
 - (b) the circumstances under which information is taken to come to a person's knowledge because the person is concerned in the administration of this Act includes where—
 - (i) information known to the person is confirmed; or

- (ii) information comes to the knowledge of the person because of an opportunity provided;
- because the person is concerned in the administration of this Act.

143 Protection of name

- (1) A person must not—
 - (a) have the expression ‘Queensland Fire Service’, ‘Queensland Fire Services’, ‘Queensland Fire and Rescue Authority’ or ‘Queensland Fire and Rescue Service’, or an expression containing any of those expressions as the name under which the person carries on any business; or
 - (b) use such an expression in any advertisement, sign or document relating to a business, whether carried on by that person or another;unless authorised to do so by the chief executive.
- (3) Where a person carrying on business under a name registered under any Act requests any person charged with keeping the register to cancel or alter the registration of the name for the purpose of complying with subsection (1), no fees or charges are payable in respect of the making of the request or compliance with it.

144 Charges for services

- (1) Charges for any service provided under this Act may be prescribed under a regulation.
- (2) If no charge is prescribed for a service, the chief executive may fix a charge.
- (3) The person for whose benefit a service is provided is liable for any charge for the service.
- (4) If a service involves attending to any incident that endangers or may endanger any person or property or the environment—
 - (a) the person who caused the incident is liable for any charge for the service; and

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- (b) if that person caused the incident while acting in the course of employment or as an agent—the employer or principal is also liable for any charge.
- (5) If a service involves attending to a fire or hazardous materials emergency occurring in or on any property (real or personal) or endangering the property, each of the following persons is liable for any charge for the service—
 - (a) the owner of the property;
 - (b) in the case of a seagoing ship—the owner and the master.
- (6) If a service involves attending to a fire lit under the authority of this or any other Act, no charge is payable by any person except in the following circumstances—
 - (a) the person who lit the fire is liable for any charge if that person acted recklessly or negligently in lighting the fire or in failing to control it;
 - (b) if that person lit the fire while acting in the course of employment or as an agent—the employer or principal is also liable for any charge.
- (7) The owner of prescribed property is not liable for any charge for a service of attending to a fire in or on that property or endangering that property, other than an unwanted alarm charge.
- (8) The owner of property other than prescribed property is not liable for any charge for a service of attending to a grass fire (that is, a fire that predominantly consumes vegetation) if it is shown that the fire was not lit by the owner nor by an employee or agent of the owner acting in the course of that employment or agency.
- (9) If a service involves attending to an incident caused by a person while acting in the course of employment or as an agent, the employer or principal is not liable for any charge for the service if it is proved that—
 - (a) the person who caused the incident was acting contrary to instructions; and
 - (b) the employer or principal could not have prevented the incident by exercising reasonable supervision.

- (10) If 2 or more persons are liable under this section for any charge, liability is joint and several.
- (11) The liability of a person to pay any charge for a service of attending to an unauthorised fire does not affect the person's liability to be proceeded against and punished for lighting the fire.
- (12) The chief executive may waive all or part of a charge for which a person is liable under this section if satisfied it would be reasonable in all the circumstances to do so.
- (13) In any proceeding to recover charges payable under this section, a certificate signed by the chief executive stating—
- (a) that an amount is owing to the chief executive on that account; or
 - (b) that any person is or was the owner of the property concerned or, in the case of a seagoing ship, the master; or
 - (c) that any person is the person for whose benefit a service was rendered;
- is evidence of the matters stated.

- (14) In this section—

attending to, used with reference to a fire or other incident, means taking all reasonable measures to deal with danger that is or may be caused by the incident to any person or property or the environment, and includes being in attendance at an incident in readiness to act.

prescribed property see section 105.

unauthorised means not authorised by or under this or any other Act.

unwanted alarm see section 104DA.

unwanted alarm charge means a charge for a service of attending a property in response to an unwanted alarm.

145 Service of documents

- (1) Where, by or under any Act, any notice or other document is required or authorised to be served on the chief executive, the

notice or other document is taken to be properly served if served on a person authorised by the chief executive in that behalf, either generally or in a particular case.

- (2) Any notice or other document required or authorised by or under this Act to be served may be served in the same manner as a summons may be served under the *Justices Act 1886*.

146 When unauthorised grass fire a crime

A person who wilfully and unlawfully lights or attempts to light a grass fire (that is, a fire that predominantly consumes vegetation) with intent to injure any person or property is guilty of a crime and is liable on conviction on indictment to imprisonment for 5 years or a penalty of 500 penalty units.

147 Offences

A person commits an offence against this Act if the person does or, as the case may be, fails to do any of the following acts—

- (a) abuses or threatens or wilfully obstructs a person in the exercise of a power or the discharge of a function under this Act;
- (b) fails to comply with any requisition made or any notification or notice given pursuant to this Act;
- (c) when required pursuant to this Act to answer any question or provide any information, fails to give an answer or provide information or gives an answer or provides information knowing it to be false or misleading;
- (d) wilfully and unlawfully destroys, damages, removes, covers or otherwise interferes with an alarm or other apparatus for the warning of fire or any apparatus for the prevention of fire or for use in the event of fire;
- (e) wilfully and unlawfully encloses any fireplug thereby rendering difficult the locating or use of the fireplug or wilfully and unlawfully obliterates or covers any mark or sign used for locating a fireplug;
- (f) wilfully gives a false alarm of fire;

- (g) impersonates a fire officer or any person having authority under this Act for the purpose of that person or another obtaining either access to premises or any benefit.

Maximum penalty—

- (a) for paragraphs (a) and (b)—50 penalty units or 6 months imprisonment; or
- (b) for paragraph (c)—30 penalty units; or
- (c) for paragraphs (d), (e) and (g)—
 - (i) if the offence is committed during a state of fire emergency at a place to which the declaration of emergency applies—250 penalty units or 1 year's imprisonment; or
 - (ii) otherwise—50 penalty units or 6 months imprisonment; or
- (d) for paragraph (f)—
 - (i) if the offence is committed during a state of fire emergency at a place to which the declaration of emergency applies—250 penalty units or 1 year's imprisonment; or
 - (ii) otherwise—100 penalty units or 6 months imprisonment.

148 Indictable and summary offences

- (1) Subject to subsection (2), an offence against this Act for which the maximum penalty of imprisonment is 2 years or more is an indictable offence that is a misdemeanour.
- (2) An offence against section 146 is a crime.
- (3) Otherwise, an offence against this Act is a summary offence.

148A Proceedings for indictable offences

- (1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
 - (b) on indictment.
- (2) A magistrate must not hear an indictable offence summarily if—
- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
 - (b) the magistrate considers the charge should be prosecuted on indictment.
- (3) If subsection (2) applies—
- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
 - (b) a plea of the person charged at the start of the proceeding must be disregarded; and
 - (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
 - (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).¹⁹
- (4) The maximum penalty that may be summarily imposed for an indictable offence is 150 penalty units or 2 years imprisonment.

148B Limitation on who may summarily hear indictable offence proceedings

- (1) A proceeding must be before a magistrate if it is a proceeding—
- (a) for the summary conviction of a person on a charge for an indictable offence; or

¹⁹ *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

- (b) for an examination of witnesses for a charge for an indictable offence.
- (2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

148C Proceeding for offences

A proceeding for an offence against this Act, other than an indictable offence, must be taken in a summary way under the *Justices Act 1886*.

148D When proceeding may start

A proceeding for a summary offence against this Act must start within the later of the following periods to end—

- (a) 1 year after the commission of the offence;
- (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

148E Allegations of false or misleading information or document

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, 'false or misleading'.

148F Forfeiture on conviction

- (1) On conviction of a person for an offence against this Act, a court may order the forfeiture to the State of—
 - (a) anything used to commit the offence; or
 - (b) anything else the subject of the offence.
- (2) The court may make the order—

- (a) whether or not the thing has been seized; and
 - (b) if the thing has been seized, whether or not the thing has been returned to its owner.
- (3) The court may make any order to enforce the forfeiture it considers appropriate.
- (4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

149 Dealing with forfeited thing

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the State as the State considers appropriate.
- (2) Without limiting subsection (1), the State may destroy the thing.

149A Court may order costs of rehabilitation etc. of protected area

On conviction of a person for an offence against section 62²⁰ in relation to a protected area, the court may order the person to pay to the State such amount as it considers appropriate for, or towards—

- (a) the costs of controlling and extinguishing the fire in relation to which the offence is committed; and
- (b) the costs of rehabilitation or restoration of the area.

151 Offence by body corporate

- (1) Where an offence against this Act is committed by a body corporate, every person who is an executive officer of the body corporate is taken to have committed the offence and may be prosecuted and punished for the offence unless it is proved that the offence was committed without the person's knowledge and that the person could not have prevented its commission by exercising a reasonable degree of diligence.

20 Section 62 (Offence to light unauthorised fire)

- (2) In subsection (1)—

executive officer of the body corporate means any person, by whatever name called and whether or not a director of the body corporate, who is concerned or takes part in the management of the body corporate.

- (3) The provisions of subsection (1) do not affect the liability of a body corporate to be prosecuted and punished for any offence.

153 Evidentiary

- (1) In any proceeding, whether under this Act or not—

- (a) it is not necessary to prove the appointment of the chief executive or the commissioner, or of an officer of the fire service or a fire service officer, or of any chief fire warden, fire warden, forest officer or field officer but this does not prejudice the right of any person to prove an appointment has not been properly made;
- (b) it is not necessary to prove the authority of a person referred to in paragraph (a) to do any act or take any proceeding for the purposes of this Act but this does not prejudice the right of any person to prove the absence of authority;
- (c) a signature purporting to be that of a person referred to in paragraph (a) is presumed to be genuine unless the contrary is proved;
- (d) a person who purports to do or to have done anything for the purposes of this Act pursuant to the authority of an instrument of delegation made under this Act shall, if the person purported to have made the delegation could have done that thing pursuant to this Act, be presumed to act or to have acted in accordance with a valid instrument of delegation unless the contrary is proved;
- (e) a notice, permit or other document purporting to have been made under this Act is taken to have been validly made unless the contrary is proved;
- (f) a certificate signed by the chief executive and purporting to set out any determination of the commissioner, chief

- commissioner, authority or chief executive is evidence of the matters stated;
- (g) a certificate signed by the chief executive stating—
- (i) that the commissioner, authority or State is or was at any specified time or during any specified period the owner of property described in the certificate; and
 - (ii) that no consent has been given to the act or breach of duty specified in the certificate alleged to have been committed in respect of the property;
- is evidence of the matters stated;
- (h) a certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
- (i) that a stated service was provided under this Act to a stated person on a stated day;
 - (ii) that a stated person was charged a stated amount for a stated service;
 - (iii) that a stated amount mentioned in subparagraph (ii) has not been paid.
- (2) In subsection (1)—

commissioner means the corporation sole under this Act as in force immediately before the commencement.

fire service means the Queensland Fire Service in existence immediately before the commencement.

153A References to fire safety officer

A reference in an Act or document to a fire safety officer within the meaning of the *Fire Safety Act 1974* is taken to be a reference to an authorised fire officer within the meaning of this Act.

153B Approval of forms

The chief executive may approve forms for use under this Act.

154 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made for or about—
 - (a) the records required for the purposes of this Act;
 - (b) all matters relating to the entitlements, authorities, responsibilities and liabilities of fire service officers;
 - (c) the institution and conduct of appeals under part 4, division 3;
 - (d) the institution and determination of objections under part 9B and appeals from determinations;
 - (e) fees and charges payable under this Act and the matters for which fees and charges are payable;
 - (f) offences against the regulations and the amount of any penalty for an offence, not exceeding 30 penalty units in any case.
- (3) A regulation may, and it is declared always could, prescribe fees payable to the service for—
 - (a) the assessment and inspection of special fire services within the meaning of the *Building Act 1975*; or
 - (b) the assessment of proposed alternative solutions within the meaning of the Building Code of Australia.
- (4) Regulations under this Act may adopt wholly or partly and specifically or by reference, a code of practice issued by the commissioner and any of the standard rules, codes, specifications or methods of Standards Australia, the British Standards Institute or any other body identified by the regulations.

Part 12 Savings and transitional provisions

Division 1 Provisions for Act before commencement of Emergency Services Legislation Amendment Act 1998

155 Definitions

In this division—

amendment Act means the *Fire Service Amendment Act 1996*.

commencement means the commencement of section 8 of the amendment Act.

commissioner means the corporation sole under this Act as in force immediately before the commencement.

fire service means the Queensland Fire Service in existence immediately before the commencement.

transferred officer means a person taken to be employed as a fire authority officer under section 160.

157 References to commissioner

A reference in an Act or document in existence immediately before the commencement to the corporation sole of the commissioner is a reference to the authority.

158 Vesting of assets

On the commencement, the assets, rights and liabilities of the commissioner or the fire service vest in the authority.

159 Legal or disciplinary proceedings

- (1) A legal proceeding that could have been started or continued by or against the commissioner or the fire service before the

commencement may be started or continued by or against the authority.

- (2) A disciplinary proceeding that could have been started or continued by the commissioner before the commencement may be started or continued by the chief commissioner.

160 Fire authority officers

A person who, immediately before the commencement, was employed as a fire service officer of the fire service is, on the commencement, taken to be employed as an equivalent class of fire authority officer.

161 Conditions of employment of transferred officers

- (1) The conditions of employment applying to a transferred officer must be no less favourable than the conditions that applied to the officer immediately before the commencement.
- (2) A transferred officer remains entitled to all rights accrued or accruing to the officer as an employee of the fire service.
- (3) Without limiting subsection (2), a transferred officer is entitled to receive annual, sick and long service leave and any similar entitlements accrued or accruing to the officer as an employee of the fire service.
- (4) The recognised service of a transferred officer is taken to be service as an employee of the authority for the purpose of any law dealing with rights or entitlements mentioned in this section.
- (5) In subsection (4)—
recognised service of a transferred officer means the officer's service as an employee of the fire service, and includes any previous service of the officer taken to be service with the fire service.

162 Trusts

On the commencement, any property that, immediately before the commencement, was held in trust by the fire service or the commissioner vests in the authority on the same trusts to

which the property was subject immediately before the vesting.

163 Duty to assist transfer of property

- (1) The registrar of titles and all persons who keep registers of dealings in property must, if asked by the authority, make in the register all entries necessary to record the vesting of property in the authority by this division.
- (2) A request under this section is not liable to fees or stamp duty.

164 Superannuation scheme

A reference in the trust deed dated 13 April 1964, establishing the fire service superannuation scheme, to a fire brigade board or the commissioner is a reference to the authority.

165 Suspension

The suspension of a fire officer in force immediately before the commencement is taken to continue in force under this Act.

166 Appeals

An appeal to the commissioner started, but not decided, before the commencement may be continued and decided by the chief commissioner after the commencement.

167 Things taken to have been done etc. by chief commissioner

- (1) Anything declared, done, given, granted, made or issued by the commissioner under a chief commissioner's section and in force, or having effect, immediately before the commencement is, on the commencement, taken to have been declared, done, given, granted, made or issued by the chief commissioner.
- (2) If the action mentioned in subsection (1) involves a period of time, the subsection must not be construed as extending or otherwise affecting the period.

- (3) In this section—

chief commissioner's section means a section that, immediately before the commencement, referred to action of the commissioner and after the commencement refers to action of the chief commissioner.

168 Things taken to have been done etc. by the authority

- (1) Anything declared, done, given, granted, made or issued by the commissioner under an authority's section and in force, or having effect, immediately before the commencement is, on the commencement, taken to have been declared, done, given, granted, made or issued by the authority.
- (2) If the action mentioned in subsection (1) involves a period of time, the subsection must not be construed as extending or otherwise affecting the period.
- (3) In this section—

authority's section means a section that, immediately before the commencement, referred to action of the commissioner and after the commencement refers to action of the authority.

170 Previous fund

- (1) The State Fire Services Trust Fund is closed.
- (2) The amount standing at credit in the State Fire Services Trust Fund immediately before the commencement of this section must be transferred by the Treasurer to a fund established by the Treasurer under the *Financial Administration and Audit Act 1977*, section 11, for the purposes of the authority.

Division 2 Provision for Emergency Services Legislation Amendment Act 1998

171 Board members go out of office

- (1) On the commencement of this section the members of the board go out of office.
- (2) In this section—

board means the authority's board under this Act as in force immediately before the commencement of the *Emergency Services Legislation Amendment Act 1998*.

Division 3 Provisions for Emergency Services Legislation Amendment Act 2001

172 Definitions for div 3

In this division—

Act after amendment means the *Fire and Rescue Authority Act 1990* as in force immediately after the commencement.

Act before amendment means the *Fire and Rescue Authority Act 1990* as in force immediately before the commencement.

amendment Act means the *Emergency Services Legislation Amendment Act 2001*.

authority means the authority under this Act immediately before the commencement.

commencement means the commencement of the amendment Act.

QFRA Fund means the QFRA Fund that was a continuing fund under the *Financial Administration and Audit Act 1977* immediately before the commencement.

transferred officer means a person taken to be employed as a fire service officer under section 179.

173 Authority dissolved

The corporate entity that is the authority is dissolved.

174 Superannuation entitlements

The amendment Act does not—

- (a) affect the continuation of a transferred officer as an employed member for the purposes of the *Superannuation (State Public Sector) Deed 1990*; or

- (b) otherwise affects any superannuation of a transferred officer.

175 References to authority

A reference in an Act or document in existence immediately before the commencement to the authority is, if the context permits, taken to be a reference to the State.

176 Vesting of assets

On the commencement, the assets, rights and liabilities of the authority vest in the State.

177 Legal or disciplinary proceedings

- (1) A legal proceeding relating to something that happened before the commencement that could have been started or continued by or against the authority if the Amendment Act had not been passed may from the commencement be started or continued by or against the State.
- (2) A disciplinary proceeding relating to something that happened before the commencement that could have been started or continued by the authority if the Amendment Act had not been passed may from the commencement be started or continued by the chief executive.

178 Suspension

The suspension of a fire authority officer in force immediately before the commencement is taken, from the commencement, to continue in force under this Act.

179 Fire service officers

A person who, immediately before the commencement, was employed as a fire authority officer is, on the commencement, taken to be employed as a fire service officer of an equivalent class.

180 Conditions of employment of transferred officers

- (1) The conditions of employment applying to a transferred officer must be no less favourable than the conditions that applied to the officer immediately before the commencement.
- (2) A transferred officer remains entitled to all rights accrued or accruing to the officer as an employee of the authority.
- (3) Without limiting subsection (2), a transferred officer is entitled to receive annual, sick and long service leave and any similar entitlements accrued or accruing to the officer as an employee of the authority.
- (4) Subsection (1) does not limit section 26.

181 Trusts

Any property that, immediately before the commencement, was held in trust by the authority, on the commencement, vests in the State on the same trusts to which the property was subject immediately before the vesting.

182 Duty to help transfer of property

- (1) The registrar of titles and all persons who keep registers of dealings in property must, if asked by the chief executive, make in the register all entries necessary to record the vesting of property in the State by this division.
- (2) A request under this section is not liable to fees or stamp duty.

183 Appeals

An appeal to the commissioner under section 113 started, but not decided, before the commencement may, from the commencement, be continued and decided by the chief executive after the commencement.

184 Things taken to have been done etc. by commissioner

- (1) Anything declared, done, given, granted, made or issued by the commissioner under a commissioner's section and in force, or having effect, immediately before the

commencement is, from the commencement, taken to have been declared, done, given, granted, made or issued by the commissioner.

(2) If the action mentioned in subsection (1) involves a period of time, the subsection must not be taken to extend or otherwise affect the period.

(3) In this section—

commissioner's section means a section that, immediately before the commencement, referred to action of the commissioner as commissioner of the authority and after the commencement refers to action of the commissioner of the service.

185 Things taken to have been done etc. by chief executive

(1) Anything declared, done, given, granted, made or issued by the commissioner under a chief executive's section and in force, or having effect, immediately before the commencement is, from the commencement, taken to have been declared, done, given, granted, made or issued by the chief executive.

(2) If the action mentioned in subsection (1) involves a period of time, the subsection must not be taken to extend or otherwise affect the period.

(3) In this section—

chief executive's section means a section that, immediately before the commencement, referred to action of the commissioner and after the commencement refers to action of the chief executive.

186 Other things taken to have been done etc. by chief executive

(1) Anything declared, done, given, granted, made or issued by the authority under a chief executive's section and in force, or having effect, immediately before the commencement is, from the commencement, taken to have been declared, done, given, granted, made or issued by the chief executive.

(2) If the action mentioned in subsection (1) involves a period of time, the subsection must not be taken to extend or otherwise affect the period.

(3) In this section—

chief executive's section means a section that, immediately before the commencement, referred to action of the authority and after the commencement refers to action of the chief executive.

187 Other things taken to have been done etc. by the State

(1) Anything declared, done, given, granted, made or issued by the authority under a State's section and in force, or having effect, immediately before the commencement is, from the commencement, taken to have been declared, done, given, granted, made or issued by the State.

(2) If the action mentioned in subsection (1) involves a period of time, the subsection must not be taken to extend or otherwise affect the period.

(3) In this section—

State's section means a section that, immediately before the commencement, referred to action of the authority and after the commencement refers to action by the State.

188 Closure of QFRA Fund

(1) On the commencement—

(a) the QFRA Fund is closed; and

(b) the chief executive must record the closing balance of the accounts for the QFRA Fund as the opening balance of the accounts for the new fund.

(2) An entry that, apart from subsection (1), would need to be made in the accounts for the QFRA Fund must be made in the accounts for the new fund.

(3) In this section—

new fund means the Queensland Fire and Rescue Service Fund established under section 20.

QFRA Fund means the QFRA Fund mentioned in the *Financial Administration and Audit Act 1977*, schedule 2, immediately before the commencement of this section.

Division 4 Provision for Disaster Management Act 2003

189 Existing council members to remain in office

- (1) This section applies to a person who, immediately before the commencement of this section, was a member of the Rural Fire Council.
- (2) On the commencement, the person is taken to be a member of the Rural Fire Advisory Council.
- (3) The person's term of appointment ends on the earlier of the following days—
 - (a) the day the appointment would have ended under the person's instrument of appointment if the *Disaster Management Act 2003* had not commenced;
 - (b) if the person vacates office other than under paragraph (a), the day of that vacation.

Schedule 5 Uses of buildings

section 104H

- 1 A building in which there is a room at a level other than ground level used for the purpose of the sale of food or drink to the public or the provision of cabaret entertainment or dance facilities to the public.
- 2 A building used to provide residential accommodation at a floor level other than ground level.
- 3 A building used to provide residential accommodation within an educational institution, a children's hostel or children's welfare institution.
- 4 A building used to provide residential accommodation for medical, psychiatric or geriatric care.
- 5 A building used to sell goods or services to the public in which there is a sales area—
 - (a) below ground level; or
 - (b) at a floor level more than 1 floor above ground level; or
 - (c) exceeding 1000m² at any floor level.
- 6 A building used to accommodate a shop or shops selling goods or services to the public from which the only means of escape is through an enclosed arcade, mall or like structure.
- 7 A building other than a drive-in picture theatre used to accommodate more than 200 persons attending for a public meeting or for recreational, cultural or conference purposes.
- 8 A building used as a workplace within the meaning of the *Workplace Health and Safety Act 1995* in which persons are employed to work in a room or rooms—
 - (a) below ground level; or
 - (b) at a floor level more than 1 floor level above ground level.
- 9 A building used to provide office accommodation at a floor level more than 6 floor levels above ground level.

Schedule 5 (continued)

- 10 A building used for educational or research purposes and containing—
- (a) a laboratory or machinery or trade equipment operated for training or research purposes; or
 - (b) a classroom, canteen or recreational facilities on a floor level below ground level or a floor level more than 2 floors above ground level.

Schedule 6 Dictionary

section 6

ADG Code means the Australian Code for the Transport of Dangerous Goods by Road and Rail approved by the Ministerial Council for Road Transport, as in force from time to time.

appointed day means the day of commencement of the provision in which the expression occurs.

approved form see section 153B.

authorised fire officer see section 6A.

bodily harm see the Criminal Code, section 1.

broadcasting service means a service that delivers television or radio programs to persons having equipment appropriate for receiving the service.

budget accommodation building see the *Building Act 1975*, section 216.

building includes any wall, fence, bridge, dam, reservoir, wharf, jetty or other structure whether temporary or permanent.

building certifier see the *Building Act 1975*, section 8.

Building Code of Australia see the *Building Act 1975*, section 12.

chemical see the *Environmental Protection Regulation 1998*, schedule 9.

chief executive (liquor licensing) means the chief executive of the department in which the *Liquor Act 1992* is administered.

clear floor surface area, for part 9A, division 3A, see section 104KA.

code of practice means a code of practice issued under section 18.

Schedule 6 (continued)

combustible liquid means a combustible liquid under the flammable and combustible liquids standard.

commissioner means the commissioner of the service.

conviction includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

council, for part 5, see section 47.

dangerous goods means goods defined under the ADG Code as dangerous goods or goods too dangerous to be transported.

emergency service unit means an emergency service unit under the *Disaster Management Act 2003*.

environment includes—

- (a) ecosystems and their constituent parts; and
- (b) all natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- (d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c).

fire and evacuation plan see section 104E(1)(a).

fire ban area see section 86A.

fire coordinator means a fire coordinator under the *Disaster Management Act 2003*.

fire officer means a person employed in the service who has the functions of fire prevention and fire control, and includes a person employed under this Act who is undergoing training as a fire officer.

fire safety management plan see section 104FC.

fire safety standard see the *Building Act 1975*, section 217(1).

Schedule 6 (continued)

fire safety system, for part 9A, division 3A, see section 104KA.

fire service officer means a person employed under section 25.

flammable and combustible liquids standard see the *Dangerous Goods Safety Management Act 2001*, schedule 2.²¹

flammable material means any material or substance capable of ignition or combustion by the application of heat or fire or by spontaneous causes.

fund means the Queensland Fire and Rescue Service Fund established under section 20(1).

grievous bodily harm see the Criminal Code, section 1.

hazardous material means—

- (a) all dangerous goods, combustible liquids and chemicals; or
- (b) any other substance with potential to cause harm to persons, property or the environment because of 1 or more of the following—
 - (i) the chemical properties of the substance;
 - (ii) the physical properties of the substance;
 - (iii) the biological properties of the substance.

hazardous materials emergency means a situation involving hazardous materials or suspected hazardous materials that includes a loss of control, or an imminent risk of loss of control, of the materials or a loss of control of anything that may impact on the materials if the loss of control causes, or the loss of control or imminent risk of loss of control has the

21 *Dangerous Goods Safety Management Act 2001*, schedule 2—

flammable and combustible liquids standard means—

- (a) if a standard is prescribed under a regulation as a flammable and combustible liquids standard—that standard; or
- (b) otherwise—AS 1940.

Schedule 6 (continued)

potential to cause, material harm to persons, property or the environment.

land means any land, whether improved or not.

licensed building, for part 9A, division 3A, see section 104KA.

local fire ban see section 86A.

occupancy notice see section 104KF.

occupancy number, for part 9A, division 3A, see section 104KA.

occupier, used with reference to any premises, means the person in actual occupation or, if there is no such person, the owner.

owner, used with reference to any premises, means the person who for the time being is entitled to receive the rent of the premises or would be so entitled if the premises were let.

premises—

- (a) means any land or building; and
- (b) for part 6, includes a vehicle or vessel.

premises of seizure see section 56B.

protected area means a protected area under the *Nature Conservation Act 1992*, and includes an area that is, or includes, a critical habitat identified in a conservation plan under that Act.

risk of overcrowding, for part 9A, division 3A, see section 104KA.

service means the Queensland Fire and Rescue Service.

urban district means a part of the State constituted as an urban district under section 106.

vegetation includes trees, plants, grass and any other vegetable growth, whether alive or dead, standing or not standing, or cultivated or not cultivated.

Schedule 6 (continued)

vehicle means a vehicle within the meaning of the *Transport Operations (Road Use Management) Act 1995* but also includes a tram or train.

vessel means a vessel within the meaning of the *Transport Operations (Road Use Management) Act 1995*.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2007. Future amendments of the Fire and Rescue Service Act 1990 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prev	= previous	sub	= substituted
prec	= preceding	unnum	= unnumbered
pres	= present		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1995 Act No. 11	5 April 1995	26 April 1995
2	1995 Act No. 57	28 November 1995	3 April 1996
2A	1996 Act No. 54	24 February 1997	10 March 1997
2B	1997 Act No. 28	13 July 1997	1 August 1997
3	1997 Act No. 52	19 December 1997	8 January 1998
3A	1998 Act No. 13	30 April 1998	1 May 1998
4	1998 Act No. 37	13 November 1998	3 December 1998
4A	1999 Act No. 20	30 April 1999	27 May 1999
4B	1999 Act No. 42	1 December 1999	1 December 1999
4C	1999 Act No. 42	1 January 2000	12 January 2000
4D	2000 Act No. 5	1 July 2000	21 July 2000
4E	2000 Act No. 46	25 October 2000	3 November 2000
4F	2000 Act No. 63	16 March 2001	30 March 2001
4G	2001 Act No. 45	1 July 2001	13 July 2001
4H	2001 Act No. 45	15 July 2001	27 July 2001
5	2001 Act No. 76	13 November 2001	27 November 2001

Reprint No.	Amendments included	Effective	Notes
5A	2002 Act No. 7	1 July 2002	
5B	—	14 November 2002	provs exp 13 November 2002
5C	2002 Act No. 60	6 December 2002	
5D	2002 Act No. 74	1 April 2003	
5E	2003 Act No. 19	9 May 2003	
5F	2003 Act No. 46	27 August 2003	
5G	2003 Act No. 13	1 December 2003	
5H	2003 Act No. 91	12 December 2003	
6	2003 Act No. 91	31 March 2004	
6A	2004 Act No. 25	31 December 2004	
6B	2006 Act No. 29	28 August 2006	
6C	1975 Act No. 11 (amd 2006 Act No. 36)	1 September 2006	
6D	2006 Act No. 49	10 November 2006	
6E	2006 Act No. 49	1 July 2007	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1, 2
Changed names and titles	1
Corrected minor errors	2, 3
Obsolete and redundant provisions	1
Renumbered provisions	1, 2

6 List of legislation

Fire and Rescue Service Act 1990 No. 10 (prev Fire and Rescue Authority Act 1990; orig Fire Service Act 1990)

date of assent 25 May 1990

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1990 (proc pubd gaz 16 June 1990 p 964)

amending legislation—

Fire Service Act Amendment and Fire Safety Act Repeal Act 1991 No. 51 pts 1, 3

date of assent 10 September 1991

ss 1.1–1.2 commenced on date of assent (see s 1.2(1))

remaining provisions commenced 1 January 1992 (see s 1.2(2) and 1991 SL No. 186)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 1

date of assent 17 December 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 1992 (see s 3 sch 1 and 1991 SL No. 186)

Primary Industries Corporations Act 1992 No. 15 ss 1–2, 13 sch

date of assent 13 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 30 September 1992 (1992 SL No. 271)

Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2

date of assent 22 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 2

date of assent 7 December 1992

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 1

date of assent 3 June 1993

commenced on date of assent

Local Government Act 1993 No. 70 ss 1–2, 804 sch

date of assent 7 December 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 26 March 1994 (see s 2(5))

Building Units and Group Titles Act 1994 No. 69 ss 1–2, 229 sch 2

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and rep 1995 No. 58 s 5(1) sch 7

Fire Service Legislation Amendment Act 1994 No. 71 pts 1–2

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 26 March 1994 (see s 2)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2

date of assent 1 December 1994

commenced on date of assent

Local Government Legislation Amendment Act 1995 No. 11 pts 1, 3

date of assent 5 April 1995

commenced on date of assent

Emergency Services Legislation Amendment Act 1995 No. 55 pts 1–2

date of assent 22 November 1995

ss 7–10 and 41 (in so far as it inserts new ss 155–156) commenced 8 December 1995 (1995 SL No. 355)

remaining provisions commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995
 commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Fire Service Amendment Act 1996 No. 42

date of assent 7 November 1996
 ss 1–2 commenced on date of assent
 remaining provisions commenced 24 February 1997 (1997 SL No. 34)

Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch

date of assent 20 November 1996
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 June 1997 (1997 SL No. 128)

Superannuation and Other Legislation Amendment Act 1997 No. 21 ss 1, 2(3), pt 3

date of assent 15 May 1997
 ss 1–2 commenced on date of assent
 remaining provisions commenced 30 June 1997 (see s 2(3))

Body Corporate and Community Management Act 1997 No. 28 ss 1–2, 295 sch 3

date of assent 22 May 1997
 ss 1–2 commenced on date of assent
 remaining provisions commenced 13 July 1997 (1997 SL No. 210)

Fire and Rescue Authority Amendment Act 1997 No. 52

date of assent 16 October 1997
 ss 1–2 commenced on date of assent
 s 12 commenced 24 February 1997 (see s 2(2))
 s 8 commenced 1 July 1997 (see s 2(3))
 ss 7, 13 sch amdt 3 commenced 19 December 1997 (1997 SL No. 487)
 remaining provisions commenced 28 November 1997 (1997 SL No. 411)

Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch

date of assent 23 March 1998
 ss 1–2 commenced on date of assent
 remaining provisions commenced 30 April 1998 (1998 SL No. 55)

Emergency Services Legislation Amendment Act 1998 No. 37 pts 1, 3, s 9 sch

date of assent 13 November 1998
 commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999
 commenced on date of assent

Radiation Safety Act 1999 No. 20 ss 1–2, 233 (this Act is amended, see amending legislation below)

date of assent 30 April 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2000 (1999 SL No. 329)

amending legislation—

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 2(2), 3 sch amdts 7–8 (amends 1999 No. 20 above)

date of assent 25 October 2000

amdts 7–8 commenced immediately before 1 January 2000 (see s 2(2))

remaining provisions commenced on date of assent

Local Government and Other Legislation Amendment Act 1999 No. 30 ss 1, 2(4), pt 3

date of assent 16 June 1999

commenced on date of assent (see s 2(4))

Coal Mining Safety and Health Act 1999 No. 39 ss 1–2, 299 sch 1

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 16 March 2001 (2001 SL No. 14)

Mining and Quarrying Safety and Health Act 1999 No. 40 ss 1–2, 274 sch 1

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 16 March 2001 (2001 SL No. 16)

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1999 (see s 2(1))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev 373) sch 3

date of assent 23 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch

date of assent 25 October 2000

commenced on date of assent

Property Agents and Motor Dealers Act 2000 No. 62 ss 1–2, 601 sch 2

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2001 (2001 SL No. 54)

Corrective Services Act 2000 No. 63 ss 1, 2(2), 276 sch 2

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2001 (2001 SL No. 88)

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

Emergency Services Legislation Amendment Act 2001 No. 76 pts 1, 3 s 11 sch 2

date of assent 13 November 2001

commenced on date of assent

Building and Other Legislation Amendment Act 2002 No. 7 pts 1, 3

date of assent 19 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2002 (2002 SL No. 171)

Emergency Services Legislation Amendment Act 2002 No. 60 pts 1, 3 s 23 sch

date of assent 14 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 6 December 2002 (2002 SL No. 333)

Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch

date of assent 13 December 2002

ss 1–2 commenced on date of assent

s 90 commenced 31 March 2003 (2003 SL No. 51)

remaining provisions commenced 1 April 2003 (2003 SL No. 51)

Coroners Act 2003 No. 13 ss 1, 2(2), 106 sch 1

date of assent 9 April 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (2003 SL No. 296)

Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch

date of assent 9 May 2003

commenced on date of assent

**Chemical, Biological and Radiological Emergency Powers Amendment Act 2003
No. 46 ss 1, 19 sch**

date of assent 27 August 2003

commenced on date of assent

Disaster Management Act 2003 No. 91 pts 1, 15 div 1, s 175 sch 1

date of assent 18 November 2003

ss 1–2 commenced on date of assent

pt 15 div 1 commenced 12 December 2003 (2003 SL No. 341)

remaining provisions commenced 31 March 2004 (2004 SL No. 24)

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), ch 16 pt 9

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

Corrective Services Act 2006 No. 29 ss 1, 2(2), 518 sch 3

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 28 August 2006 (2006 SL No. 213)

Building and Other Legislation Amendment Act 2006 No. 36 pt 1, s 101 sch (this Act is amended, see amending legislation below)

date of assent 10 August 2006

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and om 2006 No. 49 s 56

amending legislation—

Fire and Rescue Service Amendment Act 2006 No. 49 ss 1, 2(2), pt 5 (amends 2006 No. 36 above)

date of assent 10 November 2006

commenced on date of assent (see s 2(2))

Building Act 1975 No. 11 s 283(3)(a) (prev s 69(3)(a)) (this Act is amended, see amending legislation below)

amending legislation—

Building and Other Legislation Amendment Act 2006 No. 36 ss 1–2, 69 (amends 1975 No. 11 above)

date of assent 10 August 2006

ss 1–2 commenced on date of assent

s 69(3)(a) amdt to s 104FB commenced 1 September 2006 (amdt could not be given effect)

remaining provision commenced 1 September 2006 (2006 SL No. 226)

Fire and Rescue Service Amendment Act 2006 No. 49 pts 1–2

date of assent 10 November 2006

ss 1–2, 49(3)–(4) commenced on date of assent (see s 2(2))

ss 37, 38(1) commenced 1 July 2007 (see s 2(1))

remaining provisions commenced 1 July 2007 (2007 SL No. 130)

7 List of annotations

Title amd 1996 No. 42 s 4; 2001 No. 76 s 12**Short title**

s 1 sub 1996 No. 42 s 5; 2001 No. 76 s 13

Commencement

s 2 om R2 (see RA s 37)

Repeals

s 3 om R1 (see RA s 40)

Amendments of Acts

s 4 om R1 (see RA s 40)

Savings and transitional

- s 5** amd R1 (see RA s 37); 1995 No. 55 s 4
 exp 22 November 1995 (see s 5(15))
 om R2 (see RA s 37)
 AIA s 20A applies (see s 5(14))

Definitions

- prov hdg** sub 1995 No. 55 s 5(1)
s 6 Note—prev s 6 contained definitions for this Act. Definitions are now located
 in schedule 6—Dictionary.
 pres s 6 amd 2002 No. 60 s 12(1)

Authorised fire officers

- s 6A** ins 1991 No. 51 s 3.3
 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Act binds all persons

- s 7** sub 2006 No. 49 s 4

PART 2—QUEENSLAND FIRE AND RESCUE SERVICE

- pt hdg** sub 1996 No. 42 s 7; 2001 No. 76 s 15

Division 1—Queensland Fire and Rescue Service

- div hdg** ins 1996 No. 42 s 8
 sub 2001 No. 76 s 15

Establishment of service

- s 8** prev s 8 amd 1996 No. 42 s 21 sch 2
 om 1998 No. 37 s 10
 pres s 8 ins 2001 No. 76 s 15

Membership of service

- s 8A** ins 1996 No. 42 s 8
 sub 2001 No. 76 s 15

Functions of service

- s 8B** ins 1996 No. 42 s 8
 amd 1997 No. 52 s 3 sch
 sub 2001 No. 76 s 15
 amd 2002 No. 60 s 13

Chief executive's responsibility

- s 8C** ins 1996 No. 42 s 8
 amd 2001 No. 45 s 29 sch 3
 sub 2001 No. 76 s 15

Authority's functions

- s 8D** ins 1996 No. 42 s 8
 om 2001 No. 76 s 15

Authority's powers

- s 8E** ins 1996 No. 42 s 8
 om 2001 No. 76 s 15

Division 2—Control of authority

div hdg ins 1996 No. 42 s 8
sub 1998 No. 37 s 11
om 2001 No. 76 s 15

Chief executive officer of authority

s 8F ins 1996 No. 42 s 8
sub 1998 No. 37 s 11
om 2001 No. 76 s 15

Minister's powers to give directions

s 8G ins 1996 No. 42 s 8
sub 1998 No. 37 s 11
om 2001 No. 76 s 15

Minister's power to give directions

s 8H ins 1996 No. 42 s 8
om 1998 No. 37 s 11

Membership of board

s 8I ins 1996 No. 42 s 8
amd 1997 No. 52 s 4
om 1998 No. 37 s 11

Term of office of appointed members

s 8J ins 1996 No. 42 s 8
amd 1997 No. 52 s 5
om 1998 No. 37 s 11

Remuneration and allowances of appointed members

s 8K ins 1996 No. 42 s 8
om 1998 No. 37 s 11

Time and place of meetings

s 8L ins 1996 No. 42 s 8
om 1998 No. 37 s 11

Conduct of proceedings

s 8M ins 1996 No. 42 s 8
om 1998 No. 37 s 11

Authentication of documents

s 8N ins 1996 No. 42 s 8
om 1998 No. 37 s 11

Disclosure of interests

s 8O ins 1996 No. 42 s 8
om 1998 No. 37 s 11

Minutes

s 8P ins 1996 No. 42 s 8
om 1998 No. 37 s 11

Division 3—Commissioner

div hdg ins 1996 No. 42 s 8
amd 2001 No. 76 s 24(2)

Appointment of commissioner

prov hdg sub 1996 No. 42 s 9(1)
amd 2001 No. 76 s 24(1)

s 9 amd 1996 No. 37 s 147 sch 2; 1996 No. 42 ss 9(2), 21 sch 2, 3 sch 3; 2001 No. 76 ss 24(1), 11 sch 2

Salary and conditions

s 10 amd 1996 No. 42 s 3 sch 3; 2001 No. 76 s 24(1)

Acting commissioner

prov hdg amd 2001 No. 76 s 24(1)

s 11 sub 1996 No. 42 s 10
amd 2001 No. 76 s 24(1); 2002 No. 60 s 14

Role of commissioner

prov hdg amd 2001 No. 76 s 24(1)

s 12 sub 1996 No. 42 s 10
amd 1998 No. 37 s 9 sch; 2001 No. 76 ss 16, 24(1)

Dismissal and suspension

s 13 om 1996 No. 42 s 10

Acting as commissioner of fire service

s 14 om 1996 No. 42 s 10

Constitution of commissioner of fire service as corporation sole

s 15 om 1996 No. 42 s 10

Commissioner responsible for Queensland Fire Service

s 16 om 1996 No. 42 s 10

Other functions of commissioner

s 17 om 1996 No. 42 s 10

Codes of practice

s 18 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 1998 No. 37 s 9 sch; 2001 No. 76 ss 24(1), 11 sch 2

Delegation by commissioner

prov hdg sub 1996 No. 42 s 20 sch 1
amd 2001 No. 76 s 24(1)

s 19 sub 1995 No. 55 s 6
amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 1997 No. 52 s 6; 2001 No. 76 ss 24(1), (3), 11 sch 2; 2003 No. 91 s 175 sch 1

Division 4—Other matters about the service

div hdg ins 1996 No. 42 s 11
amd 2001 No. 76 s 11 sch 2

Application of certain Acts

- s 19A** ins 1996 No. 42 s 11
 amd 1996 No. 54 s 9 sch; 1998 No. 37 s 12
 om 2001 No. 76 s 17

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- s 19B** ins 1996 No. 42 s 11
 om 2001 No. 76 s 17

Delegation

- s 19C** ins 1996 No. 42 s 11
 amd 1997 No. 52 s 6; 2001 No. 76 ss 24(1), 11 sch 2

PART 3—FINANCIAL PROVISIONS**Fund**

- s 20** amd 1996 No. 42 ss 21 sch 2, 3 sch 3
 sub 1997 No. 52 s 7
 amd 2000 No. 46 s 3 sch; 2001 No. 76 s 18; 2003 No. 19 s 3 sch

Other funds

- s 21** amd 1996 No. 42 s 21 sch 2
 om 1997 No. 52 s 7

Authority's budget

- s 22** sub 1996 No. 42 s 12
 amd 1998 No. 37 s 9 sch
 om 2001 No. 76 s 19

Observance of budget

- s 23** amd 1996 No. 42 s 21 sch 2
 om 2001 No. 76 s 19

Treatment of surplus and deficit

- s 24** amd 1996 No. 42 s 21 sch 2; 1997 No. 52 s 3 sch
 om 2001 No. 76 s 19

PART 4—PROVISIONS AFFECTING PERSONNEL**Staff of service**

- s 25** amd 1995 No. 55 s 7
 sub 1996 No. 42 s 13; 2001 No. 76 s 20

Fire service officers employed under this Act

- s 25A** ins 1995 No. 55 s 8
 sub 1996 No. 37 s 147 sch 2
 amd 1996 No. 42 s 3 sch 3; 2001 No. 76 s 11 sch 2

Conditions of employment

- s 26** amd 1996 No. 42 ss 13A, 3 sch 3; 1998 No. 37 s 9 sch; 2001 No. 76 s 21

Additional remuneration

- s 27** amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 1998 No. 37 s 9 sch; 2001 No. 76 s 11 sch 2

Retirement

- s 28** amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 s 11 sch 2

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s 29 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 s 11 sch 2

Discipline

s 30 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 1998 No. 37 s 9 sch; 2001 No. 76 s 11 sch 2

Implementation of order

s 31 sub 1995 No. 55 s 9
amd 1996 No. 37 s 147 sch 2

Suspension

s 32 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 s 11 sch 2

Mode of dismissal or suspension

s 33 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2

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pt hdg ins 1998 No. 37 s 13

Establishment of council

s 34 prev s 34 om 1995 No. 55 s 10
pres s 34 ins 1998 No. 37 s 13

Functions of council

s 35 prev s 35 om 1995 No. 55 s 10
pres s 35 ins 1998 No. 37 s 13
amd 2001 No. 76 s 11 sch 2; 2003 No. 91 s 168

Membership of council

s 36 prev s 36 om 1995 No. 55 s 10
pres s 36 ins 1998 No. 37 s 13
amd 2002 No. 60 s 15

Chairperson of council

s 37 prev s 37 om 1995 No. 55 s 10
pres s 37 ins 1998 No. 37 s 13
amd 2001 No. 76 ss 24(1), 11 sch 2

How appointments made

s 38 prev s 38 om 1995 No. 55 s 10
pres s 38 ins 1998 No. 37 s 13

Term of office

s 39 prev s 39 om 1995 No. 55 s 10
pres s 39 ins 1998 No. 37 s 13

Removal from office

s 40 prev s 40 om 1995 No. 55 s 10
pres s 40 ins 1998 No. 37 s 13

Division 4—Superannuation

div hdg om 1997 No. 21 s 26

Quorum

- prov hdg** sub 1995 No. 55 s 11(1)
s 41 prev s 41 amd 1991 No. 51 s 3.4; 1995 No. 55 s 11(2)–(13); 1996 No. 37 s 147
 sch 2; 1996 No. 42 ss 14, 21 sch 2, 3 sch 3
 om 1997 No. 21 s 26
 pres s 41 ins 1998 No. 37 s 13

Conduct of business

- prov hdg** sub 1995 No. 55 s 12(1)
s 42 prev s 42 amd 1995 No. 55 s 12(2); 1996 No. 42 s 21 sch 2, 3 sch 3
 om 1997 No. 21 s 26
 pres s 42 ins 1998 No. 37 s 13

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- s 43** prev s 43 om 1997 No. 21 s 26
 pres s 43 ins 1998 No. 37 s 13

Remuneration of members

- s 44** prev s 44 amd 1995 No. 55 s 13
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- s 45** om 1997 No. 21 s 26

Employees of trustees may be contributors to scheme

- s 46** amd 1995 No. 55 s 14; 1996 No. 42 s 3 sch 3
 om 1997 No. 21 s 26

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- pt hdg** sub 2003 No. 91 s 169

Definition for pt 5

- s 47** sub 2003 No. 91 s 169

Rural Fire Council continued in existence

- s 48** sub 2003 No. 91 s 169

Functions of council

- s 49** amd 1996 No. 42 s 3 sch 3; 1998 No. 37 s 9 sch; 2001 No. 76 s 11 sch 2
 sub 2003 No. 91 s 169

Membership of council

- s 50** sub 2003 No. 91 s 169

Term of appointment

- s 51** sub 2003 No. 91 s 169

Vacation of office

- s 52** prev s 52 om 1991 No. 51 s 3.5
 pres s 52 ins 2003 No. 91 s 169

Removal from office

- s 52A** ins 2003 No. 91 s 169

Chairperson of council

s 52B ins 2003 No. 91 s 169

Quorum

s 52C ins 2003 No. 91 s 169

Conduct of business

s 52D ins 2003 No. 91 s 169

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s 52E ins 2003 No. 91 s 169

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s 52F ins 2003 No. 91 s 169

PART 6—POWERS OF AUTHORISED FIRE OFFICERS**Powers of authorised officer in dangerous situations**

s 53 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2; 2002 No. 60 s 16; 2006 No. 49 s 5

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s 54 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Powers of authorised fire officer for preventative or investigative purposes

prov hdg amd 2006 No. 49 s 6(1)

s 55 amd 1991 No. 51 s 3.6; 2002 No. 7 s 9; 2002 No. 60 s 17; 2006 No. 49 s 6(2)–(3)

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s 56 amd 2006 No. 49 s 7

Power to seize evidence etc.

s 56A ins 2006 No. 49 s 8

Powers supporting seizure

s 56B ins 2006 No. 49 s 8

Receipt for seized things

s 56C ins 2006 No. 49 s 8

Forfeiture of seized things

s 56D ins 2006 No. 49 s 8

Return of seized things

s 56E ins 2006 No. 49 s 8

Access to seized things

s 56F ins 2006 No. 49 s 8

Power to require name and address

s 57 sub 2006 No. 49 s 9

Use of answer given under compulsion

s 58 om 2006 No. 49 s 10

Reasonable assistance to be provideds 58A ins 1991 No. 51 s 3.7
amd 2006 No. 49 s 11

Power to inquire into fire or hazardous materials emergency

s 58B ins 2006 No. 49 s 12

Power to require production of certain documents

s 58C ins 2006 No. 49 s 12

Directions concerning exercise of powers

s 60 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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pt hdg ins 2003 No. 46 s 19 sch

Decontamination

s 60A ins 2003 No. 46 s 19 sch

PART 7—CONTROL AND PREVENTION OF FIRES**Division 1—Powers of commissioner relating to fires**

div hdg amd 1996 No. 42 s 3 sch 3; 2001 No. 76 s 24(1)

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s 62 amd 2006 No. 49 s 13

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prov hdg sub 1996 No. 42 s 20 sch 1

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s 63 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Prohibition by commissioner against lighting of fires

prov hdg sub 1996 No. 42 s 20 sch 1

amd 2001 No. 76 s 24(1)

s 64 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1); 2002 No. 60 s 23 sch

Granting of permits

s 65 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Fires in State forests etc.s 66 amd 1992 No. 15 s 13 sch; 1992 No. 20 s 159 sch 2; 1992 No. 68 s 3 sch 2;
1993 No. 32 s 3 sch 1; 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)**Occupier to extinguish fire**s 67 amd 1991 No. 51 s 3.8; 1992 No. 20 s 159 sch 2; 2003 No. 91 s 175 sch 1;
2006 No. 49 s 14**Powers of occupier of entry etc.**

s 68 amd 1991 No. 51 s 3.9; 1992 No. 20 s 159 sch 2; 2003 No. 91 s 175 sch 1

Requisition by commissioner to reduce fire risk

prov hdg sub 1996 No. 42 s 20 sch 1; 2001 No. 76 s 24(1)

s 69 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 ss 24(1), 11 sch 2; 2006 No. 49 s 15

Restriction on sale of notified articles

s 70 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 71 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 76 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 79 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Rural fire brigade may make rules

s 80 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 81 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 s 24(1), (3)

Functions of a rural fire brigade

s 82 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 83 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 84 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 ss 24(1), 11 sch 2

Chief executive's role relating to rural fire brigades

prov hdg sub 1996 No. 42 s 20 sch 1
amd 2001 No. 76 s 11 sch 2

s 85 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2

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s 86 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

PART 8—FIRE EMERGENCY**Division 1—Local fire bans**

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Imposing local fire ban

s 86A ins 1995 No. 55 s 15
amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Publicising local fire ban

s 86B ins 1995 No. 55 s 15
amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Cancelling local fire ban

s 86C ins 1995 No. 55 s 15
amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Period of local fire ban

s 86D ins 1995 No. 55 s 15

Effect of local fire ban on other authorisations to light fires

s 86E ins 1995 No. 55 s 15

Contravening local fire ban

s 86F ins 1995 No. 55 s 15

Evidentiary aid about local fire ban

s 86G ins 1995 No. 55 s 15
amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Division 2—Declarations of state of fire emergency

div hdg ins 1995 No. 55 s 15

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s 87 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 88 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 89 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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amd 2001 No. 76 s 24(4)
s 91 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Failure to comply with declaration

s 92 amd 1995 No. 55 s 16

Certificate re declaration

s 93 amd 1995 No. 55 s 17; 1996 No. 42 s 3 sch 3; 2001 No. 76 s 24(1)

PART 9—OFF-SITE PLANS FOR DANGEROUS GOODS**Interpretation of part**

s 94 amd 1995 No. 55 s 18
om 2002 No. 60 s 18

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s 95 amd 1999 No. 20 s 233 (amd 2000 No. 46 s 3 sch); 1999 No. 39 s 299 sch 1;
1999 No. 40 s 274 sch 1; 2004 No. 25 s 901

Occupier to provide information concerning dangerous goods

s 96 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Off-site emergency plans

prov hdg sub 1996 No. 42 s 20 sch 1
s 97 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1); 2002 No. 60 s 19

Assistance with plans

prov hdg sub 1996 No. 42 s 20 sch 1
s 98 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 ss 24(1), 11 sch 2

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s 99 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Amendment of plan

s 100 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Duty to implement plan

s 101 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 102 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

Keeping copies of plans

prov hdg sub 1996 No. 42 s 20 sch 1

s 103 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2

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s 104 amd 1995 No. 55 s 19; 2001 No. 76 s 11 sch 2

PART 9A—BUILDING FIRE SAFETY

pt hdg ins 1991 No. 51 s 3.10

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div hdg ins 1991 No. 51 s 3.10

Interpretation

s 104A ins 1991 No. 51 s 3.10

amd 2006 No. 49 s 17(1)

def “**building**” amd 1999 No. 39 s 299 sch 1; 1999 No. 40 s 274 sch 1; 2006 No. 49 s 17(2)

def “**Building Advisory Committee**” om 1998 No. 13 s 191 sch

def “**building certifier**” ins 1998 No. 13 s 191 sch

om 2006 No. 49 s 17(3)

def “**Building Code of Australia**” amd 1998 No. 13 s 191 sch

om 2006 No. 49 s 17(3)

def “**building surveyor**” om 1998 No. 13 s 191 sch

def “**fire safety installation**” amd 1998 No. 13 s 191 sch; 2006 No. 49 s 17(4)

def “**IPA**” ins 2002 No. 60 s 23 sch

def “**Standard Building Law**” om 1998 No. 13 s 191 sch

def “**Standard Building Regulation**” ins 1998 No. 13 s 191 sch

om 2006 No. 49 s 17(3)

Application to prisons

s 104B ins 1991 No. 51 s 3.10

amd 2000 No. 63 s 276 sch 2; 2006 No. 29 s 518 sch 3; 2006 No. 49 s 18

Division 2—Obligations of persons for fire safety

div hdg ins 1991 No. 51 s 3.11

sub 2002 No. 7 s 10

Subdivision 1—Means of escape and prescribed fire safety installations

sdiv hdg ins 2002 No. 7 s 10

Occupier of building to maintain means of escape from building

s 104C ins 1991 No. 51 s 3.11
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s 104D ins 1991 No. 51 s 3.11
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s 104DA ins 2006 No. 49 s 21

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sdiv hdg ins 2002 No. 7 s 11

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s 104E ins 1991 No. 51 s 3.11
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prov hdg sub 1996 No. 42 s 20 sch 1

s 104F ins 1991 No. 51 s 3.12
amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 ss 24(1), 11 sch 2

Subdivision 3—Fire safety management plan

sdiv hdg ins 2002 No. 7 s 12

Obligation to prepare fire safety management plan

s 104FA ins 2002 No. 7 s 12
amd 2006 No. 49 s 23

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s 104FB ins 2002 No. 7 s 12
amd 1975 No. 11 s 283(3)(a) (amd 2006 No. 36 s 69) (amdt could not be given effect); 2006 No. 49 s 24

Meaning of “fire safety management plan”

s 104FC ins 2002 No. 7 s 12

Guidelines for preparing fire safety management plans

s 104FD ins 2002 No. 7 s 12

Public notice of guidelines

s 104FE ins 2002 No. 7 s 12

Access to guidelines

s 104FF ins 2002 No. 7 s 12

Accessing fire safety management plan

s 104FG ins 2002 No. 7 s 12

Subdivision 3A—Matters relating to particular proceedings under this division

sdiv 3A (s 104FGA) ins 2006 No. 49 s 25

Subdivision 4—Obligations of entities about guidelines for fire safety standard and fire safety management plans

sdiv hdg ins 2002 No. 7 s 12

Obligations about guidelines for fire safety standard and fire safety management plans

s 104FH ins 2002 No. 7 s 12
amd 1975 No. 11 s 283(3)(a) (amd 2006 No. 36 s 69)

Subdivision 5—Commissioner’s notice about occupier’s and owner’s obligations

sdiv hdg ins 2002 No. 7 s 12
amd 2006 No. 49 s 26

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s 104G ins 1991 No. 51 s 3.12
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div hdg ins 1991 No. 51 s 3.13

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s 104H ins 1991 No. 51 s 3.13
amd 1995 No. 55 s 20

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s 104I ins 1991 No. 51 s 3.13
amd 1991 No. 97 s 3 sch 1; 1995 No. 55 s 21; 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1)

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s 104J ins 1991 No. 51 s 3.14

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div hdg ins 2006 No. 49 s 27

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sdiv 1 (ss 104KA–104KC) ins 2006 No. 49 s 27

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om 2006 No. 49 s 28

Division 5—Injunctions relating to high risk buildings

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s 104R ins 1991 No. 51 s 3.17
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s 104S ins 1991 No. 51 s 3.18
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pt hdg ins 2006 No. 49 s 39

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s 104SA ins 2006 No. 49 s 39

Persons aggrieved by notice may object

s 104SB (prev s 104L) ins 1991 No. 51 s 3.15
amd 1991 No. 97 s 3 sch 1; 1995 No. 55 s 22; 2006 No. 49 s 29
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s 104SD (prev s 104N) ins 1991 No. 51 s 3.15
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Determination of objection

s 104SE (prev s 104O) ins 1991 No. 51 s 3.16
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Relief from penalty pending determination of objection

s 104SF (prev s 104P) ins 1991 No. 51 s 3.16
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s 104SG (prev s 104PA) ins 2006 No. 49 s 34
renum and reloc 2006 No. 49 s 40

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s 104SH (prev s 104Q) ins 1991 No. 51 s 3.16
amd 1995 No. 57 s 4 sch 1; 2006 No. 49 s 35
renum and reloc 2006 No. 49 s 40

PART 10—FUNDING**Division 1—Interpretation****div hdg** ins 1994 No. 71 s 4**Definitions****prov hdg** sub 1994 No. 71 s 5**s 105** amd 1997 No. 28 s 295 sch 3def “**component local government**” sub 1993 No. 70 s 804 schdef “**prescribed property**” amd 1995 No. 55 s 23**Division 2—Funding for urban fire brigades****div hdg** ins 1994 No. 71 s 6**Constitution of urban districts****s 106** amd 1995 No. 55 s 24; 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2**Liability to contribute****s 107** amd 1996 No. 42 s 21 sch 2; 2001 No. 76 ss 22, 11 sch 2**Annual contributions of owners of prescribed properties****s 108** amd 1995 No. 55 s 25; 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2**Annual returns by component local governments****s 109** amd 1995 No. 55 s 26; 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2**Discount for pensioners****s 110** amd 1995 No. 55 s 27**Determinations and notifications of contributions****s 112** amd 1991 No. 51 s 3.19; 1995 No. 55 s 28**Appeal against local government’s determination****s 113** amd 1995 No. 55 s 29; 1996 No. 42 ss 21 sch 2, 3 sch 3; 1998 No. 37 s 9 sch;
2001 No. 76 s 11 sch 2**Manner of giving notification****s 114** amd 1993 No. 70 s 804 sch**Annual contribution etc. deemed to be rates****s 115** amd 1993 No. 70 s 804 sch; 2006 No. 49 s 41**Contribution to be paid into fund of component local government****s 116** sub 1993 No. 70 s 804 sch**Retention of administration fee by component local governments****s 117** amd 1995 No. 55 s 30

sub 1997 No. 52 s 8

Payments by component local governments to department**prov hdg** sub 1996 No. 42 s 20 sch 1

amd 2001 No. 76 s 11 sch 2

s 118 amd 1995 No. 55 s 31; 1996 No. 42 s 21 sch 2; 1997 No. 52 s 9; 1998 No. 37
s 9 sch; 2001 No. 76 s 11 sch 2**Failure by component local government to make payment****s 119** amd 1995 No. 55 s 32; 1996 No. 42 s 21 sch 2; 1997 No. 52 s 10; 2001 No. 76
s 11 sch 2

Payments and interest to be debt

s 120 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2

Notices about contributions

prov hdg sub 1996 No. 42 s 20 sch 1

s 122 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2

Recovery of arrears

s 123 amd 1995 No. 55 s 33; 1996 No. 42 s 21 sch 2; 1997 No. 52 s 11; 2001 No. 76 s 11 sch 2

Remitting contributions

prov hdg sub 1996 No. 42 s 20 sch 1

s 124 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2

Proof of amounts owing re contributions

s 125 amd 1995 No. 55 s 34; 1996 No. 42 s 3 sch 3; 2001 No. 76 s 11 sch 2

Where services of commercial agent engaged

s 126 amd 1996 No. 42 s 21 sch 2; 1999 No. 19 s 3 sch; 2000 No. 62 s 601 sch 2; 2001 No. 76 s 11 sch 2

Division 3—Funding for rural fire brigades

div hdg ins 1994 No. 71 s 7

Local government may make and levy certain rates or charges and contribute amounts raised to rural fire brigades

s 128A ins 1994 No. 71 s 7
amd 1995 No. 11 s 7
sub 1999 No. 30 s 22

PART 11—GENERAL**Inquiries into fires**

s 130 om 2003 No. 13 s 106 sch 1

Representation of chief executive at inquiries

prov hdg sub 1996 No. 42 s 20 sch 1
amd 2001 No. 76 s 11 sch 2

s 131 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2

Report of fire

s 133 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 ss 24(1), 11 sch 2

Role of police officers at fire or chemical incident

prov hdg sub 1996 No. 42 s 20 sch 1

s 136 amd 1996 No. 42 s 3 sch 3
om 2000 No. 5 s 461 sch 3

Inspection of records of local governments and building certifiers

prov hdg amd 2006 No. 49 s 42(1)

s 137 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 24(1); 2006 No. 49 s 42(2)–(5)

Use of equipment on roads while unregistered

prov hdg amd 2003 No. 91 s 175 sch 1

s 138 amd 1996 No. 42 s 21 sch 2; 1999 No. 19 s 3 sch; 2001 No. 76 s 24(1); 2003 No. 91 s 175 sch 1

Interstate assistance at fire

s 139 amd 1996 No. 42 s 3 sch 3; 2001 No. 76 s 24(1)

Ownership of property

prov hdg sub 1996 No. 42 s 20 sch 1

s 140 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 ss 24(1), 11 sch 2

Surrender of equipment

s 141 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 s 11 sch 2

Vacating premises

s 142 amd 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 s 11 sch 2

Confidentiality

s 142A ins 1991 No. 51 s 3.20

amd 2006 No. 49 s 43

Protection of name

s 143 amd R1 (see RA s 38); 1996 No. 42 ss 15, 21 sch 2; 2001 No. 76 s 11 sch 2

Charges for services

s 144 amd 1995 No. 55 s 35; 1996 No. 42 ss 21 sch 2, 3 sch 3; 1997 No. 52 s 3 sch;
2001 No. 76 s 11 sch 2; 2002 No. 60 s 20; 2006 No. 49 s 44

Service of documents

s 145 amd 1996 No. 42 s 21 sch 2; 2001 No. 76 s 11 sch 2

Offences

s 147 amd 1991 No. 51 s 3.21; 2006 No. 49 s 45

Indictable and summary offences

s 148 amd 1995 No. 55 s 36

sub 2006 No. 49 s 46

Proceedings for indictable offences

s 148A ins 2006 No. 49 s 46

Limitation on who may summarily hear indictable offence proceedings

s 148B ins 2006 No. 49 s 46

Proceeding for offences

s 148C ins 2006 No. 49 s 46

When proceeding may start

s 148D ins 2006 No. 49 s 46

Allegations of false or misleading information or document

s 148E ins 2006 No. 49 s 46

Forfeiture on conviction

s 148F ins 2006 No. 49 s 46

Dealing with forfeited thing

s 149 amd 1995 No. 55 s 37

sub 2006 No. 49 s 46

Court may order costs of rehabilitation etc. of protected area

s 149A ins 1992 No. 20 s 159 sch 2

Continuing offences

s 150 om 2006 No. 49 s 47

Power of police to arrest without warrant

s 152 om 2000 No. 5 s 461 sch 3

Evidentiary

s 153 amd 1995 No. 55 s 38; 1996 No. 42 ss 16, 21 sch 2, 3 sch 3; 2001 No. 76 s 11 sch 2; 2006 No. 49 s 48

References to fire safety officer

s 153A ins 1994 No. 87 s 3 sch 2

Approval of forms

s 153B ins 1995 No. 55 s 39

Regulation-making power

prov hdg sub 1995 No. 55 s 40(1)

s 154 amd 1991 No. 51 s 3.22; R1 (see RA s 39); 1995 No. 55 s 40(2)–(6); 1996 No. 42 ss 21 sch 2, 3 sch 3; 2001 No. 76 ss 24(1), 11 sch 2; 2006 No. 49 s 49

PART 12—SAVINGS AND TRANSITIONAL PROVISIONS

pt hdg ins 1995 No. 55 s 41

sub 1996 No. 42 s 17

Division 1—Provisions for Act before commencement of Emergency Services Legislation Amendment Act 1998

div hdg ins 1998 No. 37 s 9 sch

Definitions

s 155 prev s 155 ins 1995 No. 55 s 41
exp 8 December 1996 (see s 156(4))
pres s 155 ins 1997 No. 52 s 12
amd 1998 No. 37 s 9 sch

Continuation of appeals

s 156 ins 1995 No. 55 s 41
exp 8 December 1996 (see s 156(4))

References to commissioner

s 157 prev s 157 ins 1995 No. 55 s 41
exp 22 February 1996 (see s 157(3))
pres s 157 ins 1996 No. 42 s 19

Vesting of assets

s 158 prev s 158 ins 1995 No. 55 s 41
exp 3 April 1996 (see s 158(2))
pres s 158 ins 1996 No. 42 s 19

Legal or disciplinary proceedings

s 159 prev s 159 ins 1995 No. 55 s 41
exp 22 November 1995 (see s 159(3))
pres s 159 ins 1996 No. 42 s 19

Fire authority officers

s 160 prev s 160 ins 1995 No. 55 s 41
 exp 22 November 1995 (see s 160(3))
 pres s 160 ins 1996 No. 42 s 19

Conditions of employment of transferred officers

s 161 ins 1996 No. 42 s 19

Trusts

s 162 ins 1996 No. 42 s 19

Duty to assist transfer of property

s 163 ins 1996 No. 42 s 19
 amd 1998 No. 37 s 9 sch

Superannuation scheme

s 164 ins 1996 No. 42 s 19

Suspension

s 165 ins 1996 No. 42 s 19

Appeals

s 166 ins 1996 No. 42 s 19

Things taken to have been done etc. by chief commissioner

s 167 ins 1996 No. 42 s 19

Things taken to have been done etc. by the authority

s 168 ins 1996 No. 42 s 19

Transitional regulations

s 169 ins 1996 No. 42 s 19
 exp 24 February 1998 (see s 169(2))

Previous fund

s 170 ins 1997 No. 52 s 13

Division 2—Provision for Emergency Services Legislation Amendment Act 1998

div hdg ins 1998 No. 37 s 14

Board members go out of office

s 171 ins 1998 No. 37 s 14

Division 3—Provisions for Emergency Services Legislation Amendment Act 2001

div hdg ins 2001 No. 76 s 23

Definitions for div 3

s 172 ins 2001 No. 76 s 23

Authority dissolved

s 173 ins 2001 No. 76 s 23

Superannuation entitlements

s 174 ins 2001 No. 76 s 23

References to authority

s 175 ins 2001 No. 76 s 23

Vesting of assets

s 176 ins 2001 No. 76 s 23

Legal or disciplinary proceedings

s 177 ins 2001 No. 76 s 23

Suspension

s 178 ins 2001 No. 76 s 23

Fire service officers

s 179 ins 2001 No. 76 s 23

Conditions of employment of transferred officers

s 180 ins 2001 No. 76 s 23

Trusts

s 181 ins 2001 No. 76 s 23

Duty to help transfer of property

s 182 ins 2001 No. 76 s 23

Appeals

s 183 ins 2001 No. 76 s 23

Things taken to have been done etc. by commissioner

s 184 ins 2001 No. 76 s 23

Things taken to have been done etc. by chief executive

s 185 ins 2001 No. 76 s 23

Other things taken to have been done etc. by chief executive

s 186 ins 2001 No. 76 s 23

Other things taken to have been done etc. by the State

s 187 ins 2001 No. 76 s 23

Closure of QFRA Fund

s 188 ins 2001 No. 76 s 23

Division 4—Provision for Disaster Management Act 2003

div hdg ins 2003 No. 91 s 170

Existing council members to remain in offices 189 prev s 189 ins 2001 No. 76 s 23
exp 13 November 2002 (see s 189(3))
pres s 189 ins 2003 No. 91 s 170**SCHEDULE 1**

om R1 (see RA s 40)

SCHEDULE 2

om R1 (see RA s 40)

SCHEDULE 3—TRANSITIONAL PROVISIONSexp 22 November 1995 (see s 5(15))
om R2 (see RA s 37)
AIA s 20A applies (see s 5(14))

SCHEDULE 4—MATTERS CONCERNING OPERATION OF THE RURAL FIRE COUNCIL

sch hdg amd 1995 No. 55 s 42(1); 1997 No. 21 s 27(1)–(2)
sch 4 om 2003 No. 91 s 171

Definitions

prov hdg sub 1995 No. 55 s 42(2)
s 1 om 2003 No. 91 s 171
 def “**board**” amd 1995 No. 55 s 42(3)
 sub 1997 No. 21 s 27(3)–(4)
 def “**member**” amd 1995 No. 55 s 42(3)
 sub 1997 No. 21 s 27(3)–(4)

Reappointment

s 2 om 2003 No. 91 s 171

Removal from office

s 3 om 2003 No. 91 s 171

Vacancy in office

s 4 om 2003 No. 91 s 171

Filling casual vacancy

s 5 amd 1995 No. 55 s 42(4)
 om 2003 No. 91 s 171

Meetings and procedure

s 6 amd 1995 No. 55 s 42(5)
 om 2003 No. 91 s 171

When presiding officer absent

s 7 om 2003 No. 91 s 171

Validation of proceedings

s 8 om 2003 No. 91 s 171

Disclosure of interest

s 9 amd 2002 No. 74 s 90 sch
 om 2003 No. 91 s 171

Fees, allowances and expenses

s 10 amd 1996 No. 42 s 3 sch 3; 2001 No. 76 s 11 sch 2
 om 2003 No. 91 s 171

SCHEDULE 5—USES OF BUILDINGS

ins 1991 No. 51 s 3.23
 amd 1993 No. 32 s 3 sch 1
 sub 1995 No. 55 s 43

SCHEDULE 6—DICTIONARY

ins 2002 No. 60 s 23 sch
 Note—definitions for this Act were originally located in prev s 6.
 def “**ADG Code**” ins 2002 No. 60 s 12(3)
 reloc 2002 No. 60 s 12(4)
 def “**appointed day**” reloc 2002 No. 60 s 12(4)

- def “**appointed member**” ins 1997 No. 52 s 3 sch
om from prev s 6 1998 No. 37 s 9 sch
- def “**approved form**” ins 1995 No. 55 s 5(3)
reloc 2002 No. 60 s 12(4)
- def “**approved superannuation scheme**” ins 1995 No. 55 s 5(3)
om from prev s 6 1997 No. 21 s 25
- def “**authorised fire officer**” ins 1997 No. 52 s 3 sch
reloc 2002 No. 60 s 12(4)
- def “**authority**” ins 1996 No. 42 s 6(2)
om from prev s 6 2001 No. 76 s 14(1)
- def “**authorized fire officer**” om from prev s 6 1991 No. 51 s 3.2
- def “**board**” ins 1996 No. 42 s 6(2)
om from prev s 6 1998 No. 37 s 9 sch
- def “**bodily harm**” ins 2006 No. 49 s 50(2)
- def “**broadcasting service**” ins 1995 No. 55 s 5(3)
reloc 2002 No. 60 s 12(4)
- def “**budget accommodation building**” ins 2002 No. 7 s 8
reloc 2002 No. 60 s 12(4)
amd 1975 No. 11 s 283(3)(a) (amd 2006 No. 36 s 69)
- def “**building**” reloc 2002 No. 60 s 12(4)
- def “**building certifier**” ins 2006 No. 49 s 50(2)
- def “**Building Code of Australia**” ins 2006 No. 49 s 50(2)
- def “**chemical**” ins 2002 No. 60 s 12(3)
reloc 2002 No. 60 s 12(4)
- def “**chemical incident**” om from prev s 6 2002 No. 60 s 12(2)
- def “**chief commissioner**” ins 1996 No. 42 s 6(2)
om from prev s 6 2001 No. 76 s 14(1)
- def “**chief executive (liquor licensing)**” ins 2006 No. 49 s 50(2)
- def “**chief executive officer**” ins 1998 No. 37 s 9 sch
om from prev s 6 2001 No. 76 s 14(1)
- def “**clear floor surface area**” ins 2006 No. 49 s 50(2)
- def “**code of practice**” reloc 2002 No. 60 s 12(4)
- def “**combustible liquid**” ins 2002 No. 60 s 12(3)
reloc 2002 No. 60 s 12(4)
- def “**commissioner**” om 1996 No. 42 s 6(1)
ins 2001 No. 76 s 14(2)
reloc 2002 No. 60 s 12(4)
- def “**conviction**” ins 1996 No. 42 s 6(2)
reloc 2002 No. 60 s 12(4)
- def “**council**” ins 2003 No. 91 s 172
- def “**dangerous goods**” ins 2002 No. 60 s 12(3)
reloc 2002 No. 60 s 12(4)
- def “**emergency service unit**” ins 2003 No. 91 s 175 sch 1
- def “**environment**” ins 2002 No. 60 s 12(3)
reloc 2002 No. 60 s 12(4)
- def “**fire and evacuation plan**” ins 2006 No. 49 s 50(2)
- def “**fire authority officer**” ins 1996 No. 42 s 6(2)
om from prev s 6 2001 No. 76 s 14(1)
- def “**fire ban area**” ins 1995 No. 55 s 5(3)
reloc 2002 No. 60 s 12(4)

- def **“fire coordinator”** ins 2003 No. 91 s 175 sch 1
- def **“fire officer”** amd 1996 No. 42 s 6(3)–(4)
 sub 2001 No. 76 s 14(1)–(2)
 reloc 2002 No. 60 s 12(4)
- def **“fire safety management plan”** ins 2002 No. 7 s 8
 reloc 2002 No. 60 s 12(4)
- def **“fire safety standard”** ins 2002 No. 7 s 8
 reloc 2002 No. 60 s 12(4)
 amd 1975 No. 11 s 283(3)(a) (amd 2006 No. 36 s 69)
- def **“fire safety system”** ins 2006 No. 49 s 50(2)
- def **“fire service”** ins 1995 No. 55 s 5(3)
 om from prev s 6 1996 No. 42 s 6(1)
- def **“fire service officer”** ins 1995 No. 55 s 5(3)
 om 1996 No. 42 s 6(1)
 ins 2001 No. 76 s 14(2)
 reloc 2002 No. 60 s 12(4)
- def **“fire service superannuation scheme”** ins 1995 No. 55 s 5(3)
 sub 1996 No. 42 s 6(1)–(2)
 om from prev s 6 1997 No. 21 s 25
- def **“flammable and combustible liquids standard”** ins 2002 No. 60 s 12(3)
 reloc 2002 No. 60 s 12(4)
- def **“flammable material”** reloc 2002 No. 60 s 12(4)
- def **“fund”** ins 2001 No. 76 s 14(2)
 reloc 2002 No. 60 s 12(4)
- def **“grievous bodily harm”** ins 2006 No. 49 s 50(2)
- def **“hazardous material”** ins 2002 No. 60 s 12(3)
 reloc 2002 No. 60 s 12(4)
- def **“hazardous materials emergency”** ins 2002 No. 60 s 12(3)
 reloc 2002 No. 60 s 12(4)
- def **“land”** reloc 2002 No. 60 s 12(4)
- def **“licensed building”** ins 2006 No. 49 s 50(2)
- def **“Local Authority”** om from prev s 6 1993 No. 70 s 804 sch
- def **“local fire ban”** ins 1995 No. 55 s 5(3)
 reloc 2002 No. 60 s 12(4)
- def **“Minister”** om from prev s 6 R1 (see RA s 39)
- def **“occupancy notice”** ins 2006 No. 49 s 50(2)
- def **“occupancy number”** ins 2006 No. 49 s 50(2)
- def **“occupier”** reloc 2002 No. 60 s 12(4)
- def **“officer of the Queensland Fire Service”** om from prev s 6 1995 No. 55 s 5(2)
- def **“owner”** reloc 2002 No. 60 s 12(4)
- def **“premises”** reloc 2002 No. 60 s 12(4)
 sub 2006 No. 49 s 50
- def **“premises of seizure”** ins 2006 No. 49 s 50(2)
- def **“protected area”** ins 1992 No. 20 s 159 sch 2
 reloc 2002 No. 60 s 12(4)
- def **“Queensland Fire Service”** om from prev s 6 1995 No. 55 s 5(2)
- def **“risk of overcrowding”** ins 2006 No. 49 s 50(2)
- def **“service”** ins 2001 No. 76 s 14(2)
 reloc 2002 No. 60 s 12(4)

def “**urban district**” reloc 2002 No. 60 s 12(4)
def “**vegetation**” reloc 2002 No. 60 s 12(4)
def “**vehicle**” amd 1999 No. 42 s 54(3) sch pt 3
reloc 2002 No. 60 s 12(4)
def “**vessel**” amd 1999 No. 42 s 54(3) sch pt 3
reloc 2002 No. 60 s 12(4)

8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

Form 24 Version 4—Property Information (Transfer)

pubd gaz 23 March 2007 p 1250

Form 24A Version 1—Property Information (Transmission Application)

pubd gaz 23 March 2007 p 1249