



Fire Services Act 1990

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Queensland

Fire Services Act 1990

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Fire Services Act 1990

An Act to establish Queensland Fire and Rescue and Rural Fire Service Queensland, to establish a fund for particular purposes, to provide for the prevention of and response to fires and emergency

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Fire Services Act 1990*.

2 Objects of Act

The objects of this Act are—

- (a) to provide for the prevention of, and responses to, fires and other emergency incidents; and
- (b) to provide for rescue services and operations; and
- (c) to establish a framework for the operation, management and administration of Queensland Fire and Rescue and Rural Fire Service Queensland.

2A How objects are to be achieved

The objects of the Act are to be achieved by establishing processes to ensure—

- (a) ongoing operational and strategic collaboration and coordination between Queensland Fire and Rescue and Rural Fire Service Queensland; and

- (b) recognition of the valuable role of volunteers in supporting the delivery of fire and emergency services in the State.

3 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

4 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.

Chapter 2 Appointments

Part 1 Commissioner

5 Appointment of commissioner

- (1) The Governor in Council, acting on the recommendation of the Minister, shall appoint a commissioner.
- (2) A person is eligible for appointment as commissioner only if the person has—
 - (a) professional firefighting experience; and
 - (b) incident control expertise; and
 - (c) fire prevention expertise.
- (3) The commissioner is to be appointed under this Act, and not under the *Public Sector Act 2022*.

6 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.

7 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).

7A Functions of commissioner

- (1) The main functions of the commissioner are—
 - (a) to manage the fire services in a way that ensures each fire service performs its functions under this Act effectively and efficiently; and
 - (b) to make recommendations to the Minister about any matter that—
 - (i) relates to the performance of functions or exercise of powers by the commissioner or the fire services; or
 - (ii) may help the Minister in the proper administration of this Act.
- (2) Without limiting subsection (1), the commissioner also has the following functions—

- (a) to decide the appropriate organisational structure of the fire services;
 - (b) to control and oversee the resources of the fire services;
 - (c) to decide the number and deployment of fire service officers and rural fire brigade members;
 - (d) to decide the qualifications for, and duties of, fire service officers;
 - (e) to be responsible for organising training and development of fire service officers and rural fire brigade members;
 - (f) to facilitate collaboration and coordination of the fire services for effective service delivery;
 - (g) to decide the dress or appearance of fire service officers and rural fire brigade members;
 - (h) to decide the number and location of the fire services' facilities;
 - (i) to monitor the performance and management of the fire services;
 - (j) to report regularly to the Minister on the capability of the fire services to perform the functions of the fire services under this Act;
 - (k) to report to the Minister on the functions performed by the chief fire officer in each reporting period under section 7J.
- (3) The commissioner's functions also include any other function given to the commissioner under this Act or another Act.

7AA Commissioner's directions

- (1) The commissioner may give a direction if the commissioner considers it necessary or convenient to give the direction to ensure the efficient and proper functioning of the fire services.
- (2) A direction under subsection (1)—
 - (a) may be written or oral; and

- (b) may apply to all or any of the following persons—
 - (i) the chief fire officer;
 - (ii) fire service officers;
 - (iii) rural fire brigade members.

7B 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.
- (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.

Part 2 Chief fire officer

Division 1 Appointment of chief fire officer

7C Appointment

- (1) The commissioner is to appoint a chief fire officer.

- (2) A person is eligible for appointment as chief fire officer only if the person has—
 - (a) professional firefighting experience; and
 - (b) incident control expertise; and
 - (c) fire prevention expertise.
- (3) The commissioner must have regard to the matters mentioned in section 25B when appointing a person as the chief fire officer.
- (4) The chief fire officer is to be employed under this Act and not the *Public Sector Act 2022*.

7D Conditions of appointment

The chief fire officer holds office for the term and on the conditions stated in the person's contract of employment.

7E Resignation

The chief fire officer may, at any time, resign office as chief fire officer by signed notice given to the commissioner.

7F Acting chief fire officer

The commissioner may appoint a person, who is eligible for appointment as chief fire officer, to act in the office of chief fire officer during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the chief fire officer is absent from duty, or can not, for another reason, perform the functions of the office.

7G Functions

- (1) The functions of the chief fire officer are—

- (a) to provide advice to the commissioner about the fire services, including matters relating to service delivery, operational culture, best practice and innovation and research; and
 - (b) to perform other functions given to the chief fire officer under this or another Act.
- (2) The chief fire officer is subject to the direction of the commissioner in performing the chief fire officer's functions under this Act.

7H Preservation of rights

- (1) This section applies if a public service officer is appointed as the chief fire officer.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the chief fire officer were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or resignation as the chief fire officer, the person's service as the chief fire officer is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

Division 2 General matters

7I Providing assistance to chief fire officer

- (1) The fire services must give the chief fire officer all reasonable assistance the chief fire officer requires to perform the chief fire officer's functions.
- (2) Without limiting subsection (1), if the chief fire officer asks for information held by a fire service that relates to the chief fire officer's functions, the fire service must give the information.

7J Reporting requirements

- (1) Within 30 days after the end of each reporting period, the chief fire officer must prepare a report on the functions performed by the chief fire officer during the reporting period and give the report to the commissioner.
- (2) In this section—
reporting period means—
 - (a) the period prescribed by regulation for this definition; or
 - (b) if no period is prescribed—each quarter in a financial year.

Part 3 Deputy commissioner

7K Appointment

- (1) The commissioner is to appoint a deputy commissioner.
- (2) A person is eligible for appointment as deputy commissioner if the person has—
 - (a) professional firefighting experience; and
 - (b) incident control expertise; and
 - (c) fire prevention expertise.
- (3) The commissioner must have regard to the matters mentioned in section 25B when appointing a person as the deputy commissioner.
- (4) The deputy commissioner is to be employed under this Act and not the *Public Sector Act 2022*.

7L Conditions of appointment

The deputy commissioner holds office for the term and on the conditions stated in the person's contract of employment.

7M Resignation

The deputy commissioner may, at any time, resign office as deputy commissioner by signed notice given to the commissioner.

7N Acting deputy commissioner

The commissioner may appoint a person, who is eligible for appointment as deputy commissioner, to act in the office of deputy commissioner during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the deputy commissioner is absent from duty, or can not, for another reason, perform the functions of the office.

7O Functions

- (1) The functions of the deputy commissioner are—
 - (a) to support the commissioner in the performance of the commissioner's functions; and
 - (b) to manage the service delivery of QFR to ensure the effectiveness and efficiency of QFR; and
 - (c) to ensure the development of the capability of QFR, including the systems, frameworks and resources required to support the delivery of services; and
 - (d) to ensure minimum standards and training for fire service officers assigned to QFR are in place to the satisfaction of the commissioner; and
 - (e) to perform any other function given to the deputy commissioner by the commissioner.
- (2) The deputy commissioner is subject to the direction of the commissioner in performing the deputy commissioner's functions under this Act.

7P Preservation of rights

- (1) This section applies if a public service officer is appointed as the deputy commissioner.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the deputy commissioner were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or resignation as the deputy commissioner, the person's service as the deputy commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

Part 4 Chief officer

7Q Appointment

- (1) The commissioner is to appoint a chief officer.
- (2) A person is eligible for appointment as chief officer only if the person has—
 - (a) rural firefighting experience; or
 - (b) rural incident control expertise; or
 - (c) rural fire prevention expertise.
- (3) The commissioner must have regard to the matters mentioned in section 25B when appointing a person as the chief officer.
- (4) The chief officer is to be employed under this Act and not the *Public Sector Act 2022*.

7R Conditions of appointment

The chief officer holds office for the term and on the conditions stated in the person's contract of employment.

7S Resignation

The chief officer may, at any time, resign office as chief officer by signed notice given to the commissioner.

7T Acting chief officer

The commissioner may appoint a person, who is eligible for appointment as chief officer, to act in the office of chief officer during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the chief officer is absent from duty, or can not, for another reason, perform the functions of the office.

7U Functions

- (1) The functions of the chief officer are—
 - (a) to support the commissioner in the performance of the commissioner's functions; and
 - (b) to manage the service delivery of RFSQ, including fire service officers assigned to RFSQ, to ensure the effectiveness and efficiency of RFSQ; and
 - (c) to ensure the development of the capability of RFSQ, including the systems, frameworks and resources required to support the delivery of services; and
 - (d) to ensure minimum standards and training for fire service officers assigned to RFSQ, and for rural fire brigade members, are in place to the satisfaction of the commissioner; and
 - (e) to perform any other function given to the chief officer by the commissioner.
- (2) The chief officer is subject to the direction of the commissioner in performing the chief officer's functions under this Act.

7V Preservation of rights

- (1) This section applies if a public service officer is appointed as the chief officer.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the chief officer were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or resignation as the chief officer, the person's service as the chief officer is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

Chapter 3 Fire services

Part 1 Establishment, membership, functions and powers

8 Establishment

- (1) Queensland Fire and Rescue (*QFR*) is established.
- (2) Rural Fire Service Queensland (*RFSQ*) is established.
- (3) Each of QFR and RFSQ is a *fire service*.
- (4) QFR and RFSQ are collectively called *the fire services*.

8A Membership

- (1) QFR consists of the following persons—
 - (a) the commissioner;
 - (b) the deputy commissioner;
 - (c) fire service officers assigned to QFR by the commissioner.

(2) RFSQ consists of the following entities—

- (a) the commissioner;
- (b) the chief officer;
- (c) fire service officers assigned to RFSQ by the commissioner;
- (d) rural fire brigades;
- (e) rural fire brigade members.

8B Functions and powers

(1) The functions of the fire services are—

- (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 fire services' 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 fire services under this Act or another Act; and
- (f) to perform functions incidental to the other functions of each of the fire services; and
- (g) to identify and market products and services incidental to its functions.

(2) The fire services have the power to do anything necessary or convenient to be done for the performance of the functions of the fire services.

Note—

See also chapter 4 for additional functions of RFSQ.

Part 4 Provisions affecting personnel

Division 1 Appointments and conditions

25 Staff

- (1) The commissioner may employ the persons the commissioner considers necessary to perform the fire services' functions.
- (2) Without limiting subsection (1), the commissioner may employ the number of executive officers or senior officers as is necessary for the effective administration of the Act and the performance of the fire services' functions.
- (3) However, the commissioner may employ a person as an executive officer, or a senior officer, in QFR under this section only if the commissioner is satisfied the person has—
 - (a) professional firefighting experience; and
 - (b) incident control expertise; and
 - (c) fire prevention expertise.
- (3A) Subsection (3) does not apply to the employment of a person as a scientific officer in QFR.
- (4) Also, the commissioner may employ a person as an executive officer in RFSQ under this section only if the commissioner is satisfied the person has—
 - (a) rural firefighting experience; or
 - (b) rural incident control expertise; or
 - (c) rural fire prevention expertise.
- (5) In this section—

executive officer means a person employed in a role equivalent to that of a senior executive under the *Public Sector Act 2022*, section 188.

scientific officer means an officer who—

- (a) holds a tertiary qualification in applied science, chemical engineering, chemistry or science that is directly relevant to the performance of the functions of the office; and
- (b) does not perform firefighting or incident control functions or duties.

senior officer means a person employed in a role equivalent to that of a senior officer under the *Public Sector Act 2022*, schedule 2.

25A Fire service officers employed under this Act

Fire service officers are to be employed under this Act, and not under the *Public Sector Act 2022*.

25B Employment on merit

- (1) In considering an applicant's ability to perform the requirements of a position for the purpose of the *Public Sector Act 2022*, section 45(2)(a), the person undertaking the recruitment and selection process must consider whether the applicant has the mandatory qualifications, skills or experience the commissioner considers necessary for the position (the ***requisite conditions***).
- (2) In deciding the applicant best suited to the position under the *Public Sector Act 2022*, section 45(2), the person must consider the primacy of the requisite conditions over any other matter that may be considered under section 45(2)(b) of that Act.

26 Conditions of employment

- (1) Subject to any applicable industrial instrument, 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 commissioner 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 instrument.
- (3) Also, if a directive made under the *Public Sector Act 2022* applies to a person employed under section 25 and the directive is inconsistent with the determination of the commissioner under subsection (1), the directive applies to the extent of the inconsistency.

Division 2 Termination of office

28 Retirement

A fire service officer—

- (a) must retire from employment with the fire services upon attaining the age of 65 years;
- (b) may elect to retire from employment with the fire services upon or at any time after attaining the age of 55 years.

29A Surrender of equipment

- (1) A person, upon ceasing to be a fire service officer, must surrender to the commissioner—
 - (a) any form of identification; and
 - (b) anything issued to the person for official use;unless otherwise ordered by the commissioner.
- (2) A justice, acting upon the complaint of the commissioner, may issue a warrant authorising any person named in, or

belonging to a class of person specified in, the warrant 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; and
 - (b) break open anything the person believes may contain the thing sought.

29B 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 commissioner otherwise orders.
- (2) If the premises are not vacated immediately or, as the case may be, within any period ordered by the commissioner, the commissioner 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 magistrate, acting upon the complaint of the commissioner, may issue a warrant authorising a police officer to enter the premises and remove all persons and property not authorised by the commissioner to be on the premises and to deliver possession of the premises to the State.

Chapter 4 Rural Fire Service Queensland

Part 1 Functions

129 Additional functions of RFSQ

RFSQ has the following functions, in addition to the functions for RFSQ mentioned in section 8B—

- (a) to carry out activities for the prevention of, preparedness for, response to, and recovery from, bushfires;
- (b) to control and prevent bushfires;
- (c) to investigate bushfires;
- (d) to manage chief fire wardens and fire wardens;
- (e) to manage the administration of the granting of notifications, notices and permits under this Act for the lighting of fires;
- (f) to manage rural fire brigades;
- (g) to support other entities providing emergency services to help communities respond to and recover from disasters;
- (h) to support communities to improve resilience to bushfires;
- (i) to perform other functions given to RFSQ by the commissioner.

Part 2 RFSQ advisory committee

130 Establishment and membership of RFSQ advisory committee

- (1) The RFSQ advisory committee is established.

- (2) The Minister must appoint the members of the RFSQ advisory committee in consultation with the chief officer.
- (3) The RFSQ advisory committee has the function of advising the chief officer on matters relating to the performance of the functions of RFSQ, including the administration and management of rural fire brigades.
- (4) A member of the RFSQ advisory committee holds the member's appointment on the conditions decided by the Minister.
- (5) To remove any doubt, it is declared that the RFSQ advisory committee is not a decision-making body.

Part 3 Fire wardens

131 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) The commissioner may appoint a person to be a chief fire warden or fire warden (each a ***relevant fire warden***), or recommend to the Governor in Council the appointment of a person as a relevant fire warden under subsection (4), only if the commissioner is satisfied the person is appropriately qualified to perform the functions and exercise the powers of a relevant fire warden.
- (3) Subject to subsection (4)—
 - (a) a relevant fire warden holds office for the term and on the conditions stated in the relevant fire warden's instrument of appointment; and
 - (b) without limiting paragraph (a), the instrument of appointment must state the geographical area in which the relevant fire warden can perform the relevant fire warden's functions or exercise the relevant fire warden's powers.

- (4) 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.
- (5) A person may hold an office under this section in conjunction with any office held with the fire services, the public service or the police service.
- (6) 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.
- (7) The Governor in Council may, by notification published in the gazette, amend or rescind any notification made under subsection (4)(b).

132 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) Without limiting section 7AA, the commissioner may direct a chief fire warden or fire warden—
 - (a) in the performance of the chief fire warden's or fire warden's functions; and
 - (b) to perform functions in addition to those conferred 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.

133 Resignation

A chief fire warden or fire warden may, at any time, resign office as chief fire warden or fire warden by signed notice given to the commissioner.

134 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 145B or 145G or to determine applications for permits under section 145C, 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.

Part 4 Rural fire brigades

135 Registration of rural fire brigade

- (1) Any group of persons may apply to the commissioner to register an entity 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.

Note—

If an application for registration of an entity as a rural fire brigade is granted, each person in the group who applied for registration is not necessarily a member of the rural fire brigade.

- (3) The commissioner may at any time cancel the registration of a rural fire brigade.

136 Appointment of rural fire brigade members

- (1) The commissioner may appoint a person as a member of a rural fire brigade.
- (2) A rural fire brigade member—
 - (a) is appointed on the terms stated in the instrument of appointment; and
 - (b) may resign the appointment by signed notice given to the commissioner.

137 Rules for rural fire brigades

- (1) The commissioner may make model rules for the proper management and operation of rural fire brigades.
- (2) A rural fire brigade may, with the written approval of the commissioner, make a rule that is additional to the model rules.
- (3) An additional rule under subsection (2) must not be inconsistent with this Act or the model rules.
- (4) A rural fire brigade's rules are the model rules and any additional rules approved by the commissioner.
- (5) A rural fire brigade and the members of the rural fire brigade must comply with the rural fire brigade's rules.

138 Officers and office bearers 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) A rural fire brigade may elect any member of the brigade to be the chairperson, secretary or treasurer of the brigade (each an *office bearer*).

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- (4) Any election must be conducted in accordance with the commissioner's directions and has no effect unless approved by the commissioner.
 - (5) A person holds office, or is an office bearer, for the period specified by the commissioner.
 - (6) The commissioner may do either or both of the following in relation to a person—
 - (a) dismiss the person from an office held with, or as an office bearer of, a rural fire brigade;
 - (b) disqualify the person from holding any office with, or being an office bearer of, a rural fire brigade.

139 Functions of a rural fire brigade

- (1) The functions of a rural fire brigade are—
 - (a) to carry out fire fighting and fire prevention; and
 - (b) to use fire for land management; and
 - (c) to carry out other activities to help communities or other entities prepare for, respond to, and enhance resilience to, an event or a disaster; and
 - (d) to carry out activities to raise the profile of RFSQ, promote bushfire safety or raise funds to support rural fire brigades in the performance of the brigades' other functions; and
 - (e) to provide services or assistance if required by any Act or the reasonable expectations of the community; and
 - (f) to perform any other function given to the brigade by the commissioner.
- (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.

139A Helping communities or other entities

- (1) For performing a function under section 139(1)(c), a rural fire brigade may carry out activities to help a community or another entity in relation to an event or a disaster—
 - (a) at the direction of the commissioner; or
 - (b) in response to a request for help by the community or other entity; or
 - (c) on its own initiative.

Examples of activities—

- blocking a road to isolate an area in the vicinity of a fallen powerline
 - directing traffic away from a flooded creek
 - using a chainsaw to remove a fallen tree on a property that is causing a hazard
- (2) If the rural fire brigade carries out activities in response to a request for help by the community or other entity or on its own initiative, the first officer of the brigade must notify the commissioner at the first opportunity of any activities carried out, or to be carried out, by the brigade in relation to the event or disaster.
 - (3) In this section—
first officer see section 140(4).

140 Powers of first officer

- (1) Where, pursuant to notification given under section 139(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.

141 Appointment of person in charge of operations

- (1) The commissioner may appoint a person as the person in charge of operations for controlling and extinguishing a fire, or for controlling another incident, if the commissioner considers it appropriate and necessary in the circumstances.
- (2) However, the commissioner may appoint a person as the person in charge of operations for controlling and extinguishing a fire under subsection (1) in an area for which a rural fire brigade is in charge of fire fighting and fire prevention under section 139(2) only if there is no first officer for the rural fire brigade, within the meaning of section 140(4), who is available for controlling or extinguishing the fire.
- (3) The appointment under subsection (1) may be—

- (a) written or oral; and
 - (b) for the duration of an event or for a stated or indefinite period.
- (4) The appointment of a person as the person in charge of operations ends—
 - (a) for an appointment for the duration of an event—at the end of the event; or
 - (b) for an appointment for a stated period—at the end of the stated period; or
 - (c) for an appointment for an indefinite period—when the commissioner gives the person notice that the appointment has ended.
- (5) Despite subsection (4), the appointment of a person as the person in charge of operations ends if the commissioner gives the person notice that the appointment has ended.
- (6) The person in charge of operations for controlling and extinguishing a fire, or for controlling another incident, has the powers of the first officer of a rural fire brigade under section 140(1)(a) and (b).
- (7) Section 140(2) applies to the person in charge of operations as if a reference in the subsection to the first officer of a rural fire brigade were a reference to the person in charge of operations.
- (8) Any person performing a function or exercising a power under this section must comply with—
 - (a) any relevant code of practice; and
 - (b) any direction given by the commissioner.

142 Equipment for rural fire brigade

- (1) The commissioner 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 commissioner is and remains the property of the State and may at any time be repossessed by the commissioner.
- (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.

143 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.

Chapter 4A Fire safety, emergencies and dangerous goods

Part 1 Control and prevention of fires

144 Interpretation and application of part

- (1) For the purposes of this part 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 part 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 part—

licence area see the *Forestry Act 1959*, schedule 3.

occupier of land includes, if there is no person in actual occupation of the land—

- (a) the person charged by the owner or by law with the management of the land; and
- (b) if the land is a licence area—
 - (i) if there is a plantation sublicensee for the licence area—the plantation sublicensee; or
 - (ii) otherwise—the plantation licensee.

plantation licensee see the *Forestry Act 1959*, schedule 3.

plantation officer see the *Forestry Act 1959*, schedule 3.

plantation operator see the *Forestry Act 1959*, schedule 3.

plantation sublicensee see the *Forestry Act 1959*, schedule 3.

145 Offence to light unauthorised fire

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

Maximum penalty—50 penalty units or 6 months imprisonment.

145A 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.

145B Prohibition by commissioner against lighting of fires

- (1) Notwithstanding any notification under section 145A 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) An occupier of land may ask the commissioner to give a notice under subsection (1) to an occupier of adjoining land.
- (3) The request must be made in the way, and include the information, prescribed by regulation.
- (4) The commissioner must consider the request unless the commissioner believes the request is frivolous or vexatious.
- (5) 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.

145C Granting of permits

- (1) A person may apply to the commissioner for a permit to light a fire on any land.
- (2) The application—
 - (a) may be made orally or in writing; and
 - (b) must include the information prescribed by regulation.
- (3) The commissioner may grant or refuse to grant an application.
- (4) Subject to subsection (5), the commissioner must refuse to grant a permit to light a fire on any land unless satisfied that—
 - (a) reasonable steps have been taken to notify each occupier of adjoining land of the making of the application; and
 - (b) each occupier of adjoining land notified under paragraph (a) has been given a reasonable opportunity to object, orally or in writing, to the granting of the permit.

- (5) The commissioner may grant a permit without complying with subsection (4) if satisfied that extraordinary circumstances exist for so doing.
- (6) In this section—
occupier of adjoining land see section 145B(5).

145D Fires in State forests etc.

- (1) The provisions of this part 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 (other than a licence area), 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*.
- (3) For subsection (1)(b), a person acting in the performance of duties under the *Forestry Act 1959* does not include—
 - (a) a plantation operator; or
 - (b) a plantation officer.

145E 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.

145F 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) If the occupier of land, or an employee, agent or contractor of the occupier of land, is also a prescribed person, the references to a prescribed person in subsections (2) and (3) do not include the occupier of land, or an employee, agent or contractor of the occupier of land.
- (5) 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.

145G 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 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.

Note—

This provision is an executive liability provision—see section 150J.

- (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 comply with the QCAT Act, section 157(2).
- (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 commissioner 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 commissioner 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 commissioner may sell or otherwise dispose of the material and the proceeds of the disposal may be applied by the commissioner 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 proceeds of the disposal must be applied in the following order—
 - (i) if there is an amount owing to an entity under a security interest registered against the property under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;
 - (ii) in payment of any balance to the person whose property the commissioner believes the material to have been.

145H 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.

145I Notifications, notices and permits

- (1) Any notification published in the gazette pursuant to this part—
 - (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 part 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, by the commissioner giving a notice to the person—
 - (i) for a permit—be amended, suspended or revoked at any time; or
 - (ii) for a notice—be amended or revoked at any time.

145J 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 part in respect of the lighting of any fire;
 - (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 part, 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 145C;
- (f) without the consent of the commissioner, alters any particular shown in a permit granted under section 145C.

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.

145K Liability of person for fire lit by agent or employee

- (1) Notwithstanding the Criminal Code, sections 7 and 23 where any person commits an offence against this part 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 part upon the person by whom an offence is actually committed.

145L Liability for damage caused by certain fires

- (1) A person who lights a fire—
 - (a) authorised to be lit by notification given under section 145A or by a permit granted under section 145C; or
 - (b) in order to comply with a notification or notice given under section 145G;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.

Part 2 Fire emergency

Division 1 Local fire bans

145M Imposing local fire ban

- (1) If the commissioner considers a fire emergency exists in a local government's area, the commissioner may, by notice published under section 145N, impose a ban on the lighting of fires (a ***local fire ban***) in the area.
- (2) A local fire ban—
 - (a) must not be imposed for a period of more than 14 days; and
 - (b) may—
 - (i) be imposed for an entire local government area or part of a local government area; and
 - (ii) prohibit the lighting of all, or only particular, types of fires.
- (3) The area to which a local fire ban applies is called the ***fire ban area***.

145N Notifying local fire ban

- (1) Notice of the imposition of a local fire ban must be published on the department's website (***normal publication***).
- (2) However, if notice of the imposition of a local fire ban can not for technical or other reasons be conveniently published by normal publication, notice of the imposition may be published (***alternative publication***)—
 - (a) in another way decided by the commissioner; and
 - (b) by normal publication as soon as practicable.
- (3) Notice of the imposition of a local fire ban must—

- (a) state the local government area to which the ban applies; and
 - (b) if appropriate, describe the part of the local government area to which the ban applies; and
 - (c) state the types of fires the lighting of which are prohibited under the ban; and
 - (d) state the period of the ban.
- (4) As well as publishing notice of the imposition of a local fire ban by normal publication or alternative publication, the commissioner may cause the imposition of the ban to be publicised in any other way the commissioner considers appropriate.
- (5) This section applies despite the *Financial Accountability Act 2009*, section 88F.

145O Cancelling 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, by notice published under this section, cancel the ban.
- (2) Notice of the cancellation of a local fire ban must be published on the department's website (***normal publication***).
- (3) However, if notice of the cancellation of a local fire ban can not for technical or other reasons be conveniently published by normal publication, notice of the cancellation may be published (***alternative publication***)—
 - (a) in another way decided by the commissioner; and
 - (b) by normal publication as soon as practicable.
- (4) As well as publishing notice of the cancellation of a local fire ban by normal publication or alternative publication, the commissioner may cause the cancellation of the ban to be publicised in any other way the commissioner considers appropriate.

- (5) This section applies despite the *Financial Accountability Act 2009*, section 88F.

145P Period of local fire ban

- (1) A local fire ban takes effect on the day and at the time stated in the notice published under section 145N for imposing the ban.
- (2) The cancellation of a local fire ban takes effect on the day and at the time stated in the notice published under section 145O for cancelling the ban.
- (3) For subsections (1) and (2), the day and time stated in the notice must not be before the day and time the notice is published.
- (4) A local fire ban remains in force until the earlier of the following happens—
 - (a) the period of the ban stated in the notice published for the ban ends;
 - (b) the ban is cancelled.

145Q 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.

145R 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.

145S Evidentiary aid about local fire ban

In a proceeding for an offence against section 145R, 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

145T 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 145C 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.

145U Notification of declaration

- (1) Every declaration of a state of fire emergency or amendment or revocation of a declaration—
 - (a) must be notified in the gazette; and
 - (b) may, in addition to the notification under paragraph (a), be notified in the following ways—
 - (i) on the department's website;
 - (ii) by radio or television in the area to which it applies.
- (2) A declaration of a state of 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) if it is sooner notified under subsection (1)(b)—the date on which it is notified under subsection (1)(b).
- (3) To ensure public knowledge of a declaration of a state of fire emergency or an amendment or revocation of a declaration in the area to which it applies, the commissioner must take measures to give widespread publicity of the declaration or the amendment or revocation of the declaration.
- (4) However, any alleged failure to take measures under subsection (3) in relation to a declaration of a state of fire

emergency or an amendment of a declaration is not an excuse for failure to comply with the declaration.

- (5) This section applies despite the *Financial Accountability Act 2009*, section 88F.

145V 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.

145W 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.

145X 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.

145Y 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 under section 145X(2) commits an offence against this Act.

Maximum penalty—250 penalty units or 2 years imprisonment.

145Z Certificate about declaration

In any proceeding for—

- (a) an offence defined in section 145Y; 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 145T 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 3 Off-site plans for dangerous goods

146 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 any of the following Acts apply—

- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Geothermal Energy Act 2010*
- *Greenhouse Gas Storage Act 2009.*

- (2) This part does not derogate from the provisions of the *Radiation Safety Act 1999*, the *Transport Operations (Marine Safety) Act 1994* or the *Work Health and Safety Act 2011* 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.

146A 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.

146B 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 146A 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.

146C 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 commissioner charges for any advice or other assistance provided.

146D 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.

146E 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.

146F 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.

146G 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.

146H Keeping copies of plans

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

146I Punishment for certain offences against this part

A person convicted of—

- (a) an offence defined in section 146F(2); or
- (b) an offence consisting in a failure to notify a change of circumstances, as required by section 146G(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 4 Building fire safety

Division 1 Interpretation

146J Interpretation

In this part (other than division 5A) and in schedule 1—

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.

maintain includes install or establish and maintain.

prescribed fire safety installation means a prescribed fire safety installation within the meaning of section 146M.

146K 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 149K to 149V 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

146L 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—2,000 penalty units or 3 years imprisonment; or
- (b) if the contravention causes death or grievous bodily harm—1,000 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.

Note—

This provision is an executive liability provision—see section 150J.

146M 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—2,000 penalty units or 3 years imprisonment; or
- (b) if the contravention causes death or grievous bodily harm—1,000 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.

Note—

This provision is an executive liability provision—see section 150J.

- (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 for 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 for 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 for 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.

146N 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 QFR 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 QFR.

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

Subdivision 2 Fire and evacuation plan

146O 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—2,000 penalty units or 3 years imprisonment; or
 - (b) if the contravention causes death or grievous bodily harm—1,000 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.

146P 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 under section 146O(1)(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 commissioner the amounts charged by the commissioner for the assistance.

Subdivision 3 Fire safety management plan

146Q 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 the repealed *Integrated Planning Act 1997* 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 the repealed *Integrated Planning Act 1997* 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—2,000 penalty units or 3 years imprisonment; or
- (b) if the contravention causes death or grievous bodily harm—1,000 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.

146R Other obligations about fire safety management plan

- (1) The owner of a budget accommodation building who is required, under section 146Q 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—2,000 penalty units or 3 years imprisonment; or
 - (b) if the contravention causes death or grievous bodily harm—1,000 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—2,000 penalty units or 3 years imprisonment; or
- (b) if the contravention causes death or grievous bodily harm—1,000 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.

146S 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.

146T Guidelines for preparing fire safety management plans

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

146U Public notice of guidelines

The commissioner must ensure the guidelines and any document applied, adopted or incorporated by the guidelines are available for inspection on the department's website.

146V 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

146W Provisions applying for particular proceedings

- (1) This section applies for sections 146L, 146M, 146O, 146Q and 146R (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.
- (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 a 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

146X 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 146T.

fire safety standard guidelines means the guidelines made under the *Building Act 1975*, section 218.

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

146Y Notice by commissioner about occupier's or owner's obligations

- (1) The commissioner may give the occupier or owner of a building written notice requiring the occupier or owner 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.
- (1A) The notice under subsection (1) must state the following—
 - (a) that the commissioner has decided the occupier or owner has failed to comply with this division or with regulations made under this part;
 - (b) the action to be taken by the occupier or owner to remedy the failure mentioned in paragraph (a);
 - (c) the period within which the failure must be remedied;
 - (d) the reasons for the decision mentioned in paragraph (a);
 - (e) that the occupier may apply to QCAT for a review of the occupancy notice;
 - (f) how, and the period within which, the occupier may apply to QCAT for the review;
 - (g) any right the occupier has to have the operation of the occupancy notice stayed under the QCAT Act.
- (2) Also, to the extent that it specifies that an alteration is to be made to the structure of a building, notice under subsection (1) 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.

- (4) The giving of a notice under subsection (1) does not affect any other proceedings under this Act relating to the noncompliance to which the notice relates.

Division 3 Prohibition on prescribed use without certificate of compliance

146Z 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 147 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 1 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 1; 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 147 to and including the date the occupier is issued a certificate of compliance or given a notice refusing the application pursuant to section 147.

- (6) Subsection (5) does not apply in relation to an application made after a previous application has been refused.

147 Certificate of compliance

- (1) An occupier of a building to which a regulation made under section 146Z(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 fire 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 146L, 146M and 146O 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 fire officer who inspects the building is not satisfied of any matter prescribed by subsection (6)(a) to (c), the authorised fire officer must give notice to the applicant—
- (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 fire 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 fire officer is not satisfied that those steps have been taken;
- the authorised fire officer must refuse the application by notice given to the applicant.
- (8A) The notice under subsection (8) must state the following—
- (a) the grounds of the refusal;
 - (b) any steps required to be taken by the applicant before any further application will be granted;
 - (c) that the applicant may apply to QCAT for a review of the refusal;
 - (d) how, and the period within which, the applicant may apply to QCAT for the review.
- (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 fire 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 part 5 apply as if the authorised fire officer had given to the applicant on that date a notice of refusal.

147A 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.

147B Certificate of compliance—limitations on requirements

An authorised fire officer who inspects a building for the purposes of section 147 must not impose—

- (a) more onerous requirements for the maintenance of fire safety installations than the occupier was required to maintain under section 146M 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

147C 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 147H.

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.

147D 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.

147E 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 147F(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 147F(2) as if a reference in that subsection to the building were a reference to the room.

Subdivision 2 Occupancy notices

147F 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.

147G 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 147F(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.

147H Commissioner may give occupancy notice to occupier

If the commissioner decides under section 147F 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 147G;
- (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 apply to QCAT for a review of the occupancy notice;
- (g) how, and the period within which, the occupier may apply to QCAT for the review;
- (h) any right the occupier has to have the operation of the occupancy notice stayed under the QCAT Act.

147I 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.

147J 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.

147K 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.
- (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 147F(2) 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 apply to QCAT for a review of the occupancy notice;
 - (d) how, and the period within which, the occupier may apply to QCAT for the review.
- (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.

Subdivision 3 Obligations of occupiers of at risk licensed buildings

147L 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.

147M 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.

147N 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.

147O 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 1,000—a manual counting system or an automatic counting system; or
- (b) if the occupancy number is at least 1,000—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 light beam 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 pass out to each person leaving the building
- a staff member clicking a counting device once for each person entering or leaving the building

147P 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.

147Q 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.

147R Notifying the commissioner of relevant changes

- (1) If any of the matters stated in section 147F(2) 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.

147S 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.
- (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

147T 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).

147U Commissioner may publish occupancy numbers

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

Division 5 Injunctions relating to high risk buildings

147V 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

147W Definitions for div 5A

- (1) In this division—

class 1a building means a building classified as a class 1a building under the Building Code of Australia.

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.

information statement, in relation to a tenant, means the statement given to the tenant under the *Residential Tenancies and Rooming Accommodation Act 2008*, section 67.

lessor means a lessor within the meaning of the *Residential Tenancies and Rooming Accommodation Act 2008*, but does not include a tenant who has given, or is to give, the right to occupy residential premises to a subtenant.

operates when tested, for a smoke alarm, see section 147X.

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

smoke alarm information see section 148J.

smoke alarm requirement provision means each of the following—

(a) section 147Y;

(b) section 147Z.

sole-occupancy unit in a class 2 building means a sole-occupancy unit, as defined under the Building Code of Australia, in a building classified as a class 2 building under that Code.

tenancy means the right to occupy residential premises given under a residential tenancy agreement to which the *Residential Tenancies and Rooming Accommodation Act 2008* applies.

tenant means a person to whom the right to occupy residential premises is given under a residential tenancy agreement to which the *Residential Tenancies and Rooming Accommodation Act 2008* 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 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.
- (2) Subsection (1), definition *smoke alarm requirement provision*, paragraph (a) and this subsection expire on 31 December 2026.

147X When smoke alarm *operates when tested*

- (1) A smoke alarm *operates when tested* if it operates when tested in a way required under subsection (3).
- (2) Also, a smoke alarm powered by a battery that is capable of being replaced *operates when tested* if—
 - (a) the battery in the smoke alarm is replaced; and
 - (b) after the battery is replaced, the smoke alarm operates when tested in the way required under subsection (3).
- (3) A smoke alarm installed in a domestic dwelling 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) by being tested by the owner of the dwelling in the way stated in the manufacturer’s instructions; or
 - (ii) by being tested by a tenant of the dwelling in the way stated in the information statement.

147Y Owner must install smoke alarm—requirements being phased out by 31 December 2026

Note—

The requirements in this section will not apply after 31 December 2026. However, before this section expires, these requirements are replaced by the requirements in section 147Z in particular circumstances.

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

Maximum penalty—5 penalty units.

- (1A) However, this section does not apply to a domestic dwelling if section 147Z applies to the dwelling.
- (2) Each smoke alarm must comply with AS 3786–2014 (Australian standard for smoke alarms using scattered light, transmitted light or ionization) 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 as in effect on 1 January 2017; or
 - (b) for a class 1a building—specification 3.7.2.3 of the Building Code of Australia as in effect on 1 January 2017.
- (3) This section expires on 31 December 2026.

147Z Owner must install smoke alarm

- (1) This section applies to a domestic dwelling if—
 - (a) an application for a building development approval is made after 31 December 2016; and
 - (b) the building work to which the application relates is a substantial renovation; and
 - (c) a final inspection certificate or certificate of occupancy is issued for the building work.
- (2) This section also applies to a domestic dwelling if, after 31 December 2021—
 - (a) the owner of the residential land on which the dwelling is constructed enters into an agreement to transfer the land to another person; or
 - (b) a new tenancy for the dwelling starts or an existing tenancy for the dwelling is renewed.

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

Maximum penalty—5 penalty units.

- (4) A smoke alarm must be installed in each place in the domestic dwelling required by a regulation.

- (5) Each smoke alarm must—

- (a) be powered in a way prescribed by regulation; and
- (b) comply with other requirements prescribed by regulation; and
- (c) have been manufactured less than 10 years before the smoke alarm is installed; and
- (d) operate when tested; and
- (e) be interconnected to every other smoke alarm installed in the domestic dwelling.

- (6) A smoke alarm (the *first smoke alarm*) is interconnected to another smoke alarm if—

- (a) the first smoke alarm sounds an alert if the other smoke alarm is activated because its sensor detects smoke; and
- (b) the other smoke alarm sounds an alert if the first smoke alarm is activated because its sensor detects smoke.

- (7) Subsections (1) and (2) and this subsection expire on 31 December 2026.

- (8) Building work is a *substantial renovation* if—

- (a) the building work is carried out under a building development approval for alterations to an existing building or structure; and
- (b) the alterations, and any previous structural alterations approved or completed in the previous 3 years, represent more than half of the volume of the existing building or structure, measured over its roof and external walls.

- (9) In this section—

building development approval see the *Building Act 1975*, schedule 2.

building work see the *Building Act 1975*, section 5.

certificate of occupancy see the *Building Act 1975*, schedule 2.

final inspection certificate see the *Building Act 1975*, section 10(d)(ii).

148 Alternative compliance with smoke alarm requirement provision

- (1) An owner of a sole-occupancy unit in a class 2 building is taken to comply with a smoke alarm requirement provision if a smoke detection system that complies with the Building Code of Australia, specification E2.2a, clause 4 is installed in the unit.
- (2) If it is impracticable for an owner of a domestic dwelling to put a smoke alarm at the location required under a smoke alarm requirement provision, the owner may put the alarm at another location that will provide a warning to occupants of the dwelling.

Example—

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.

- (3) This section applies despite a smoke alarm requirement provision.

148A Owner must replace smoke alarm

- (1) The owner of a domestic dwelling must replace a smoke alarm in the dwelling under this section within 10 years after the day the smoke alarm was manufactured.

Maximum penalty—5 penalty units.

- (2) Also, if a smoke alarm in a domestic dwelling does not operate when tested, the owner of the dwelling must immediately replace the smoke alarm under this section.

Maximum penalty—5 penalty units.

- (3) If the smoke alarm being replaced was hardwired to the domestic dwelling's electricity supply, the replacement smoke alarm must be hardwired to the dwelling's electricity supply.
- (4) Also, the replacement smoke alarm must—
 - (a) if section 147Y applies to the domestic dwelling—comply with section 147Z(5)(b) to (d); or
 - (b) if section 147Z applies to the domestic dwelling—comply with section 147Z(5).
- (5) Subsection (4)(a) and this subsection expire on 31 December 2026.

148B 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 section 147X.

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 section 147X, at least once every 12 months.

Maximum penalty—5 penalty units.

148C 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.

148D 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.

148E 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.

148F 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 148A;
 - (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 148C.

148G Division applies for all alarms

- (1) This division, other than a smoke alarm requirement provision, applies in relation to a smoke alarm installed in a domestic dwelling even though the smoke alarm is not required to be installed under a smoke alarm requirement provision.
- (2) However, nothing in this division stops the owner of a domestic dwelling—
 - (a) installing a smoke alarm in the dwelling, in addition to the smoke alarms required to be installed in the dwelling under a smoke alarm requirement provision, whether or not the additional smoke alarm complies with a smoke alarm requirement provision; or
 - (b) removing a smoke alarm that is not required to be installed under a smoke alarm requirement provision.

148H 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.

148I 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.

148J Notice to commissioner 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 commissioner 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 a smoke alarm requirement provision 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 a smoke alarm requirement provision 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 the registrar of titles.
- (4) If a property transfer information form is given under subsection (3), the commissioner may be given access to the form but may use only the smoke alarm information on the form.
- (5) In this section—

property transfer information form means a form approved by the registrar of titles that gives smoke alarm information and information about a change of ownership required under other Acts.

148K Notice to buyer of manufactured home about smoke alarms

- (1) This section applies if the home owner for a site in a residential park on which a manufactured home is positioned proposes to—
 - (a) sell the home to another person (the **buyer**); or
 - (b) assign the home owner's interest in the site agreement for the site to another person (the **assignee**).
- (2) The home owner must give the other person notice, in the following document, of whether smoke alarms complying with this division are installed in the manufactured home—
 - (a) for the buyer—the sale agreement for the sale; or
 - (b) for the assignee—the form of assignment for the assignment.

Maximum penalty—5 penalty units.

- (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.

- (5) In this section—

form of assignment see the *Manufactured Homes (Residential Parks) Act 2003*, section 31K(1).

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

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

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

sale agreement see the *Manufactured Homes (Residential Parks) Act 2003*, section 56B(1).

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

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

Division 5B Smoke alarms for caravans and motorised caravans

148L Definitions for division

In this division—

caravan see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021*, schedule 8.

motorised caravan see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021*, schedule 8.

operates when tested, for a smoke alarm, see section 148M.

148M When smoke alarm *operates when tested*

- (1) A smoke alarm *operates when tested* if the smoke alarm operates when tested in a way required under subsection (2).
- (2) A smoke alarm installed in a caravan or motorised caravan must be tested as follows—
 - (a) for an alarm that can be tested by pressing a button or another device to indicate whether the alarm is capable of detecting smoke—by pressing the button or other device;
 - (b) otherwise—by being tested by the owner of the caravan or motorised caravan in the way stated in the manufacturer’s instructions for the smoke alarm.

148N Requirements on registration or transfer of registration on or before 31 December 2026

- (1) This section applies to a caravan or motorised caravan if, on or before 31 December 2026—
 - (a) an application for registration of the caravan or motorised caravan is granted under the *Transport Operations (Road Use Management) Act 1995*; or
 - (b) the chief executive of the department that administers the *Transport Operations (Road Use Management) Act 1995* records in the register of vehicles under that Act the transfer of the registration of the caravan or motorised caravan.
- (2) Each of the following persons must ensure a smoke alarm is installed in the caravan or motorised caravan in compliance with this section—
 - (a) for subsection (1)(a)—the person in whose name the caravan or motorised caravan is registered; or
 - (b) for subsection (1)(b)—the person to whom the registration is transferred.

Maximum penalty—5 penalty units.

- (3) A smoke alarm must—
 - (a) be installed in a place in the caravan or motorised caravan that is prescribed by regulation; and
 - (b) be installed in the way stated in the manufacturer's instructions for the smoke alarm; and
 - (c) comply with other requirements prescribed by regulation; and
 - (d) have been manufactured less than 10 years before the smoke alarm is installed; and
 - (e) operate when tested.
- (4) This section expires on 31 December 2026.

148O Requirements for registered operator of caravan or motorised caravan

- (1) This section applies on or after 1 January 2027 to a caravan or motorised caravan that is recorded in the register of vehicles under the *Transport Operations (Road Use Management) Act 1995*.
- (2) The person in whose name the caravan or motorised caravan is registered under the *Transport Operations (Road Use Management) Act 1995* must ensure a smoke alarm is installed in the caravan or motorised caravan in compliance with this section.

Maximum penalty—5 penalty units.

- (3) A smoke alarm must—
 - (a) be installed in a place in the caravan or motorised caravan that is prescribed by regulation; and
 - (b) be installed in the way stated in the manufacturer's instructions for the smoke alarm; and
 - (c) comply with other requirements prescribed by regulation; and
 - (d) have been manufactured less than 10 years before the smoke alarm is installed; and
 - (e) operate when tested.

Division 6 Regulations

148P Regulations relating to this part

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

- (a) the maintenance free from obstruction of adequate means of escape in the event of fire threatening any part of a building or in a hazardous materials emergency;

- (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 or in a hazardous materials emergency;
 - (ii) imposing obligations to provide instructions in preparation for the event of fire or in a hazardous materials emergency or to take specified action in the event of fire threatening a building or in a hazardous materials emergency;
- (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 or hazardous materials emergencies;
- (g) imposing obligations to take specified action in the event of fire threatening a building or in a hazardous materials emergency;
- (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 5 Review of notices

148Q Persons aggrieved by notice may apply for review

A person who is aggrieved because the person has been given a notice under section 145G(2)(a) or part 4 or by the terms of such a notice may apply, as provided under the QCAT Act, to QCAT for a review of the notice.

148R Relief from penalty pending determination of review by QCAT

- (1) This section applies if a person applies, as provided under the QCAT Act, to QCAT for a review of a notice given under section 146Y or 147(8) or an occupancy notice.
- (2) The person is not liable to a penalty under this Act—
 - (a) in the case of a notice given under section 146Y or an occupancy notice—for any failure on the person’s part to comply with the notice on and before the date on which the person is given notice of the determination of the review by QCAT; and
 - (b) in the case of a notice given under section 147(8)—for any use of a building, being a building use to which the notice relates, on and from the date the person is given the notice to and including the date the person is given notice of the determination of the review by QCAT.

148S Assessors to help QCAT

- (1) In conducting a proceeding that is a review of a notice given under section 145G(2)(a) or part 4 or the terms of a notice, QCAT must be helped by all of the following chosen by the principal registrar from the list mentioned in section 148U(3)—
 - (a) at least 1 assessor nominated under section 148U(2)(b)(i);
 - (b) at least 1 assessor nominated under section 148U(2)(b)(ii);
 - (c) if the notice is an occupancy notice or a decision notice under section 147K—at least 1 assessor nominated under section 148U(2)(b)(iii).
- (2) A person chosen under subsection (1)(b) must have been nominated by the local government of the area in which the premises to which the notice relates are situated.
- (3) For subsection (2)—
 - (a) if the local government is not the person seeking the review, the person nominated must be a person appointed to be a building certifier by the local government; and
 - (b) if the local government is the person seeking the review, the person nominated must be a person appointed to be a building certifier by another local government.
- (4) Subsection (2) does not apply to a review of a notice or the terms of a notice, given under section 145G(2)(a), that relates to premises other than a building.
- (5) Despite subsection (1), a proceeding may be conducted without the help of assessors if the presiding member is satisfied it is necessary because of the urgency of the matter.
- (6) In this section—

presiding member see the QCAT Act, schedule 3.

principal registrar see the QCAT Act, schedule 3.

proceeding see the QCAT Act, schedule 3.

148T Function and powers of assessors

- (1) The function of an assessor is to help QCAT decide questions of fact in a proceeding.
- (2) To enable an assessor to perform the assessor's function, the assessor may, during a proceeding—
 - (a) ask questions of a witness in the proceeding; and
 - (b) discuss a question of fact with a person appearing for a party in the proceeding.

148U Appointment of assessors

- (1) The commissioner must, for each year, appoint persons as assessors for helping QCAT in proceedings mentioned in section 148S(1).
- (2) A person is qualified to be appointed as an assessor only if—
 - (a) the commissioner is satisfied the person has the knowledge, expertise and experience relevant for helping QCAT in the proceedings; and
 - (b) the person is nominated by—
 - (i) the chief executive of the department in which the *Building Act 1975* is administered; or
 - (ii) a local government in the State; or
 - (iii) the chief executive (liquor licensing).
- (3) The commissioner must, at the beginning of each year, give the principal registrar a list of the persons appointed as assessors for the year.
- (4) The list must state, for each person appointed—
 - (a) the area in which the person has relevant knowledge, expertise and experience; and

- (b) whether the person was nominated under subsection (2)(b)(i), (ii) or (iii).

148V Disqualification from appointment as assessor

A person may not be appointed or continue as an assessor if the person is not qualified, or ceases to be qualified, under section 148U(2).

148W QCAT may have regard to assessor's view

In deciding a question of fact in a proceeding, the member or members constituting QCAT may, to the extent the member or members consider appropriate, have regard to the views of an assessor helping QCAT.

Part 6 Charges for services

148X Definitions for part

In this part—

attend to, for a fire or other incident—

- (a) means take all reasonable measures to deal with danger that is or may be caused by the fire or incident to a person or property or the environment; and
- (b) includes being in attendance at a fire or incident in readiness to act.

service means a service provided under chapter 4, part 1, this chapter or chapter 4B, part 1.

148Y Charges may be prescribed or fixed by commissioner

- (1) A charge for a service may be prescribed by a regulation.
- (2) If a charge for a service is not prescribed by a regulation, the commissioner may fix a charge for the service.

- (3) The amount of a charge fixed by the commissioner under subsection (2) must be reasonable and not more than the actual cost of providing the service.

148Z Person for whose benefit service provided is liable for charge

A person for whose benefit a service is provided is liable for a charge for the service prescribed by a regulation or fixed by the commissioner.

149 Person who causes fire or other incident is liable for charge

- (1) This section applies if—
- (a) a service is provided that involves attending to a fire or another incident; and
 - (b) a charge for the service is prescribed by a regulation or fixed by the commissioner.
- (2) The person who caused the fire or incident is liable for the charge.
- (3) If the person mentioned in subsection (2) is an agent or employee of another person (the *principal*) and caused the fire or incident when acting within the scope of the agency or employment, the principal is also liable for the charge.

149A Property owner etc. is liable for charge for particular service

- (1) This section applies if—
- (a) a service is provided that involves attending to a fire or a hazardous materials emergency that occurs in or on property or endangers property; and
 - (b) a charge for the service is prescribed by a regulation or fixed by the commissioner.
- (2) The owner of the property is liable for the charge.

- (3) If the property is a seagoing ship, the ship's master is also liable for the charge.

149B No charge for attending to authorised fire except in particular circumstances

- (1) This section applies if—
- (a) a service is provided that involves attending to a fire lit under the authority of an Act; and
 - (b) a charge for the service is prescribed by a regulation or fixed by the commissioner.
- (2) The only persons liable for the charge are—
- (a) if the person who lit the fire acted recklessly or negligently in lighting, or failing to control, the fire—the person; and
 - (b) if the person mentioned in paragraph (a) is an agent or employee of another person (the *principal*) and lit the fire acting within the scope of the agency or employment—the principal.

149C Owner of prescribed property liable only for unwanted alarm charge

- (1) This section applies if—
- (a) a service is provided that involves attending to a fire or other incident at or on prescribed property; and
 - (b) a charge for the service is prescribed by a regulation or fixed by the commissioner.
- (2) The owner of the prescribed property is not liable for the charge unless the service relates to attending to an unwanted alarm.
- (3) In this section—
- prescribed property* see section 152E(1).
- unwanted alarm* see section 146N(6).

149D Property owner not liable for charge for attendance on grass fire

- (1) This section applies if—
- (a) a service is provided that involves attending to a grass fire at or on, or endangering, property other than prescribed property; and
 - (b) a charge for the service is prescribed by a regulation or fixed by the commissioner.
- (2) The owner of the property is not liable for the charge unless the grass fire was lit by—
- (a) the owner; or
 - (b) an agent or employee of the owner acting within the scope of the agency or employment.

149E Joint and several liability for charges

If 2 or more persons are liable under this part for a charge for a service, the liability is joint and several.

149F Liability for charge does not affect other liability

The liability of a person to pay a 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.

149G Commissioner may waive charges

The commissioner may waive all or part of a charge for which a person is liable under this part if the commissioner is satisfied waiving the charge, or part of the charge, is reasonable in the circumstances.

Chapter 4B Investigation and enforcement

Part 1 Powers of authorised fire officers

149H 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.

149I Powers of authorised fire 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.
- (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 commissioner 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).

149J Disposal of property

- (1) Any property retained for safe custody under section 149I(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).

149K 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 chapter 4A, part 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 fire 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.
- (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.
- (4) An authorised fire officer's power to enter premises or open a receptacle under subsection (1) may be exercised by the officer, or an appropriately qualified person acting under the supervision of the officer, using a device remotely controlled by the officer or person.

149L Extent of power of entry

The right of entry conferred by section 149I(2)(a) or 149K—

- (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.

149M Power to seize evidence etc.

An authorised fire officer who enters premises under section 149K 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 149K.

149N 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.

149O 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).

149P Forfeiture of seized things

- (1) A seized thing is forfeited to the State if the authorised fire officer who seized the thing—
 - (a) can not find its owner after making reasonable inquiries;
or
 - (b) can not 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.

149Q 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.

149R 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.

149S Power to require name and address

- (1) This section applies if an authorised fire officer—
- (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the officer to reasonably suspect a person has 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.
- (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.

149T 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 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.

149U 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 149K 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.

149V 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 or the fire safety systems for 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.

149W Power to require information about identity of occupier

- (1) This section applies if a person alleges to an authorised fire officer, or an authorised fire officer reasonably suspects, a contravention of this Act or the *Building Act 1975*, chapter 7 or 7A has been committed in relation to premises.
- (2) An authorised fire officer may require any of the following persons to give the authorised fire officer information that will identify or help identify an occupier of the premises—
 - (a) a government entity;
 - (b) an occupier of the premises;

- (c) a person who may reasonably be expected to give the information.
- (3) A person must comply with a requirement under subsection (2), unless the person has a reasonable excuse for not complying.
Maximum penalty—20 penalty units.
- (4) If the person is an individual, it is a reasonable excuse for the person not to comply with a requirement under subsection (2) if complying with the requirement might tend to incriminate the person.

149X 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.

149Y 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.

149Z 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 2 Powers of investigation officers

Division 1 Investigation officers

149ZA Appointment

- (1) The commissioner may appoint any of the following persons as an investigation officer—
 - (a) a public service employee;
 - (b) a fire service officer;
 - (c) a person prescribed under a regulation.
- (2) However, the commissioner may appoint a person as an investigation officer only if the commissioner is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

149ZB Appointment conditions and limit on powers

- (1) An investigation officer holds office on any conditions stated in—
 - (a) the officer's instrument of appointment; or
 - (b) a signed notice given to the officer; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the investigation officer or a regulation may limit the officer's powers under this Act.

- (3) In this section—

signed notice means a notice signed by the commissioner.

149ZC When investigation officer ceases to hold office

- (1) An investigation officer ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the officer ceases to hold office.
- (2) Subsection (1) does not limit the ways an investigation officer may cease to hold office.
- (3) In this section—

condition of office means a condition on which the investigation officer holds office.

149ZD Functions of investigation officers

An investigation officer has the function of investigating offences against this part and section 150B.

149ZE Issue of identity card

- (1) The commissioner must issue an identity card to each investigation officer.
- (2) The identity card must—
- (a) contain a recent photo of the investigation officer; and
 - (b) contain a copy of the investigation officer's signature; and
 - (c) identify the person as an investigation officer under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

149ZF Production or display of identity card

- (1) In exercising a power under this part in relation to a person, an investigation officer must—
 - (a) produce the officer's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the investigation officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an investigation officer does not exercise a power in relation to a person only because the officer has entered a place as mentioned in section 149ZH(1)(b) or (2).

149ZG Return of identity card

A person who ceases to be an investigation officer must return the person's identity card to the commissioner within 21 days after ceasing to be an investigation officer unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 2 Powers of investigation officers

149ZH Power to enter places

- (1) An investigation officer may enter a place if—
 - (a) an occupier of the place consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public.
- (2) For the purpose of asking the occupier of a place for consent to enter, an investigation officer may, without the occupier's consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
- (3) In this section—
public place means—
 - (a) a place to which members of the public have access as of right, whether or not on payment of a fee and whether or not access to the place may be restricted at particular times or for particular purposes; or
 - (b) a part of a place that the occupier of the place allows members of the public to enter, but only while the place is ordinarily open to members of the public.

149ZI Entry with consent

- (1) This section applies if an investigation officer intends to ask an occupier of a place to consent to the officer or another investigation officer entering the place.
- (2) Before asking for the consent, the investigation officer must tell the occupier—
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the investigation officer may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the investigation officer consent to enter the place and exercise powers under this part; and

- (d) the time and date the consent was given.
- (5) If the occupier signs an acknowledgement, the investigation officer must immediately give a copy to the occupier.
- (6) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

149ZJ General powers after entering places

- (1) This section applies to an investigation officer who enters a place.
- (2) However, if an investigation officer enters a place to get the occupier's consent to enter a place, this section applies to the officer only if the consent is given or the entry is otherwise authorised.
- (3) For monitoring and enforcing compliance with this part or section 150B, the investigation officer may—
 - (a) copy a document at the place or take the document to another place to copy it; or
 - (b) require a person at the place, to give the officer reasonable help to exercise the officer's powers under paragraph (a); or
 - (c) require a person at the place, to answer questions by the officer to help the officer ascertain whether the person, or another person at the place, committed an offence against this Act.
- (4) When making a requirement mentioned in subsection (3)(b) or (c), the investigation officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

- (5) If an investigation officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.
- (6) To remove any doubt, it is declared that this section applies to an investigation officer who is also an authorised fire officer and enters a place for the purpose of exercising a power under part 1.
- (7) Also, the powers an investigation officer mentioned in subsection (6) has under this section are in addition to, and do not limit, any powers the officer may have under part 1.

149ZK Failure to help investigation officer

- (1) A person required to give reasonable help under section 149ZJ(3)(b) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

- (2) It is a reasonable excuse for the person not to comply with the requirement because complying with the requirement might tend to incriminate the person.

149ZL Failure to answer questions

- (1) A person of whom a requirement is made under section 149ZJ(3)(c) must, unless the person has a reasonable excuse, comply with the requirement.

Maximum penalty—10 penalty units.

- (2) It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

149ZM Power to require name and address

- (1) This section applies if an investigation officer—
 - (a) finds a person committing an offence against this part or section 150B; or

- (b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against this part or section 150B; or
 - (c) has information that leads the officer to reasonably suspect a person has committed an offence against this part or section 150B.
- (2) The investigation officer may require the person to state the person's name and residential address.
 - (3) When making the requirement, the investigation 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.
 - (4) The investigation officer may require the person to give the officer evidence of the correctness of the stated name or residential address if the officer reasonably suspects the stated name or address to be false.

149ZN Failure to give name or address

- (1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
 - (a) the person was required to state the person's name and residential address by an investigation officer who suspected the person had committed an offence against this Act; and
 - (b) the person is not proved to have committed the offence against this Act.

- (3) In this section—

personal details requirement means a requirement under section 149ZM(2) or (4).

149ZO False or misleading statements

A person must not state anything to an investigation officer the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

149ZP False or misleading documents

- (1) A person must not give an investigation officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the investigation officer, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

Chapter 5 General

Part 1 Offences

150 Lighting of grass fire prohibited

A person must not light, or attempt to light, a grass fire with the intention of injuring a person or property.

Maximum penalty—500 penalty units or 5 years imprisonment.

150A Interference with fire apparatus etc.

A person must not wilfully and unlawfully—

- (a) destroy, damage, remove, cover or otherwise interfere with an apparatus designed for—
 - (i) warning of fire, including an alarm; or
 - (ii) the prevention of fire; or
 - (iii) use in the event of fire; or
- (b) enclose a fireplug so that it is difficult to locate or use; or
- (c) obliterate or cover a mark or sign used for locating a fireplug.

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.

150B False calls

(1) A person must not—

- (a) ask QFR or RFSQ to provide a fire and emergency service at a place unless the service is required at the place; or
- (b) give a false alarm of fire or of a hazardous materials emergency.

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—100 penalty units or 1 year's imprisonment.

- (2) For subsection (1), a request may be made orally, in writing or by conduct.

Example of conduct being a request for QFR or RFSQ to provide a fire and emergency service at a place—

activation of a break-glass alarm

- (3) An infringement notice under the *State Penalties Enforcement Act 1999* may be issued to a person for a contravention of subsection (1) only if a fire investigation officer is satisfied, having investigated, the person does not have a lawful excuse.

- (4) In this section—

fire and emergency service means protection or rescue by QFR or RFSQ of—

- (a) persons, property and the environment from fire and hazardous materials emergencies; or
- (b) persons trapped in a vehicle or building or otherwise endangered.

150BA Assault of persons performing functions or exercising powers

- (1) A person must not assault another person performing a function or exercising a power under this Act.

Maximum penalty—100 penalty units or 6 months imprisonment.

- (2) In this section—

assault has the meaning given by the Criminal Code, section 245.

150C Obstruction of persons performing functions or exercising powers

- (1) A person must not obstruct another person performing a function or exercising a power under this Act (an ***authorised person***) unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 6 months imprisonment.

- (2) If a person has obstructed an authorised person and the authorised person decides to proceed with the performance of the function or the exercise of the power, the authorised person must warn the person that—
- (a) it is an offence to obstruct the authorised person unless the person has a reasonable excuse; and
 - (b) the authorised person considers the person's conduct to be an obstruction.
- (3) In this section—
- obstruct*** includes abuse, hinder, resist, threaten and attempt or threaten to obstruct.

150D Failure to assist

A person who is required to assist under section 149I(2)(j) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

150E Failure to comply with requisition etc.

A person must not fail to comply with a requisition made, or a direction, notification or notice given, under this Act, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units or 6 months imprisonment.

150F Failure to answer question or provide information

A person who is required under this Act to answer a question or provide information must not, unless the person has a reasonable excuse—

- (a) fail to answer the question or provide the information; or

- (b) give an answer, or provide information, the person knows is false or misleading.

Maximum penalty—30 penalty units.

150G Impersonating officer or member

A person must not pretend to be—

- (a) a fire service officer; or
- (b) a rural fire brigade member; or
- (c) a fire officer; or
- (d) an authorised fire officer; or
- (e) an investigation officer.

Maximum penalty—

- (a) 100 penalty units; or
- (b) if the person pretends to be a fire service officer or a rural fire brigade member during a state of fire emergency at a place to which the declaration of emergency applies—250 penalty units or 1 year's imprisonment.

150H Using restricted expressions etc.

- (1) A person must not, unless the person has a reasonable excuse—
 - (a) use a restricted expression without the commissioner's written approval or in contravention of a condition imposed on the approval—
 - (i) in, or as, the name of a business carried on by the person; or
 - (ii) to advertise or otherwise promote goods or services provided by the person; or
 - (iii) to raise funds, whether for the fire services or another entity; or

- (b) use the expression ‘Queensland Fire and Rescue’, ‘Rural Fire Service Queensland’, ‘QFR’ or ‘RFSQ’, or a similar expression, in a way that suggests the person is a fire service officer if the person is not a fire service officer; or
- (c) use the expression ‘rural fire brigade’, or a similar expression, in a way that suggests the person is a rural fire brigade member if the person is not a rural fire brigade member.

Maximum penalty—40 penalty units.

- (2) An approval to use a restricted expression may be—
 - (a) given on conditions the commissioner considers appropriate; and
 - (b) amended, suspended or cancelled by the commissioner.
- (3) In this section—

restricted expression means any of the following expressions—

- (a) ‘Queensland Fire and Rescue’;
- (b) ‘Rural Fire Service Queensland’;
- (c) ‘QFR’;
- (d) ‘RFSQ’;
- (e) ‘rural fire brigade’;
- (f) a similar expression to an expression mentioned in paragraph (a) to (e);
- (g) another expression that includes an expression mentioned in paragraph (a) to (e).

150J Liability of executive officer—particular offences committed by corporation

- (1) An executive officer of a corporation commits an offence if—
 - (a) the corporation commits an offence against an executive liability provision; and

- (b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

- (2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—
 - (a) whether the officer knew, or ought reasonably to have known, of the corporation’s conduct constituting the offence against the executive liability provision; and
 - (b) whether the officer was in a position to influence the corporation’s conduct in relation to the offence against the executive liability provision; and
 - (c) any other relevant matter.
- (3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, the offence against the executive liability provision.
- (4) This section does not affect—
 - (a) the liability of the corporation for the offence against the executive liability provision; or
 - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the executive liability provision.
- (5) In this section—

executive liability provision means any of the following provisions—

 - section 145G(3)
 - section 146L
 - section 146M(1).

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

150K Indictable and summary offences

- (1) Subject to subsections (2) and (3), an offence against this Act is a summary offence.
- (2) If the maximum penalty for an offence against this Act is imprisonment for 2 years or more, the offence is an indictable offence that is a misdemeanour.
- (3) An offence against section 150 is a crime.

Part 2 Proceedings

Division 1 Offence proceedings

151 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).
- (4) The maximum penalty that may be summarily imposed for an indictable offence is 150 penalty units or 2 years imprisonment.

151A 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
 - (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*.

151B 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*.

151C When proceeding must start

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

- (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.

151D Allegations of false or misleading information or document

In a 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 the information or document was 'false or misleading', without specifying which.

151E 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.

151F 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 it considers appropriate.
- (2) Without limiting subsection (1), the State may destroy the thing.

151G Court may order costs of rehabilitation etc. of protected area

On conviction of a person for an offence against section 145 in relation to a protected area, the court may order the person to pay to the State an amount it considers appropriate for, or towards—

- (a) the costs of controlling and extinguishing the fire in relation to which the offence was committed; and
- (b) the costs of rehabilitating or restoring the area.

151H Order for payment if guilty of false call

- (1) If a person is convicted by a court of an offence against section 150B, the court may order the person to pay QFR a reasonable amount for the expenses of, or incidental to, the provision of the fire and emergency service that was requested by the person.
- (2) The court may make an order under subsection (1) in addition to imposing a penalty for the offence.
- (3) An amount ordered to be paid under subsection (1) may be recovered by QFR as a debt owing to it by the person.
- (4) Subsection (1) does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

Division 2 Evidence

151I Appointments and authority

- (1) In a proceeding under an Act, the appointment of each of the following is presumed unless a party to the proceeding gives reasonable notice that the party requires the appointment to be proved—
 - (a) the commissioner;
 - (b) the chief fire officer;
 - (c) the deputy commissioner;
 - (d) the chief officer;
 - (e) a fire service officer;
 - (f) an investigation officer;
 - (g) a chief fire warden;
 - (h) a fire warden;
 - (i) a rural fire brigade member;
 - (j) a field officer;
 - (k) a forest officer.
- (2) The authority of each person mentioned in subsection (1) to do anything under this Act is also presumed in the proceeding unless a party to the proceeding gives reasonable notice the party requires the person's authority to be proved.

151J Signatures

A signature purporting to be the signature of a person mentioned in section 151I(1) is evidence of the signature it purports to be.

151K Other evidentiary aids

A certificate purporting to be signed by the commissioner stating any of the following matters is evidence of the matter—

- (a) a stated document is an approval, authorisation, decision, direction, notice or requirement given or made under this Act;
- (b) a stated document is a copy of a document mentioned in paragraph (a);
- (c) a document mentioned in paragraph (a), or a copy of it, was given under this Act to a stated person on a stated day;
- (d) the commissioner or the State is or was at a stated time the owner of stated property;
- (e) no consent has been given for a stated act or breach of duty alleged to have been committed in respect of property mentioned in paragraph (d);
- (f) a stated service was provided under this Act to a stated person on a stated day;
- (g) a stated person was charged a stated amount for a stated service provided under this Act;
- (h) a stated amount mentioned in paragraph (g) has not been paid.

Part 3 Provisions about performance of functions under this Act

152 Exemption from toll

- (1) This section applies if a fire officer is driving a fire engine or a similar vehicle.
- (2) The fire officer is exempt from payment of a toll for the use by the officer and the vehicle of a road, bridge or ferry.

152A Right of way to fire officers

- (1) A driver of a vehicle must, to the extent practicable, give clear and uninterrupted passage to—
 - (a) a fire officer who is, or appears to be, doing an act for the purpose of controlling or extinguishing a fire or dealing with another emergency; and
 - (b) a person acting under the direction of a fire officer mentioned in paragraph (a).
- (2) A person who fails to comply with subsection (1) commits an offence.
- (3) In this section—
vehicle does not include a train.

152B Use of unregistered vehicle on road

- (1) This section applies if—
 - (a) an unregistered vehicle (the **vehicle**) is being used on a road—
 - (i) by a rural fire brigade or a fire service officer assigned to RFSQ—
 - (A) for carrying persons or equipment for the purpose of preventing, controlling or extinguishing a fire; or
 - (B) for the purpose of training relating to fire fighting or fire prevention; or
 - (C) for another purpose authorised in writing by the commissioner; or
 - (ii) by a person, and for a purpose, prescribed by regulation for this subparagraph; and
 - (b) the vehicle is clearly identified as a vehicle of a rural fire brigade; and

- (c) an insurance policy of the kind mentioned in the *Motor Accident Insurance Act 1994*, section 23(1) is in force for the vehicle.
- (2) A regulation under subsection (1)(a)(ii) may specify the types of unregistered vehicles that the person may use on the road for a prescribed purpose.
- (3) 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 relation to the vehicle.

152C Inspection of records of local governments and building certifiers

- (1) A person authorised by the commissioner for this section (the *authorised person*) may, during ordinary business hours, enter premises in which a local government or building certifier carries on business.
- (2) At the premises, the authorised person may—
 - (a) make inquiries for the purpose of this Act; and
 - (b) examine, make copies of or take extracts from a document or record relating to—
 - (i) if the premises are premises in which a local government carries on business—a function of the commissioner or of the local government under this Act; or
 - (ii) if the premises are premises in which a building certifier carries on business—something done by the building certifier under the *Building Act 1975*, the repealed *Integrated Planning Act 1997*, the repealed *Sustainable Planning Act 2009* or the *Planning Act 2016*.
- (3) However, the authorised person may only examine, make copies of or take extracts from a document or record under subsection (2)(b)(ii) if the document or record is not available from a local government.

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- (4) A person who has control of a document or record of a type mentioned in subsection (2)(b), must, if required by the authorised person—
- (a) produce the document or record to the authorised person; or
 - (b) give the authorised person information relating to the document or record; or
 - (c) otherwise assist the authorised person.
- Maximum penalty—10 penalty units.
- (5) Nothing in this section authorises an authorised fire officer to enter part of premises that are a dwelling if the part is not also a workplace within the *Work Health and Safety Act 2011*.

152D Interstate assistance at fire services incident

- (1) This section applies to a person who is—
- (a) a member (an *interstate member*) of a fire brigade (the *interstate fire brigade*) from outside Queensland; and
 - (b) present at a fire services incident in Queensland to assist at the incident.
- (2) The interstate member, and plant and equipment under the member's control, are—
- (a) at the disposal of the person in charge at the fire services incident; and
 - (b) taken to be under the control and direction of that person.
- (3) However, if there is no person in charge at the fire services incident and an interstate member (the *chief interstate member*) is in charge of other members of the interstate fire brigade present at the incident, the chief interstate member—
- (a) has the control and direction of all persons assisting at the incident; and
 - (b) has all the powers conferred under this Act on an authorised fire officer.

(4) In this section—

fire brigade includes an entity similar to a fire brigade that has the function of extinguishing fire.

fire services incident means an incident for which the fire services are performing a function mentioned in section 8B or 129.

person in charge, for a fire services incident, means the person who, under any of the following, is in charge at the incident—

- (a) this Act;
- (b) a direction of the commissioner;
- (c) a code of practice.

Part 3A Financial provisions

Division 1 Interpretation

152E Definitions

(1) In this part—

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 a levy 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 property belonging to any class of property prescribed by 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 Emergency management fund

152F Fund

- (1) The Emergency Management 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 division 3;
 - (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 commissioner 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—
- (a) the purposes of this Act; or
 - (b) the management, by the fire services or another entity administered or funded wholly or partly by the State, of the adverse effects or potential adverse effects of an incident or event.

Example of management for paragraph (b)—

making arrangements for mitigating the effects of, preparing for, responding to and recovering from an event

- (6) The *Financial Accountability Act 2009* applies to the fund.
- (7) In this section—

departmental accounts, of the department, means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

departmental financial institution account, of the department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

event see the *Disaster Management Act 2003*.

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*.

Division 3 Matters relating to fund contributions

152G Constitution of levy districts

- (1) A regulation may—
 - (a) constitute any part of the State a levy district for this Act;
 - (b) assign a name to or alter the name of a levy district;
 - (c) abolish a levy district;
 - (d) alter the boundaries of a levy district;
 - (e) amalgamate 2 or more levy districts;
 - (f) divide a levy district into 2 or more levy districts.
- (2) In any proceeding the production of any map purporting to be certified by the commissioner as showing the boundary of any levy district or alteration of the boundary of any levy district is evidence of the matters shown or stated.

152H Liability to contribute

- (1) For each financial year the owners of prescribed properties must contribute in accordance with this division to the cost of—
 - (a) administering and giving effect to this Act; and
 - (b) managing the matters mentioned in section 152F(5)(b).
- (2) If a parcel of farming land shares a boundary with 1 or more other parcels of farming land (each a *contiguous parcel*), and each of the contiguous parcels are owned by the same owner, the contiguous parcels are, for this division, taken to be 1 prescribed property.

- (3) Despite subsection (2), a portion of a contiguous parcel that is a separate parcel under section 152E(1), definition *prescribed property*, paragraph (b) is a separate prescribed property for this division.
- (4) 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.
- (5) 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 a service consistent with the objects of this Act to properties owned by the Commonwealth) will be attributable to the amount payable under this division by Commonwealth public trading enterprises as owners of prescribed properties, the Treasurer may make a corresponding reduction in the amount payable under subsection (4)(a).
- (6) In this section—

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

farming land means land used for farming within the meaning of the *Land Valuation Act 2010*, section 48.

152I 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 levy district or class of levy 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 commissioner must give notice in writing to each local government of the amounts of contributions payable by owners of prescribed properties in respect of the financial year to which the regulation relates.

152J Annual returns by 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 local government must furnish to the commissioner a return disclosing the particulars prescribed under a regulation relating to properties that—
- (a) are within its area and within a levy 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 commissioner appoints, by notification published in the gazette.

152K 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 division 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.

152L Duties of owner of prescribed property and local government

- (1) An owner of prescribed property must, in accordance with this division, pay to the 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 division.
- (2) Subject to this division a local government must collect those annual contributions and other amounts.

152M Determinations and notifications of contributions

- (1) In respect of each financial year, a 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 152I.
- (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 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.

152N Appeal against local government's determination

- (1) An owner of property to whom a levy notice is given may appeal to the commissioner on any of the following grounds and on no other grounds—
 - (a) that the property is not prescribed property;
 - (b) that an amount shown in the notice is incorrect because of a typographical, mathematical or similar error, including a typographical or similar error incorrectly categorising the property;
 - (c) that, for determining the contributions payable under section 152I—
 - (i) the local government has incorrectly categorised the property, other than because of an error mentioned in paragraph (b); or
 - (ii) the prescribed property should in the circumstances be taken to be within a category

other than the category on which the local government based its determination.

- (2) A person wishing to appeal must lodge a notice to that effect with the commissioner setting out the grounds of the appeal within 30 days after the levy notice is given.
- (3) The commissioner may require an appellant or the local government concerned to provide information relevant to the determination of the appeal.
- (4) The commissioner may allow or reject an appeal.
- (5) However, the commissioner need not consider an appeal against a levy notice for the property if—
 - (a) an appeal against a previous levy notice for the same property has been lodged under this section on a ground mentioned in subsection (1)(a) or (c); and
 - (b) the appeal was rejected; and
 - (c) since the appeal against the previous levy notice was lodged, there has not been a material change of use under the *Planning Act 2016* for the property.
- (6) If the commissioner 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 commissioner.
- (7) If the commissioner 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 commissioner's determination.
- (8) 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.

- (9) The determination of the commissioner in respect of an appeal is final.

152O Manner of giving notification

- (1) A 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 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 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 2009* or, in the case of Brisbane City Council, the *City of Brisbane Act 2010*.
- (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.

152P Annual contribution etc. deemed to be rates

- (1) An amount shown in a 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 the provisions of the *Local Government Act 2009* or *City of Brisbane Act 2010* prescribed under a regulation.
- (3) Notwithstanding subsections (1) and (2), rates or charges made and levied under the *Local Government Act 2009* or *City of Brisbane Act 2010* are in priority to amounts that, pursuant to subsection (1), are taken to be general rates.

152Q Contribution to be paid into fund of local government

An amount received or recovered by a local government under this division must be paid into its operating fund.

152R Retention of administration fee by local governments

- (1) For each financial year, a local government is entitled to an amount (an *administration fee*) for performing functions under this division, including determining the annual contributions payable for prescribed properties, giving 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 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.

152S Payments by local governments to department

- (1) A local government must from time to time make payments to the department, for the fund, out of its operating fund from moneys received or recovered by the local government pursuant to this division.
- (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 under section 152R.
- (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 commissioner 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.

152T Failure by local government to make payment

- (1) Where a local government fails to pay an amount payable under section 152S 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 *City of Brisbane Act 2010* or the *Local Government Act 2009* for overdue rates.
- (2) Any interest not paid by a local government within the time specified in a written demand for payment given by the commissioner is recoverable, together with expenses of recovery, in a court of competent jurisdiction.

152U Payments and interest to be debt

All payments required to be paid to the department under section 152S and all interest payable by a local government under section 152T constitute a debt due to the State and may be sued for and recovered by the State in any court of competent jurisdiction.

152V 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 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.

152W Notices about contributions

- (1) Where a local government—
 - (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 commissioner has underestimated any amount so payable;the commissioner 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 commissioner whether or not the amount as calculated by the local government has been paid.

152X Recovery of arrears

- (1) Where any amount relating to contributions remains unpaid at the expiration of the period specified for payment in a levy

notice or a notice given under section 152W and proceedings for recovery of the amount have not been instituted or have not been completed by the local government in whose area the relevant prescribed property is situated, the commissioner 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 local government, under the *City of Brisbane Act 2010* or the *Local Government Act 2009*, in relation to an overdue rate for the period for which the amount remains unpaid.
- (3) For the purpose of subsection (1), the commissioner 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 152P(3), to be in priority to any rates made and levied in respect of the prescribed property by the local government in whose area the property is situated; and
 - (b) the commissioner is taken to be the mayor of that local government; and
 - (c) any document signed by the commissioner is as effective as it would be if signed by the mayor 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 division.

152Y Remitting contributions

If the commissioner believes that it is not practicable to pursue the recovery of an amount relating to contributions, the commissioner 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.

152Z Proof of amounts owing in relation to contributions

In any proceeding for the recovery of any amount relating to contributions, a certificate signed by the commissioner 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 levy district and within the area of a specified 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.

152ZA Where services of debt collector engaged

- (1) Where the commissioner or a local government engages the services of a debt collector (authorised to perform a debt collection activity under the *Debt Collectors (Field Agents and Collection Agents) Act 2014*) for the purpose of collecting any arrears of annual contribution payable by an owner of prescribed property, then, despite section 27 of that Act, the owner may be required by the commissioner 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 commissioner or the local government, together with any expenses of recovery, in a court of competent jurisdiction.

152ZB 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.

152ZC 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 152R is included;
- (b) all other money received or recovered under this division is excluded.

Division 4 Funding for rural fire brigades

152ZD 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—special rates and charges, or separate rates and charges, under the *City of Brisbane Act 2010*;
- (b) for another local government—special rates and charges, or separate rates and charges, under the *Local Government Act 2009*.

Part 4 Miscellaneous

153 Delegation

- (1) The commissioner may delegate a function of the commissioner under this Act to an appropriately qualified person.
- (2) A delegation of a function may permit the subdelegation of the function.
- (3) In this section—
function includes power or responsibility.

153A Confidentiality

- (1) A person must not disclose, use or make a record of information the person has acquired—
 - (a) in performing a function, or exercising a power, under this Act; or
 - (b) because of an opportunity provided by the performance of the person's function, or exercise of the person's power, under this Act.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply if the information is disclosed or used, or a record of the information is made—
 - (a) for a purpose of this Act; or
 - (b) as permitted or required under another Act; or

- (c) in compliance with a lawful process requiring production of documents to, or giving evidence before, a court or tribunal.
- (3) Also, subsection (1) does not apply to the disclosure of information relating to fire safety at particular premises if the disclosure is to a person with an interest in the premises, including the owner or occupier of the premises.
- (4) Further, subsection (1) does not apply to the disclosure of information relating to an investigation of a fire or hazardous materials emergency involving the death of, or serious injury to, a person if the disclosure is—
 - (a) to a police officer or a staff member of the police service under the *Police Service Administration Act 1990*; and
 - (b) for the purpose of an investigation by the commissioner of the police service of the death or injury.

153B Protection from liability—acts or omissions under this Act

- (1) No liability attaches to any person for an act done, or omission made, honestly and without negligence under this Act.
- (2) A person who uses reasonable force on or against a person when performing a function under this Act to avoid or reduce danger or harm to any person or property or the environment is not liable to be charged or proceeded against for an offence in relation to the use of force.
- (3) If a question arises in a proceeding as to whether subsection (1) prevents liability for an act or omission attaching to a person, the party alleging that subsection (1) does not prevent liability attaching to the person bears the onus of proving the person did not do the act, or make the omission, honestly and without negligence.
- (4) In this section—
function includes power or responsibility.

153D Ownership of property

For this Act and a proceeding under any Act, the State is taken to be the owner of—

- (a) premises occupied in an official capacity by a fire service officer; and
- (b) anything (whether animate or inanimate) appropriated to the use of the fire services; and
- (c) anything, not being the private property of a person, used by the commissioner or a fire service officer in performing duties.

154 Representation of commissioner at inquiries

At an inquiry concerning a fire, an authorised representative of the commissioner may appear and adduce evidence, cross-examine a witness and address the tribunal conducting the inquiry.

154A Construction of policies of fire insurance

- (1) This section applies if—
 - (a) a person (the *insured person*) has insured an interest in property (the *insured property*) against loss or damage by fire; and
 - (b) because of an act done, or omitted to be done, in relation to a fire by a person performing a function or exercising a power under this Act—
 - (i) the insured property is damaged and the insured person suffers a loss; or
 - (ii) the insured person incurs a charge or expense, other than a charge or expense incurred as a punishment.
- (2) The loss suffered, or the charge or expense incurred, by the insured person is taken to be loss or damage by fire under the

insurance policy (the *policy*) taken out by the insured person in relation to the insured property.

- (3) Subsection (2) applies despite anything to the contrary in the policy.

154B Report of fire

The commissioner may, if asked by an insurer, give the insurer details of a report in the commissioner's possession relating to the attendance at a fire or other emergency incident by—

- (a) a fire service officer; or
- (b) another person who is subject to the direction of the commissioner.

154D Approval of forms

The commissioner may approve forms for use under this Act.

154E Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may provide for any of the following—
 - (a) the records required to be kept under this Act and the way in which the records are to be kept;
 - (b) matters relating to the management and administration of the fire services;
 - (c) matters relating to the entitlements, powers, responsibilities and liabilities of fire service officers;
 - (d) matters relating to appeals about disciplinary action;
 - (e) fees and charges payable under this Act, including the matters for which they are payable;
 - (f) a maximum penalty of not more than 30 penalty units for contravention of the regulation;

- (g) fees payable for—
 - (i) the assessment and inspection of special fire services within the meaning of the *Building Act 1975*; or
 - (ii) the assessment of proposed performance solutions within the meaning of the Building Code of Australia.

Chapter 6 Transitional provisions

Part 1 Transitional provisions for Crime and Corruption and Other Legislation Amendment Act 2018

205 Disciplinary action against a fire service officer who was a relevant commission officer

- (1) This section applies to a person who is a fire service officer and was a relevant commission officer.
- (2) The person may be disciplined under chapter 3, part 4, division 3, subdivision 2 in relation to a relevant disciplinary ground arising when the person was a relevant commission officer only if the ground arose after the commencement.
- (3) However, if the relevant disciplinary ground arising after the commencement relates to conduct that is a part of a course of conduct that also includes conduct giving rise to a relevant disciplinary ground arising before the commencement, the person may be disciplined under chapter 3, part 4, division 3, subdivision 2 in relation to all of the grounds as if they all arose after the commencement.

(4) Subsection (3) does not apply in relation to a relevant disciplinary ground arising before the commencement if disciplinary action has been, or is being, taken in relation to the ground under this Act or a relevant disciplinary law for the person within the meaning of section 29D(3).

(5) In this section—

relevant commission officer see the *Crime and Corruption Act 2001*, section 273A.

206 Sharing disciplinary information

Sections 30I and 30J apply in relation to a request for information made by or to the chief executive officer under the *Crime and Corruption Act 2001* only if the request is made after the commencement.

Part 2 Transitional provisions for Police Service Administration and Other Legislation Amendment Act 2023

Division 1 Amendments commencing on assent

207 Local fire bans imposed before commencement

(1) A local fire ban in force immediately before the commencement continues in force until the earlier of the following happens—

- (a) the period of the ban stated in the notice imposing the ban under former section 86B ends;
- (b) the ban is cancelled.

- (2) The local fire ban may be cancelled under new section 86C and new section 86D(2) and (3) apply in relation to the cancellation.

- (3) In this section—

former section 86B means section 86B as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

208 Declarations notified before commencement

- (1) New section 88 applies to an amendment or revocation of a declaration of a state of fire emergency in force immediately before the commencement.

- (2) In this section—

new section 88 means section 88 as in force from the commencement.

Division 2 Amendments commencing by proclamation

209 Permits granted before commencement

Section 71(2)(c)(i) applies to a permit granted under section 65 and in effect immediately before the commencement.

210 Disclosure etc. of information acquired before commencement

Section 153A(4) applies to the disclosure by a person of information acquired by the person before the commencement.

Part 3 Transitional provisions for Public Sector Act 2022

211 Definition for part

In this part—

former, for a provision of this Act, means the provision as in force immediately before the commencement.

212 Words have meanings given by former provision

Words defined under a former provision of this Act immediately before its repeal and used in this part have the same meanings as they had under the former provision.

213 Existing disciplinary action

- (1) This section applies if—
 - (a) before the commencement, the commissioner started to take disciplinary action against a fire service officer or former fire service officer under former chapter 3, part 4, division 3; and
 - (b) immediately before the commencement, the disciplinary action had not been completed.
- (2) From the commencement, the disciplinary action continues under the *Public Sector Act 2022*.

214 Existing disciplinary finding

- (1) This section applies if—
 - (a) before the commencement, the commissioner made a disciplinary finding against a fire service officer or former fire service officer under former chapter 3, part 4, division 3; and

- (b) immediately before the commencement, any disciplinary action in relation to the disciplinary finding had not been completed.
- (2) From the commencement, the disciplinary finding is taken to be a disciplinary finding under the *Public Sector Act 2022*.

215 Disciplinary ground arising before commencement

The *Public Sector Act 2022*, chapter 3, part 8, division 3 applies in relation to a disciplinary ground whether the disciplinary ground arises before or after the commencement.

216 Existing requirement to disclose previous history of serious disciplinary action

- (1) This section applies if, before the commencement—
 - (a) the commissioner proposed to employ or second a person; and
 - (b) the commissioner required the person, under former section 25B or 25C, to disclose to the commissioner particulars of any serious disciplinary action taken against the person; and
 - (c) the commissioner had not decided whether to employ or second the person.
- (2) From the commencement—
 - (a) former section 25B or 25C, as in force immediately before the commencement, continues to apply in relation to the requirement despite the repeal of that section by the *Public Sector Act 2022*; and
 - (b) the commissioner may use the information disclosed under the requirement in making an assessment about the person's suitability for the employment or secondment.

217 Disciplinary information obtained before commencement

- (1) This section applies if, before the commencement, the commissioner obtained disciplinary information about a person under former chapter 3, part 4, division 3, subdivision 4.
- (2) From the commencement, the disciplinary information is taken to be information obtained under the *Public Sector Act 2022*, section 97.

218 Existing suspensions

- (1) This section applies to a fire service officer who, immediately before the commencement, was subject to a suspension imposed under former section 32.
- (2) From the commencement, the suspension continues under the *Public Sector Act 2022* on the same terms that applied to the fire service officer immediately before the commencement.

219 Reason for suspension arising before commencement

A suspension may be imposed on a fire service officer under the *Public Sector Act 2022* after the commencement whether the reason for the suspension arises before or after the commencement.

220 Existing requirement to attend medical examination

- (1) This section applies if, before the commencement, the commissioner formed a suspicion mentioned in former section 28(2) and was required to obtain medical opinion on a fire service officer's condition.
- (2) Former section 28 continues to apply in relation to the commissioner and the fire service officer despite the commencement of the *Public Sector Act 2022*.

Part 4

Transitional provisions for Disaster Management and Other Legislation Amendment Act 2024

221 Definitions for part

In this part—

amending Act means the *Disaster Management and Other Legislation Amendment Act 2024*.

previous, in relation to a provision of this Act, means the provision as in force immediately before the commencement.

222 Eligibility requirements for existing commissioner

- (1) Previous section 5 continues to apply to the existing commissioner, while the existing commissioner remains in office, as if this Act had not been amended by the amending Act.

- (2) In this section—

existing commissioner means the person who was in office as the commissioner immediately before the commencement.

223 Deputy commissioner

- (1) This section applies to the person appointed as the deputy commissioner if the person was employed in an equivalent role under this Act immediately before the commencement on a contract of employment (the ***current contract of employment***).
- (2) The person continues to be employed under this Act on the same terms of appointment that applied to the person immediately before the commencement.
- (3) Section 7K(2) does not apply to the person until the person's current contract of employment ends.

224 Chief officer

- (1) This section applies to the person appointed as the chief officer if the person was employed in an equivalent role under this Act immediately before the commencement on a contract of employment (the *current contract of employment*).
- (2) The person continues to be employed under this Act on the same terms of appointment that applied to the person immediately before the commencement.
- (3) Section 7Q(2) does not apply to the person until the person's current contract of employment ends.

225 Continued application of previous s 25 in particular circumstances

- (1) This section applies to a person employed under this Act immediately before the commencement in a role equivalent to that of a senior executive under the *Public Sector Act 2022*, section 188.
- (2) Previous section 25 continues to apply to the person while the person is employed in that role under the person's contract of employment in effect on the commencement as if this Act had not been amended by the amending Act.

226 Existing chief fire wardens and fire wardens

- (1) This section applies to a person who holds office as a chief fire warden or fire warden immediately before the commencement.
- (2) The person continues to hold office as chief fire warden or fire warden for the term and on the conditions stated in the person's instrument of appointment.
- (3) Subsection (2) does not affect the power of the commissioner under this Act to change the person's term or conditions of appointment.
- (4) If the commissioner changes the person's term or conditions of appointment by amending the person's instrument of

appointment, section 131(3) applies to the person as if a reference in section 131(3) to the instrument of appointment were a reference to the amended instrument of appointment.

227 Existing rural fire brigades

A rural fire brigade in existence immediately before the commencement continues as a rural fire brigade and is a part of RFSQ.

228 Existing members of rural fire brigades

- (1) This section applies to a person who was a member of a rural fire brigade immediately before the commencement.
- (2) On the commencement, the person is taken to have been appointed under section 136 as a member of the rural fire brigade.

229 Existing rules for rural fire brigades

- (1) This section applies if a rural fire brigade has made rules under previous section 80.
- (2) The rules continue to have effect until the first of the following happens—
 - (a) the rural fire brigade adopts the model rules;
 - (b) the rural fire brigade amends the model rules to add any additional rules under section 137(3);
 - (c) the day that is 6 months after the commencement.
- (3) If the rural fire brigade fails to adopt or amend the model rules by the day that is 6 months after the commencement, the brigade is taken to have adopted the model rules on that day.

230 Particular elected officers of rural fire brigade continue in office

- (1) This section applies if a rural fire brigade elected an officer under previous section 81(2) to be the chairperson, secretary or treasurer of the brigade (however the office is called) and the officer holds the office immediately before the commencement.
- (2) On the commencement, the person is taken to have been elected under section 138(3) to hold the equivalent office for the rural fire brigade.

231 Delayed commencement in relation to prohibition on particular use of restricted expressions

- (1) On the commencement, section 150H(1)(a) does not apply to the use of a restricted expression mentioned in subsection (3) of that section.
- (2) However, section 150H(1)(a) starts applying to the use of a restricted expression on the day that is 1 year after the commencement.
- (3) In this section—
restricted expression see section 150H(3).

232 Continued application of applicable transitional provisions

- (1) An applicable transitional provision continues to apply despite its repeal by the amending Act.
- (2) This section does not limit the *Acts Interpretation Act 1954*, section 20.
- (3) In this section—
applicable transitional provision means any of the following provisions—
 - (a) previous section 155;
 - (b) previous section 159;

- (c) previous section 172;
- (d) previous section 177;
- (e) previous section 202.

233 References to former QFES

A reference in an Act or a document to QFES, whether it is referred to as QFES or Queensland Fire and Emergency Services, may, if the context permits, be taken to be a reference to QFR, RFSQ or the fire services.

Schedule 1 Uses of buildings

section 146Z

- 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 1,000m² 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 *Work Health and Safety Act 2011* 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

Schedule 1

- 9 a building used to provide office accommodation at a floor level more than 6 floor levels above ground level
- 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 2 Dictionary

section 3

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

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

AS 1940 means Australian Standard AS 1940 The Storage and Handling of Flammable and Combustible Liquids made by Standards Australia, as in force from time to time.

assessor means an assessor appointed under section 148U.

attend to, for a fire of other incident, for chapter 4A, part 6, see section 148X.

authorised fire officer see section 149H.

bodily harm see the Criminal Code, section 1.

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

building—

- (a) generally, includes any bridge, dam, fence, jetty, reservoir, wall, wharf or other structure, whether temporary or permanent; and
- (b) for chapter 4A, part 4 (other than division 5A) and schedule 1, see section 146J.

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

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

bushfire means an unplanned burning of vegetation, including a grass fire and a fire that has broken out in a forest or scrub.

caravan, for chapter 4A, part 4, division 5B, see section 148L.

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.

chief fire officer means the person appointed by the commissioner as the chief fire officer under section 7C.

chief fire warden means a person appointed by the commissioner as a chief fire warden under section 131.

chief officer means the person appointed by the commissioner as the chief officer under section 7Q.

class 1a building, for chapter 4A, part 4, division 5A, see section 147W.

clear floor surface area, for chapter 4A, part 4, division 3A, see section 147C.

code of practice means a code of practice issued under section 7B.

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

commissioner means the commissioner appointed under section 5.

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

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

date of possession, for residential land, for chapter 4A, part 4, division 5A, see section 147W.

deputy commissioner means the person appointed by the commissioner as the deputy commissioner under section 7K.

direction includes a doctrine, policy and procedure.

disaster see the *Disaster Management Act 2003*, section 13.

domestic dwelling, for chapter 4A, part 4 division 5A, see section 147W.

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 146O(1)(a).

fire ban area see section 145M.

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

fire officer means a person employed under this Act 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 prevention expertise means significant knowledge of and practical experience in fire prevention, including in relation to—

- (a) building fire safety; and
- (b) community education and enforcement; and
- (c) mitigation and prevention strategies in the built environment and rural environments that are susceptible to bushfires.

fire safety installation see section 146J.

fire safety management plan see section 146S.

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

fire safety system see section 147C.

fire service see section 8(3).

fire service officer—

- (a) means a person employed under section 25; and
- (b) includes the deputy commissioner and chief officer.

fire warden means a person appointed by the commissioner as a fire warden under section 131.

flammable and combustible liquids standard means—

- (a) if a standard is prescribed under a regulation under the *Work Health and Safety Act 2011*—that standard; or
- (b) otherwise—AS 1940.

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 Emergency Management Fund established under section 152F(1).

grass fire means a fire that predominantly consumes vegetation.

grievous bodily harm see the Criminal Code, section 1.

ground level, for chapter 4A, part 4 (other than division 5A) and schedule 1, see section 146J.

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

incident control expertise means significant knowledge of and practical experience in the control of—

- (a) incidents of large-scale structural fires and bushfires; and
- (b) incidents involving hazardous materials; and
- (c) specialist and technical rescues; and
- (d) responses to disasters.

information statement, in relation to a tenant, for chapter 4A, part 4, division 5A, see section 147W.

land means any land, whether improved or not.

large-scale structural fire means a fire that threatens the structural integrity of a commercial or industrial building or hazard storage facility.

lessor, for chapter 4A, part 4, division 5A, see section 147W.

levy district means a levy district constituted by a regulation under section 152G(1)(a).

licensed building, for chapter 4A, part 4, division 3A, see section 147C.

local fire ban see section 145M.

maintain, for chapter 4A, part 4 (other than division 5A) and schedule 1, see section 146J.

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.

motorised caravan, for chapter 4A, part 4, division 5B, see section 148L.

occupancy notice see section 147H.

occupancy number, for chapter 4A, part 4, division 3A, see section 147C.

occupier, of premises, means—

- (a) the owner, lessee or person apparently in charge of the premises; or
- (b) a person who has the care, management or supervision of the premises or who is conducting a business at the premises.

operates when tested, for a smoke alarm—

- (a) for chapter 4A, part 4, division 5A—see section 147X; or
- (b) for chapter 4A, part 4, division 5B—see section 148M.

owner, of premises—

- (a) generally—means the person who is entitled to receive rent for the premises, or would be entitled to receive rent for the premises if the premises were leased; and
- (b) for chapter 5, part 3A—see section 152E(1).

premises—

- (a) means any land or building; and
- (b) for chapter 4B, part 1, includes a vehicle or vessel.

premises of seizure see section 149N.

prescribed fire safety installation, for chapter 4A, part 4 (other than division 5A) and schedule 1, see section 146J.

prescribed property see section 152E.

presiding member see section 148S.

principal registrar see section 148S.

proceeding see section 148S.

professional firefighting experience means significant knowledge of and practical experience in each of the following, obtained by employment as a firefighter in QFR or a fire service (however called) in another State or New Zealand that is equivalent to QFR—

- (a) responding to, combating and managing structural fires, bushfires, and incidents involving hazardous materials;
- (b) carrying out specialist and technical rescues;
- (c) responding to and managing disasters.

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.

QFR see section 8(1).

registrar of titles means the registrar of titles under the *Land Title Act 1994*.

residential land, for chapter 4A, part 4, division 5A, see section 147W.

RFSQ see section 8(2).

risk of overcrowding, for chapter 4A, part 4, division 3A, see section 147C.

rural fire brigade means an entity registered as a rural fire brigade under section 135.

rural fire brigade member means a person appointed as a member of a rural fire brigade under section 136.

rural firefighting experience means significant knowledge of and practical experience in responding to, combating and managing bushfires.

rural fire prevention expertise means significant knowledge of and practical experience in mitigation and prevention of bushfires in rural environments that are susceptible to bushfires, including in relation to—

- (a) land management practices; and
- (b) community education and engagement.

rural incident control expertise means significant knowledge of and practical experience in the control of bushfires and disaster-related events.

service, for chapter 4A, part 6, see section 148X.

smoke alarm information, for chapter 4A, part 4, division 5A, see section 148J.

smoke alarm requirement provision, for chapter 4A, part 4, division 5A, see section 147W.

sole-occupancy unit in a class 2 building, for chapter 4A, part 4, division 5A, see section 147W.

structural fire means a fire that threatens the structural integrity of a building.

tenancy, for chapter 4A, part 4, division 5A, see section 147W.

tenant, for chapter 4A, part 4, division 5A, see section 147W.

the fire services see section 8(4).

transfer date, for residential land, for chapter 4A, part 4, division 5A, see section 147W.

transferee, for residential land, for chapter 4A, part 4, division 5A, see section 147W.

transferor, for residential land, for chapter 4A, part 4, division 5A, see section 147W.

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

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*.