

Queensland



# **FIRE AND RESCUE AUTHORITY ACT 1990**

**Reprinted as in force on 21 July 2000  
(includes amendments up to Act No. 5 of 2000)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 4D**

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# Information about this reprint

This Act is reprinted as at 21 July 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

# Queensland



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# **FIRE AND RESCUE AUTHORITY ACT 1990**

[as amended by all amendments that commenced on or before 21 July 2000]

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

## **PART 1—PRELIMINARY**

### **Short title**

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

### **Definitions**

6. In this Act—

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

**“approved form”** see section 153B.

**“authorised fire officer”** see section 6A.

**“authority”** means the Queensland Fire and Rescue Authority.

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

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

**“chemical incident”** means a fire or other incident involving dangerous goods (within the meaning of section 94) whereby any person or

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property or the environment may be endangered.

**“chief commissioner”** means the chief commissioner for the authority.

**“chief executive officer”** means the chief executive officer of the authority.

**“code of practice”** means a code of practice issued under section 18.

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

**“fire authority officer”** means a person employed by the authority, but does not include the person holding office as chief commissioner.

**“fire ban area”** see section 86A.

**“fire officer”** means a person employed by the authority who has the functions of fire prevention and fire control, and includes a person employed by the authority who is undergoing training as a fire officer.

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

**“land”** means any land, whether improved or not.

**“local fire ban”** see section 86A.

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

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

**“premises”** means any land or building.

**“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.

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

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

“**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*.

### **Authorised fire officers**

**6A.(1)** The chief commissioner may authorise a fire officer or fire officers belonging to a class of fire officer specified by the chief 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 chief commissioner; and
- (b) a fire officer authorised by the chief 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.

### **Extent to which Act binds the Crown**

**7.** This Act binds the Crown not only in right of Queensland but also, so far as the legislative power of Parliament extends, the Crown in all its other capacities.

## **PART 2—QUEENSLAND FIRE AND RESCUE AUTHORITY**

### *Division 1—Queensland Fire and Rescue Authority*

#### **Establishment of Queensland Fire and Rescue Authority**

**8A.** The Queensland Fire and Rescue Authority is established.

#### **Status of authority**

**8B.** The authority—

- (a) is a body corporate; and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

#### **Authority represents the State**

**8C.(1)** The authority represents the State.

**(2)** Without limiting subsection (1), the authority—

- (a) has all the privileges and immunities of the State; and
- (b) is an exempt public authority under the Corporations Law.

#### **Authority's functions**

**8D.** The functions of the authority are—

- (a) to protect persons, property and the environment from fire and chemical incidents; and
- (b) to protect persons trapped in a vehicle or building or otherwise endangered, to the extent that the personnel and equipment under the control of the authority 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 in the event of a fire or chemical incident; and
- (d) to cooperate with any entity that provides an emergency service; and
- (e) to identify and market products and services incidental to its other functions; and
- (f) to perform other functions given to the authority under this Act or another Act; and
- (g) to perform functions incidental to its other functions.

### **Authority's powers**

**8E.(1)** The authority has all the powers of an individual and may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, deal with and dispose of property; and
- (c) appoint agents and attorneys; and
- (d) charge for services and facilities it supplies; and
- (e) undertake fund-raising activities to benefit the authority financially; and
- (f) do anything else necessary or convenient to be done for, or in connection with, the performance of its functions.

**(2)** Without limiting subsection (1), the authority has the powers given to it under this or another Act.

**(3)** However, the authority may exercise either of the following powers only with the written approval of the Minister—

- (a) acquire land by purchase, lease or exchange;
- (b) dispose of land by sale, lease, mortgage or in another way.

(4) The authority may exercise its powers inside and outside Queensland, including outside Australia.

### *Division 2—Control of authority*

#### **Chief executive officer of authority**

**8F.(1)** The chief executive of the department is the chief executive officer of the authority.

(2) The chief executive officer is responsible for the way the authority performs its functions and exercises its powers.

(3) Without limiting subsection (2), it is the chief executive officer's role—

- (a) to decide the objectives, strategies and policies to be followed by the authority; and
- (b) to ensure the authority performs its functions in an appropriate, effective and efficient way.

*Example of subsection (3)(b)—*

The chief executive officer could establish performance measures for the authority.

(4) The chief executive officer has the power necessary to carry out the chief executive officer's responsibilities and role.

(5) Anything done in the name of, or on behalf of, the authority by the chief executive officer is taken to have been done by the authority.

#### **Minister's powers to give directions**

**8G.(1)** The Minister may give the chief executive officer a written direction about the carrying out of the chief executive officer's responsibility under section 8F if the Minister is satisfied it is necessary to give the direction in the public interest.

(2) The chief executive officer must ensure the direction is complied with.

(3) Before giving the direction, the Minister must consult with the chief executive officer and the chief commissioner.

***Division 3—Chief commissioner*****Appointment of chief commissioner**

**9.(1)** The Governor in Council, acting on the recommendation of the Minister, shall appoint a chief commissioner for the authority.

**(2)** A person who does not have professional experience in fire prevention and firefighting is not eligible for appointment as chief commissioner.

**(4)** The chief commissioner is to be appointed under this Act, and not under the *Public Service Act 1996*.

**Salary and conditions**

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

**Acting chief commissioner**

**11.** The Governor in Council may appoint a person, who is eligible for appointment as chief commissioner, to act in the office of chief commissioner during—

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

**Role of chief commissioner**

**12.(1)** The chief commissioner is responsible for managing the authority's operations in accordance with its objectives, strategies and policies.

**(2)** Without limiting subsection (1), the chief commissioner is to prepare an annual strategic plan incorporating performance targets approved by the Minister.

(3) The chief commissioner has power to do anything necessary or convenient to be done for, or in connection with, the management of the authority's operations.

### **Codes of practice**

**18.(1)** The chief commissioner may from time to time issue codes of practice relating to—

- (a) the functions, powers, conduct and appearance of fire authority officers; or
- (b) any functions imposed or powers conferred by or under this Act on any other person other than the Minister.

(2) The chief 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 authority officers or classes of fire authority 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 chief commissioner as being a true copy of the provision.

### **Delegation by chief commissioner**

**19.(1)** The chief commissioner may delegate the chief commissioner's powers under this Act to a fire authority officer, an officer of a rural fire brigade, a chief fire warden or a fire warden.

(2) In subsection (1), a reference to the chief commissioner's powers includes a reference to the chief commissioner's powers as an authorised fire officer.

***Division 4—Other matters about the authority*****Application of certain Acts**

**19A.(1)** The authority is—

- (a) a unit of public administration under the *Criminal Justice Act 1989*; and
- (b) an agency under the *Equal Opportunity in Public Employment Act 1992*; and
- (c) a public authority under the *Libraries and Archives Act 1988*.

**(2)** The *Financial Administration and Audit Act 1977* applies to the authority as if it were part of the department.

**Seal**

**19B.** Judicial notice must be taken of the imprint of the authority's seal appearing on a document, and the document must be presumed to have been properly sealed unless the contrary is proved.

**Delegation**

**19C.(1)** The authority may delegate its powers under this Act to the chief commissioner or an appropriately qualified fire authority officer.

**(2)** A delegation of a power by the authority to the chief commissioner may permit the subdelegation of the power by the chief commissioner, under section 19, to an appropriately qualified fire authority officer.

**(3)** In subsection (1)—

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of ‘standing’—*

A person's classification level in the authority.

## PART 3—FINANCIAL PROVISIONS

### Fund

**20.(1)** This section applies to a fund established by the Treasurer under the *Financial Administration and Audit Act 1977*, section 11<sup>1</sup> for the purposes of the authority.

**(2)** The following must be paid into the fund—

- (a) amounts received for prescribed property as contributions under part 10;<sup>2</sup>
- (b) amounts received from other sources;
- (c) interest from investment of the fund.

**(3)** Subsection (2) does not limit the *Financial Administration and Audit Act 1977*, section 10(6).<sup>3</sup>

### Authority's budget

**22.(1)** For each financial year, the chief commissioner must prepare and present to the chief executive officer for the chief executive officer's consideration a budget for the authority showing the estimates of receipts and disbursements for the financial year.

**(2)** The chief executive officer may direct the chief commissioner to

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<sup>1</sup> The *Financial Administration and Audit Act 1977*, section 11 (Powers of Treasurer re trust and special funds) provides, in part, that the Treasurer '... may establish additional funds that will form part of the trust and special funds and specify the purpose for which each such additional fund is established ...'. Under section 10(1) of that Act, the public accounts consist of the consolidated fund and the trust and special funds.

<sup>2</sup> Part 10 (Funding)

<sup>3</sup> The *Financial Administration and Audit Act 1977*, section 10 (The public accounts) deals with various matters about the public accounts. Section 10(6) states—

'**(6)** There shall be paid into each fund of the trust and special funds—

- (a) all moneys that are required by this Act or any other Act or law to be paid into that fund;
- (b) all moneys received for the purposes for which that fund is established.'

amend the budget in the way stated by the chief executive officer.

(3) The chief commissioner must comply with a direction of the chief executive officer.

(4) The chief executive officer must present the budget to the Minister for approval.

(5) The Minister may amend a budget presented for approval.

(6) A budget has no effect until it is approved by the Minister.

### **Observance of budget**

**23.(1)** Subject to subsection (2), the authority must confine disbursements throughout the period to which a budget relates within the items and amounts contained in the budget.

(2) If during the period to which a budget relates, the authority believes that an extraordinary circumstance has arisen requiring a disbursement not provided for in the budget or exceeding the amount estimated in the budget in respect of that item, the authority may approve that the disbursement be made and, subject to subsection (3), may make the disbursement.

(3) If the making of a disbursement referred to in subsection (2) would result in the total amount for all items of expenditure included in the budget being exceeded, the authority must not make the disbursement unless authorised to do so by the Minister.

### **Treatment of surplus and deficit**

**24.(1)** If there is or is likely to be a surplus or deficit in the fund mentioned in section 20(1) at the end of the period to which a budget relates, the chief commissioner must take that surplus or deficit into account in preparing the next budget.

(2) At the end of the period to which a budget relates all authorisations of expenditure for any item included in the budget lapse but such expenditure may be re-authorised.

## **PART 4—PROVISIONS AFFECTING PERSONNEL**

### *Division 1—Appointments and conditions*

#### **Staff of authority**

**25.** The authority may employ the persons it considers necessary to perform its functions.

#### **Fire service officers employed under this Act**

**25A.** Fire authority officers are to be employed under this Act, and not under the *Public Service Act 1996*.

#### **Conditions of employment**

**26.(1)** Subject to any applicable industrial award or industrial agreement, persons employed by the authority shall be paid salary, wages and allowances at such rates and shall be employed under such conditions of employment as the authority determines.

**(2)** However, if a person mentioned in subsection (1) is employed on contract for a fixed term, the conditions of the person's employment are not subject to any industrial award or agreement.

#### **Additional remuneration**

**27.** A fire authority officer must not seek or accept on account of anything done in the course of employment by the authority any fee or reward not authorised by the authority.

### *Division 2—Termination of office*

#### **Retirement**

**28.(1)** A fire authority officer—

- (a) must retire from employment with the service upon attaining the



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age of 65 years;

- (b) may elect to retire from employment with the service upon or at any time after attaining the age of 55 years.

(2) If the authority suspects on reasonable grounds that a fire authority officer, by reason of mental or physical infirmity, has not the capacity or is unfit—

- (a) to discharge efficiently the duties of office; and
- (b) to discharge efficiently any other duties that the authority might reasonably direct the officer to discharge;

the authority must obtain medical opinion on the officer's condition.

(3) The authority may appoint any medical practitioner or medical practitioners to examine the officer and report upon the officer's mental or physical condition or both and may direct the officer to submit to the examination.

(4) If the authority believes on reasonable grounds that a fire authority officer, by reason of mental or physical infirmity, has not the capacity or is unfit as prescribed by subsection (2), the authority may call upon the officer to retire within the time specified by the authority.

(5) If the officer does not retire within the time specified, the authority may dismiss the officer.

## **Retrenchment**

**29.** Where the authority is satisfied that—

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

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

***Division 3—Discipline and appeals*****Discipline**

**30.(1)** A fire authority officer is liable to disciplinary action upon any of the following grounds shown to the satisfaction of the authority to exist—

- (a) incompetence or inefficiency in the discharge of duties;
- (b) negligence, carelessness or indolence in the discharge of duties;
- (c) wilful failure to comply with a provision of a code of practice for fire authority officers;
- (d) absence from duty except—
  - (i) upon leave duly granted; or
  - (ii) with reasonable cause;
- (e) wilful failure to comply with a lawful direction of the authority or another person having authority over the officer;
- (f) misconduct.

**(2)** In subsection (1)(f)—

**“misconduct”** means—

- (a) disgraceful or improper conduct that shows unfitness to be or continue as a fire authority officer; or
- (b) behaviour that does not satisfy a standard of behaviour generally expected of fire authority officers.

**(3)** Where action against an officer is contemplated on the ground of absence from duty, the authority may appoint any medical practitioner or medical practitioners to examine the officer and to report upon the officer’s mental or physical condition or both, and may direct the officer to submit to the examination.

**(4)** An officer may be disciplined in any manner the authority believes to be warranted.

**(4A)** Without limiting the range of disciplines that may be imposed, the disciplines may consist of any of the following—

- (a) dismissal;

- (b) reprimand;
- (c) forfeiture or deferment of a salary increment or increase;
- (d) reduction in the officer's level of salary;
- (e) a deduction from the officer's salary of an amount not exceeding 2 penalty units.

(5) Every order made pursuant to subsections (4) and (4A) shall take effect in law and shall be given effect.

### **Implementation of order**

**31.** An order about disciplinary action must not be implemented—

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

### **Suspension**

**32.(1)** Where—

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

the officer may be suspended from duty by the authority.

(2) A suspension may be lifted at any time by the authority.

(3) An officer suspended from duty is not entitled to receive salary for any period during which the officer does not perform that duty, unless the authority otherwise determines.

(4) An officer suspended from duty, who is not entitled to salary for the period of suspension and who resumes duty upon the lifting of the suspension, is entitled to receive a sum equivalent to the amount of salary payable had the officer not been suspended diminished by the amount of salary or fees (if any) to which the officer became entitled from any other source during the period of suspension, unless the authority otherwise determines.

### **Mode of dismissal or suspension**

33.(1) Dismissal or suspension must be effected in accordance with this Act and the principles of natural justice.

(2) Dismissal or suspension is effected by giving the officer concerned a notice under the seal of the authority.

## **PART 4A—EMERGENCY SERVICES ADVISORY COUNCIL**

### **Establishment of council**

34. The Emergency Services Advisory Council is established.

### **Functions of council**

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

- (a) the extent to which current service delivery by the authority—
  - (i) satisfies community needs; and
  - (ii) contributes to the achievement of the Government's desired outcomes for the community; and
  - (iii) satisfies the performance targets mentioned in the authority's annual strategic plan; and
- (b) anything else referred to it by the Minister—
  - (i) that is relevant to the functions of the authority; or

- (ii) that relates to activities carried out or funded by the department.

(2) However, the council does not have the function of advising about the matters mentioned in section 49(a) and (b).<sup>4</sup>

(3) The council also has the functions given to it under the *Ambulance Service Act 1991* and any other Act.

### **Membership of council**

**36.(1)** The council consists of not more than 14 members appointed by the Governor in Council.

(2) A member may be appointed at any time.

(3) Nominees for appointment to the council must be persons who the Minister considers are competent to assist the council to perform its functions.

### **Chairperson of council**

**37.(1)** The Governor in Council is to appoint a member as the chairperson of the council.

(2) The chairperson is to preside at all council meetings at which the chairperson is present.

(3) If the chairperson is not present at a council meeting, a member chosen by the members present at the meeting is to preside.

(4) If appointed a member of the council, the following are not eligible to be appointed chairperson—

- (a) the chief commissioner;
- (b) the commissioner of the Queensland Ambulance Service;
- (c) the chief executive officer of the authority or the Queensland Ambulance Service;
- (d) a public service officer.

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<sup>4</sup> Section 49 is about the functions of the Rural Fire Council.

**How appointments made**

**38.(1)** An appointment under section 36 or 37 is to be by gazette notice.

(2) The appointment starts on the day the notice is published in the gazette or, if a later day is stated in the notice, the later day.

(3) A person's appointment as chairperson may be combined with the person's appointment as a member of the council.

**Term of office**

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

**Removal from office**

**40.(1)** The Governor in Council may remove a member from office at any time.

(2) The removal takes effect on notice of the removal being given to the member by the Minister.

(3) It is unnecessary for any reasons to be given for the removal.

**Quorum**

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

**Conduct of business**

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

**Minutes**

**43.** The council must keep minutes of its meetings.

**Remuneration of members**

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

**PART 5—THE RURAL FIRE COUNCIL****The Rural Fires Board continued in existence**

47.(1) The Rural Fires Board constituted under the *Rural Fires Act 1946* is hereby continued in existence under the name the Rural Fire Council.

(2) The council shall consist of not more than 7 members appointed by the Governor in Council on the nomination of the Minister.

(3) Nominees shall be persons who, in the opinion of the Minister, will competently represent interests affected by rural fires.

(4) The Governor in Council shall appoint 1 of the members as presiding officer.

(5) The Governor in Council may appoint 1 of the members as deputy presiding officer to act as presiding officer during any absence of the presiding officer.

(6) Appointments must be made by notification published in the gazette and commence on the date of publication unless otherwise specified in the notification.

**Term of office**

48. The term of office of a member must not exceed 3 years.

**Functions of council**

49. The functions of the council are—

- (a) to provide advice to the Minister and the authority in respect of fires in rural areas and the operation of rural fire brigades;

- (b) to promote fire safety, fire prevention and the reduction of fire danger within rural areas;
- (c) such other functions as the Minister may direct.

### **Quorum**

**50.** A quorum of the council consists of 4 members.

### **Operation of council**

**51.** The provisions of schedule 4 govern the operation of the council and its members.

## **PART 6—POWERS OF AUTHORISED FIRE OFFICERS**

### **Powers of authorised officer in dangerous situations**

**53.(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 chemical incident; or
- (b) to protect persons trapped in any vehicle or building 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, vehicle or vessel;
- (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, vehicle or



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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 authority upon demand all reasonable expenses thereby incurred by the authority and those expenses may be recovered in a court of competent jurisdiction as a debt due to the authority.

**(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).

**Disposal of property**

**54.(1)** Any property retained for safe custody pursuant to section 53(2)(m) must, as soon as is practicable, be delivered into the possession of a person authorised by, or a person belonging to a class of person authorised by, the chief 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 chief 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).

**Powers of authorised officer for preventative or investigative purposes**

**55.(1)** At any time an authorised fire officer may enter any premises, vehicle or vessel 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 chemical incident;
- (b) to investigate whether or not fire safety measures and fire prevention measures have been taken or are being maintained;
- (c) to ascertain the cause of a fire or chemical incident;
- (d) to ascertain whether any provision of this Act or any notice, notification, order (written or verbal) or permit given under this Act has been or is being complied with;
- (e) to ascertain whether a power conferred by this Act upon an

authorised officer should be exercised, or to exercise a power under this Act.

(2) The power of entry conferred by subsection (1) must not be exercised in respect of—

- (a) a building that is a dwelling or such part of a building as is a dwelling; or
- (b) a vehicle or vessel used as a dwelling; or
- (c) a tent or other structure used as a dwelling;

unless the occupier has given approval to enter or unless entry is made during or in the aftermath of a fire or chemical incident occurring at the dwelling, for the purpose of ascertaining its cause.

(3) An authorised fire officer who enters premises for the purpose referred to in subsection (1)(a) may, for that purpose—

- (a) bring any apparatus or equipment onto the premises; and
- (b) burn, remove or otherwise deal with any vegetation or other material or substance, flammable or not flammable.

### **Extent of power of entry**

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

- (a) includes the right to enter all parts of the premises, vehicle or vessel in respect of 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.

### **Power to require name and address**

**57.(1)** An authorised fire officer may require a person—

- (a) to provide name and address if the authorised fire officer believes that the person may have committed an offence against this Act; and
- (b) to provide proof of any name or address given upon requisition made under paragraph (a) if the authorised fire officer believes

that the name or address is false.

(2) A person who fails to comply with a requisition made under subsection (1) commits an offence against this Act.

### **Use of answer given under compulsion**

**58.** Where pursuant to this part a person is required to answer a question or give information, it is not lawful excuse to fail to comply with the requisition on the ground that to do so may tend to incriminate the person but any answer given or information provided after objection on that ground is not admissible against the person in proceedings other than proceedings taken for giving an answer or providing information knowing it to be false or misleading.

### **Reasonable assistance to be provided**

**58A.(1)** An authorised fire officer who enters any premises under this part may require any person having responsibilities in relation to the premises (whether as owner or occupier of the premises or as a person employed to work thereon or otherwise) to provide the officer with such facilities and assistance with respect to matters or things to which the person's responsibilities extend as are reasonably necessary to enable the officer to exercise the powers conferred upon the authorised officer by this Act.

(2) A person who is required to provide facilities and assistance to an authorised fire officer under subsection (1) must comply with the requisition.

### **Person acting at direction of authorised fire officer**

**59.** 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.

**Directions concerning exercise of powers**

**60.** 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 chief commissioner and with any code of practice.

**PART 7—CONTROL AND PREVENTION OF FIRES***Division 1—Powers of chief commissioner relating to fires***Interpretation and application of division**

**61.(1)** For the purposes of this division a person is taken to light a fire if the person—

- (a) lights, maintains or uses the fire; or
- (b) aids, procures or counsels another to light, maintain or use the fire; or
- (c) being the owner or occupier of the land on which the fire is lit—permits another to light, maintain or use the fire.

**(2)** This division does not apply in respect of the lighting of a fire inside any building in circumstances that prevent the escape from the building of fire or any material or substance that is likely to cause fire.

**(3)** In this division—

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

**Offence to light unauthorised fire**

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

### **Authorisation of fires by chief commissioner**

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

### **Prohibition by chief commissioner against lighting of fires**

**64.(1)** Notwithstanding any notification under section 63 authorising the lighting of fires the chief commissioner may, by giving a notice to the occupier of land, prohibit the lighting on the land of all fires or all fires other than those lit for a purpose or in circumstances specified in the notice.

**(2)** The chief commissioner must consider any request made by an occupier of land that a notice be issued prohibiting the lighting of fires on any adjoining land unless the chief commissioner believes the request is frivolous or vexatious.

**(3)** In this section—

**“occupier of adjoining land”** means the occupier of land that—

- (a) touches some part of the land in question; or
- (b) would touch some part of that land but for the existence of a watercourse, road or firebreak, that is 10 m or less in width or, although wider than 10 m, is not clear of vegetation or other flammable material for at least 10 m in every direction.

### **Granting of permits**

**65.(1)** A person may apply to the chief commissioner (orally or in writing) for a permit to light a fire on any land.

**(2)** The chief commissioner may grant or refuse to grant an application.

**(3)** Subject to subsection (4), the chief commissioner must refuse to grant a permit to light a fire on any land unless satisfied—

- (a) that reasonable steps have been taken to notify every occupier of adjoining land (within the meaning of section 64) of the making of the application; and
- (b) that a reasonable opportunity has been given to every occupier so

notified to object (orally or in writing) to the granting of the permit.

(4) The chief commissioner may grant a permit without complying with subsection (3) if satisfied that extraordinary circumstances exist for so doing.

### **Fires in State forests etc.**

**66.(1)** The provisions of this division do not apply to the lighting of a fire—

- (a) in a protected area by a person acting in the performance of duties under the *Nature Conservation Act 1992*; or
- (b) in a State forest, timber reserve or forest entitlement area by a person acting in the performance of duties under the *Forestry Act 1959*.

**(2)** The chief commissioner must not authorise the lighting of fires—

- (a) in a protected area without the approval of the chief executive of the department that deals with matters arising under the *Nature Conservation Act 1992*; or
- (b) in a State forest, timber reserve or forest entitlement area without the approval of the chief executive of the department that deals with matters arising under the *Forestry Act 1959*.

### **Occupier to extinguish fire**

**67.** 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 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.

**Powers of occupier of entry etc.**

**68.(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 1.6 km of that land constitutes a fire risk to that land may, together with persons acting at the direction of the occupier—

- (a) enter the land on which the fire is burning and any other land in order to gain access to the land on which the fire is burning; and
- (b) take on to that land equipment for extinguishing or controlling the fire; and
- (c) take all reasonable measures to extinguish or control the fire.

**(2)** An occupier of land must not do or direct the doing of any act referred to in subsection (1) if prior notice (oral or written) of the intention to light the fire has been given to the occupier by the person lighting it or by a prescribed person unless the occupier believes on reasonable grounds that the fire has been unlawfully lit or is out of control.

**(3)** If it is practicable to contact a prescribed person, an occupier of land—

- (a) must not do or direct the doing of any act referred to in subsection (1) unless the prescribed person has been notified of the situation; and
- (b) must comply with any direction given by the prescribed person in respect of the doing of any act.

**(4)** In this section—

**“prescribed person”** means a fire officer, an officer of a rural fire brigade, a 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.

**Requisition by chief commissioner to reduce fire risk**

**69.(1)** The chief 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)** 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.

**(4)** 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 by the authority in taking those measures may be recovered in a court of competent jurisdiction from the occupier.

**(5)** 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 (6) or until the person entitled to possession of it is determined.

**(6)** Where the authority is satisfied that anything retained pursuant to subsection (5) is the property of the occupier who failed to comply with the

notification or notice the authority may sell or otherwise dispose of the material and the proceeds of the disposal may be applied by the authority in payment of expenses incurred in consequence of the failure to comply.

(7) Where the proceeds of the disposal of any material—

- (a) are insufficient to cover the expenses of the authority—the amount of the expenses that may be recovered under subsection (5) must be reduced by the amount of those proceeds;
- (b) exceed the expenses of the authority—the balance must be paid to the person whose property the authority believes the material to have been.

### **Restriction on sale of notified articles**

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

### **Notifications, notices and permits**

**71.(1)** Any notification published in the gazette pursuant to this division—

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

(2) Any permit granted or notice given pursuant to this division to a person—

- (a) may, where it authorises or requires the doing of any act, specify conditions to be observed in respect of the doing of the act;
- (b) may be expressed so as to be of unlimited duration or so as to have effect for a specified period or until the occurrence of a specified event;
- (c) may be amended or revoked at any time by the chief commissioner by giving a notice to that effect to that person.

### **Offences re lighting fires**

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

- (a) fails to comply with any condition or direction contained in a notification, notice or permit given under this division in respect of the lighting of any fire;
- (b) leaves unattended or fails to take reasonable measures to extinguish a fire in such circumstances as to cause or be likely to cause danger from fire to any person or property or to the environment;
- (c) not acting in accordance with a notification, notice or permit given under this division, discards, propels or places any burning article or substance (or anything otherwise capable of causing fire)—
  - (i) thereby causing a fire that endangers or is likely to endanger any person or property or the environment; or
  - (ii) in such circumstances as to be likely to cause a fire that would be likely to endanger any person or property or the environment;
- (d) wilfully and unlawfully destroys, damages, removes, covers or otherwise interferes with a notice relating to the lighting of fires displayed by the chief commissioner or by a rural fire brigade for the purposes of this Act;
- (e) knowingly provides any false or misleading information in respect of an application for a permit under section 65;<sup>5</sup>

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<sup>5</sup> Section 65 (Granting of permits)

- (f) without the consent of the chief commissioner, alters any particular shown in a permit granted under section 65.

(2) In subsection (1)—

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

### **Liability of person for fire lit by agent or employee**

**73.(1)** Notwithstanding the Criminal Code, sections 7 and 23<sup>6</sup> where any person commits an offence against this division in respect of the lighting of a fire as an agent or employee, the principal or employer of that person is taken to have committed the offence and may be prosecuted and punished for the offence unless it is proved that the agent or employee was acting contrary to instructions and that the principal or employer could not have prevented the commission of the offence by exercising reasonable supervision.

(2) Subsection (1) applies without prejudicing any liability imposed under this division upon the person by whom an offence is actually committed.

### **Liability for damage caused by certain fires**

**74.(1)** A person who lights a fire—

- (a) authorised to be lit by notification given under section 63<sup>7</sup> or by a permit granted under section 65; or
- (b) in order to comply with a notification or notice given under section 69;

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.

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<sup>6</sup> Criminal Code, sections 7 (Principal offenders) and 23 (Intention—motive)

<sup>7</sup> Section 63 (Authorisation of fires by chief commissioner)

(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.

### *Division 2—Fire wardens*

#### **Chief fire wardens and fire wardens**

**75.(1)** Such number of chief fire wardens and fire wardens may be appointed as the chief commissioner thinks necessary or expedient for the purposes of this Act.

(2) Subject to subsection (3), appointments must be made in writing by the chief commissioner.

(3) Where the appointee is a public service officer or a police officer, the appointment must be made by the Governor in Council by notification published in the gazette—

- (a) specifying the name of the appointee; or
- (b) specifying that the appointment is made to the holder of a specified office in which case each person who, for any period, holds or performs the duties of that office is, for that period, a chief fire warden or, as the case may be, a fire warden.

(4) A person may hold an office under this section in conjunction with any office held with the authority, the public service or the police service.

(5) The chief commissioner may, by giving a notice to an appointee, cancel the appointment, whether the appointment was made by the chief commissioner or the Governor in Council.

(6) The Governor in Council may, by notification published in the gazette, amend or rescind any notification made under subsection (3)(b).

#### **Powers and functions**

**76.(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 chief commissioner.

(2) The chief commissioner may direct a chief fire warden or a fire

warden to discharge functions in addition to those imposed by this Act.

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

### **Expenses**

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

### **Appeals from decisions of fire wardens**

78.(1) Where pursuant to a delegation of the chief commissioner's powers a chief fire warden or a fire warden is empowered to issue notices under section 64 or 69<sup>8</sup> or to determine applications for permits under section 65, any person aggrieved by a decision made by the chief fire warden or fire warden in the exercise of the power may appeal against the decision by notice in writing given to the chief commissioner.

(2) The chief commissioner may allow or dismiss an appeal and may, where an appeal is allowed, make any order that appears just.

### *Division 3—Rural fire brigades*

#### **Formation of rural fire brigade**

79.(1) Any group of persons may apply to the chief commissioner for registration as a rural fire brigade.

(2) The chief commissioner may grant or refuse an application and, in the case of the granting of an application, must assign a registration number to the rural fire brigade.

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

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<sup>8</sup> Section 64 (Prohibition by chief commissioner against lighting of fires) or 69 (Requisition by chief commissioner to reduce fire risk)

**Rural fire brigade may make rules**

**80.(1)** A rural fire brigade may make rules, not inconsistent with this Act, for the purpose of regulating its proceedings and the conduct of its operations including the acquisition, vesting and disposal of its property and funds.

(2) A rule has no effect unless approved by the chief commissioner.

(3) The chief commissioner may at any time direct a rural fire brigade to amend, revoke or make rules in the manner and for the purpose specified in the direction.

**Officers of rural fire brigade**

**81.(1)** A rural fire brigade must elect a first officer to be in charge of the brigade.

(2) A rural fire brigade may also elect such other officers as it considers necessary.

(3) Any election must be conducted in accordance with the chief commissioner's directions and has no effect unless approved by the chief commissioner.

(4) A person holds office for the period specified by the chief commissioner.

(5) The chief commissioner may dismiss a person from any office held with a rural fire brigade or may disqualify a person from holding any office.

**Functions of a rural fire brigade**

**82.(1)** The functions of a rural fire brigade are fire fighting and fire prevention and such other functions as the chief commissioner may direct.

(2) The chief 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.

**Powers of first officer**

**83.(1)** Where, pursuant to notification given under section 82(2), a rural fire brigade is in charge of operations for controlling and extinguishing a fire, the first officer of the brigade has, for that purpose—

- (a) the powers of an authorised fire officer, subject to any limitation imposed by the chief 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 chief 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 chief commissioner is in charge of those operations has the control and direction of the members of the rural fire brigade.

**Equipment for rural fire brigade**

**84.(1)** The authority 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 authority is and remains the property of the authority and may at any time be repossessed by the authority.

**(3)** A justice, acting upon the complaint of the chief 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 authority.



(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.

### **Authority’s role relating to rural fire brigades**

**85.** The authority is responsible for the efficiency of rural fire brigades and may provide training and other assistance to them.

### **Powers of officers of other States to fight fires in Queensland**

**86.(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 chief commissioner, any person has control of operations at a fire in Queensland at which an officer of another State is present, that officer must obey any direction given by the person having control of operations.

## **PART 8—FIRE EMERGENCY**

### *Division 1—Local fire bans*

#### **Imposing local fire ban**

**86A.(1)** If the chief commissioner considers a fire emergency exists in a local government’s area, the chief commissioner may impose a fire ban (a “**local fire ban**”) in the area.

(2) A local fire ban may—

- (a) be imposed for an entire local government area or part of a local government area; and
- (b) prohibit the lighting of all, or only certain, types of fires.

(3) The area to which a local fire ban applies is called the “**fire ban area**”.

#### **Publicising local fire ban**

**86B.(1)** A local fire ban may be imposed—

- (a) by notice (a “**newspaper notice**”) published in a newspaper circulating in the fire ban area; or
- (b) by notice (a “**broadcast notice**”) transmitted by a broadcasting service generally able to be received by persons in the fire ban area.

(2) However, a local fire ban may be imposed by a broadcast notice only if the chief commissioner considers—

- (a) it is necessary because of urgent circumstances relating to the fire

emergency; and

- (b) imposing the ban by a newspaper notice would result in a delay that was undesirable, having regard to the urgent circumstances.

(3) The newspaper or broadcast notice must—

- (a) state the local government area to which the ban applies and, if appropriate, describe the part of the local government area to which it applies; and
- (b) state the fires the lighting of which is prohibited; and
- (c) state the period of the ban (not longer than 14 days).

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

### **Cancelling local fire ban**

**86C.(1)** If, while a local fire ban is in force, the chief commissioner considers the fire emergency for which the ban was imposed has ceased to exist, the chief commissioner must cancel the ban.

(2) The cancellation may be made—

- (a) by notice (a “**newspaper notice**”) published in a newspaper circulating in the fire ban area; or
- (b) by notice (a “**broadcast notice**”) transmitted by a broadcasting service generally able to be received by persons in the fire ban area.

(3) However, a local fire ban may be cancelled by a broadcast notice only if the chief commissioner considers a newspaper notice would unnecessarily delay the cancellation of the ban.

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

### **Period of local fire ban**

**86D.(1)** A local fire ban imposed by a notice published in a newspaper

takes effect from the day the notice is published.

(2) A local fire ban imposed by a notice transmitted by a broadcasting service takes effect from the day and time stated in the notice.

(3) For subsection (2), the day and time must not be before the notice is transmitted.

(4) A local fire ban remains in force until 1 of the following events happens—

- (a) the period of the ban stated in the notice imposing the ban ends;
- (b) the ban is cancelled.

### **Effect of local fire ban on other authorisations to light fires**

**86E.** 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.

### **Contravening local fire ban**

**86F.** 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.

### **Evidentiary aid about local fire ban**

**86G.** In a proceeding for an offence against section 86F, a certificate purporting to be signed by the chief 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*****Declaration of state of fire emergency**

**87.(1)** The chief commissioner may, with the approval of the Minister, declare that a state of fire emergency exists within Queensland.

**(2)** A declaration of a state of fire emergency—

- (a) may have effect throughout the State or in part of the State, as specified in the declaration;
- (b) may apply differently according to factors specified in the declaration;
- (c) may, if it does not prohibit the lighting of all types of fires, prescribe conditions to be observed in lighting fires of any type not prohibited;
- (d) may order that the lighting of any fire of a type not prohibited be subject to the granting of a permit under section 65 by the chief 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 chief 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.

**Publication of declaration**

**88.(1)** Every declaration of a fire emergency or amendment or revocation of a declaration must be notified in the gazette.

(2) A declaration of a fire emergency or an amendment or revocation of a declaration takes effect from—

- (a) the date on which it is notified in the gazette; or
- (b) where it is notified throughout the area to which it applies by newspaper, radio or television, the date on which it is so notified;

whichever date occurs sooner.

(3) For the purpose of ensuring public knowledge of the declaration of a state of fire emergency in the area to which it applies, the chief commissioner must take measures to give widespread publicity to the declaration but any alleged failure to do so is not an excuse for failure to comply with the declaration.

### **Period of state of fire emergency**

89. A state of fire emergency declared by the chief 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.

### **Effect of emergency on existing authorities to light fires**

90.(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.

### **Chief commissioner's power during fire emergency**

91.(1) While a state of fire emergency remains in force, the chief 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.

### **Failure to comply with declaration**

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

Maximum penalty—250 penalty units or 2 years imprisonment.

### **Certificate re declaration**

93. In any proceeding for—

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

any certificate signed by the chief commissioner stating that a state of fire emergency declared under section 87 existed at a specified place and during a specified period and specifying any of the provisions of the declaration is evidence of the matters contained in the certificate.

## **PART 9—OFF-SITE PLANS FOR DANGEROUS GOODS**

### **Interpretation of part**

94. In this part—

“**ADG Code**” means the Australian Code for the Transport of Dangerous Goods by Road and Rail, published in the Commonwealth of Australia

Gazette No. P15 on 7 April 1987, as amended from time to time by amendments published in the Commonwealth of Australia Gazette, and includes any code (as so amended from time to time) published in the Commonwealth of Australia Gazette in substitution for that code.

**“dangerous goods”** means—

- (a) any substance listed in the ADG Code as dangerous goods other than any substance declared under a regulation not to be dangerous goods for the purposes of this part;
- (b) any substance declared under a regulation to be dangerous goods for the purposes of this part.

### **Application of part**

**95.(1)** This part does not apply in respect of—

- (a) persons or substances in or about a mine to which the *Mines Regulation Act 1964* applies;
- (b) persons or substances in or about a mine to which the *Coal Mining Act 1925* applies;
- (c) persons or substances in or about a well to which the *Petroleum Act 1923* applies.

**(2)** This part does not derogate from the provisions of the *Radiation Safety Act 1999*, the *Transport Operations (Marine Safety) Act 1994* or the *Workplace Health and Safety Act 1995* and where there is any conflict between the provisions of this and the provisions of those Acts, the provisions of those Acts prevail, to the extent of the inconsistency.

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

**96.(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 chief 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.

### **Off-site emergency plans**

**97.(1)** In any case in which the chief commissioner has power to give a person a notice requiring information concerning any dangerous goods, the chief commissioner may by notice in writing require the person, within the time specified in the notice, to prepare and lodge with the chief commissioner a plan relating to those dangerous goods (an “**off-site emergency plan**”).

(2) A notice may be given to a person under subsection (1) whether or not a notice has been given under section 96 or, where a notice has been given under that section, whether or not the person has complied with the notice.

(3) A person required by notice given under subsection (1) to prepare and lodge an off-site emergency plan is referred to in this part as the “**person responsible for the plan**”.

(4) An off-site emergency plan must provide for measures to be taken in preparation for a chemical incident or upon a chemical incident 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.

### **Assistance with plans**

**98.(1)** The chief 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 authority charges for any advice or other assistance provided.

**Approval of plans**

**99.** Where an emergency plan is lodged, the chief 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.

**Amendment of plan**

**100.(1)** An off-site emergency plan may be amended with the approval of the chief commissioner.

**(2)** The chief 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 chief commissioner for approval.

**Duty to implement plan**

**101.(1)** Where an off-site emergency plan has been approved by the chief 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 chief commissioner believes that any measure provided for in a plan has not been taken, the chief 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.

**Notice of changed circumstances**

**102.(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 chief commissioner.

(2) The chief 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.

### **Keeping copies of plans**

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

### **Punishment for certain offences against this part**

**104.** A person convicted of—

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

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

## **PART 9A—BUILDING FIRE SAFETY**

### *Division 1—Interpretation*

#### **Interpretation**

**104A.** In this part and in schedule 5—

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

- (a) a single dwelling house, being either a detached dwelling house or a town, terrace, row, villa or like house attached to another such house or other such houses only by a wall on 1 or more of its sides; or
- (b) a building treated as part of a coal mine for the purposes of the *Coal Mining Act 1925* or as part of a mine for the purposes of the *Mines Regulation Act 1964*; or
- (c) a building in which no prescribed fire installation is required to be maintained pursuant to section 104D.

**“building certifier”** has the meaning given by the *Building Act 1975*.<sup>9</sup>

**“Building Code of Australia”** means the Building Code of Australia within the meaning of the Standard Building Regulation.

**“fire safety installation”** means a fire safety installation within the meaning of the Standard Building Regulation.

**“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 104D.

**“Standard Building Regulation”** means the *Standard Building Regulation 1993*.

### **Application to prisons**

**104B.** 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 1988*, but an authorised fire officer is not competent to exercise a power conferred by

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<sup>9</sup> *Building Act 1975*, section 3—

**“building certifier”** means an individual accredited as a building certifier by an accreditation body.

sections 55 to 57<sup>10</sup> in relation to such a building without the consent of the general manager of the prison within the meaning of the *Corrective Services Act 1988*.

### *Division 2—Duties of occupiers*

#### **Occupier of building to maintain means of escape from building**

**104C.** 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.

#### **Occupier of building to maintain prescribed fire safety installations**

**104D.(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.

**(2)** It is a defence to a charge made under this Act that an occupier of a building, in contravention of subsection (1), has failed to maintain in the building a prescribed fire safety installation for the defendant to prove—

- (a) that the prescribed fire safety installation would not be required to be maintained in the building if the building were constructed at the time of the alleged offence and was unnecessary for the purposes of fire safety; or
- (b) that in lieu of the prescribed fire safety installation there is maintained a fire safety installation of equivalent or greater effectiveness.

**(3)** For the purposes of this section—

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

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<sup>10</sup> Sections 55 (Powers of authorised officer for preventative or investigative purposes), 56 (Extent of power of entry) and 57 (Power to require name and address)

**“prescribed fire safety installation”** means a fire safety installation—

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

### **Fire and evacuation plan**

**104E.** 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; and
- (b) provide adequate instructions to persons working or residing 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.

### **Assistance with plan**

**104F.(1)** The chief commissioner may provide assistance to the occupier of a building in the preparation and implementation of the plan required to be maintained by the occupier pursuant to section 104E(a) and any regulations made under this part in relation to such a plan.

**(2)** An occupier to whom assistance is provided is liable to pay the authority’s charges for the assistance.

### **Notice by chief commissioner about occupier’s obligations**

**104G.(1)** The chief commissioner may give to the occupier of a building a notice in writing requiring the occupier to take steps as directed by or in accordance with the notice, within such time as is specified therein, in order to remedy any matter in respect of which the chief commissioner is of the opinion that the occupier has failed to comply with this division or with regulations made under this part.

(2) A notice under subsection (1) to the extent that it specifies that an alteration is to be made to the structure of a building is not valid unless the chief commissioner first consults the local government in whose area the building is situated.

(3) A person who is given a notice pursuant to subsection (1) must comply with the notice.

(3A) In a case where such a person fails to comply with the notice within a time specified therein then—

- (a) notwithstanding that the time has passed, the person's obligation to comply continues until the person complies with the notice; and
- (b) section 150<sup>11</sup> applies.

(4) The giving of a notice under this section does not prejudice any other proceedings under this Act in respect of the noncompliance to which the notice relates, with the exception that the person to whom the notice is given is not liable, during the period afforded by the notice to comply and any further period during which that person is relieved by this part from any penalty for failure to comply with the notice, to any penalty prescribed by section 150 for continuing offences.

### *Division 3—Prohibition on prescribed use without certificate of compliance*

#### **Prohibition on prescribed use without certificate of compliance**

**104H.(1)** A regulation may prohibit the use of a building as prescribed under the regulation unless there is in existence a certificate of compliance issued under section 104I in relation to that building use.

(2) A regulation made under subsection (1)—

- (a) must be expressed to apply in relation to a building use specified in schedule 5 unless the Governor in Council is satisfied that urgent action is required to reduce the risk of fire in relation to a building use not specified in schedule 5; and

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<sup>11</sup> Section 150 (Continuing offences)

(b) may be expressed to apply in relation to all buildings or any building of a description defined in the regulation.

(3) A regulation may revoke a certificate of compliance or class thereof issued before the regulation is made that authorised a building use to which the regulation applies.

(4) An occupier of a building who uses the building in contravention of a regulation made under subsection (1) commits an offence against this Act.

(5) An occupier of a building is not liable to any penalty prescribed by this Act by reason of the building being used in contravention of subsection (4) on and from the date the occupier makes application for a certificate of compliance under section 104I to and including the date the occupier is issued a certificate of compliance or given a notice refusing the application pursuant to section 104I.

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

### **Certificate of compliance**

**104I.(1)** An occupier of a building to which a regulation made under section 104H(1) applies may apply to the chief 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 chief commissioner or the authorised officer such information in relation to the application as either may require.

(6) If the authorised fire officer who inspects the building, having regard to the building use specified in the application, is satisfied—



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- (a) that sections 104C, 104D and 104E are being complied with; and
- (b) that the regulations made pursuant to this part that apply in relation to building use are being complied with; and
- (c) that adequate fire safety measures and fire prevention measures generally have been taken or are being maintained;

the authorised fire officer must issue a certificate of compliance in relation to the building authorising the building use specified in the application.

**(7)** If the authorised officer who inspects the building is not satisfied of any matter prescribed by subsection (6)(a) to (c), the authorised officer must give notice to the applicant—

- (a) specifying the steps required to be taken before the application will be granted; and
- (b) allowing a reasonable period within which those steps may be taken before the application is refused.

**(7A)** The authorised officer may at any time extend the period so allowed.

**(8)** If—

- (a) the applicant declines to take the steps referred to in subsection (7)(a); or
- (b) upon inspection of the building at the expiration of the period allowed to the applicant to take the steps referred to in subsection (7)(a), the authorised officer is not satisfied that those steps have been taken;

the authorised officer must refuse the application by notice given to the applicant.

**(8A)** The notice must state the grounds of the refusal and any steps required to be taken by the applicant before any further application will be granted.

**(9)** A notice under subsection (7) or (8) to the extent that it specifies that an alteration is to be made to the structure of a building before an application will be granted is not valid unless the authorised fire officer who issues the notice first consults the local government in whose area the building is situated.

**(10)** If an authorised officer—

- (a) fails to issue a certificate of compliance or any notice under this section before a date 30 days after the receipt by the chief commissioner of an application; or
- (b) in a case where a notice under subsection (7) has been given to the applicant—fails to issue a certificate of compliance or a notice of refusal before a date 30 days after the expiration of the time allowed by the notice to take steps specified in the notice;

the provisions of division 4 apply as if the authorised officer had given to the applicant on that date a notice of refusal.

### **Form of certificate of compliance**

**104J.** 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.

### **Certificate of compliance—limitations on requirements**

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

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

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

***Division 4—Objection to notices*****Persons aggrieved by notice may object**

**104L.(1)** A person who is aggrieved because the person has been given a notice under this part or by the terms of such a notice within 21 days may object in writing to the regional commander.

(2) An objection is not valid unless it is accompanied by the fee prescribed under a regulation.

(3) For the purposes of this section the regional commander is the person who, pursuant to this Act, holds that office for the region in which is situated the building to which the notice in question relates or a person who is performing the duties of the office for the time being.

**Panel of referees to be convened**

**104M.** Upon receipt by a regional commander of an objection under this division, the chief commissioner or a person nominated by the chief commissioner must convene within 30 days a panel of referees to determine the objection.

**Membership of panel of referees**

**104N.(1)** A panel of referees is to consist of—

- (a) a chair referee who is to be a person nominated by the convenor of the panel; and
- (b) 1 person nominated by the local government in whose area is situated the building to which the notice objected to relates; and
- (c) 1 person nominated by the chief executive of the department administering the *Building Act 1975*.

(2) No objection is to be taken or allowed to the nomination of a chair referee on the ground that the person nominated is a fire authority officer unless the person was involved in the decision to issue the notice in question.

(3) The referee nominated pursuant to subsection (1)(b)—

- (a) if the local government is not the person objecting—is to be a person appointed to be a building certifier by the local government; and
- (b) if the local government is the person objecting—is to be a person appointed to be a building certifier by a local government other than the objector.

(5) In the event of a failure of a local government or the chief executive of the department administering the *Building Act 1975* for any reason to nominate a person to be a referee for the purposes of subsection (1)(b) or (c), in the stead of that person the convenor of the panel may appoint any person to be a referee.

(6) Referees are entitled to such fees and expenses for attendance at meetings of a panel as may be approved by the Governor in Council, with the exception that an officer of the public service of the State is not to receive fees for attendance as a referee during ordinary hours of duty.

### **Determination of objection**

**104O.(1)** A person who convenes a panel of referees pursuant to section 104M, as soon as practicable thereafter and upon consultation with the chair referee, must give a notice in writing to each referee and the objector appointing a time and place when and where the panel is to consider the objection and any further representations.

(2) At the time and place so appointed, or at any time and place to which the matter is adjourned from time to time, the panel must consider and determine the objection.

(3) A panel is not bound by the rules or the practice of any court or tribunal as to evidence or procedure in the consideration and determination of an objection, but, subject to this Act, may inform itself on any matter and conduct its proceedings in such manner as it thinks proper.

(4) A panel may authorise a person to be represented before it by an agent with the exception that a person is not to be represented by counsel or solicitor.

(5) A determination of the panel is to be decided by majority vote of its members.

(6) In determining the objection, a panel may—

- (a) confirm, cancel or vary the notice to which objection is made in such a manner and to such an extent as it thinks fit; and
- (b) give such directions as are necessary to give effect to its determination.

(7) If the panel confirms or varies a notice it may extend any period for compliance with the notice.

(8) The convenor of the panel must give written notification of the determination of the panel to the objector within 7 days of the determination being made.

### **Relief from penalty pending determination of objection**

**104P.** If an objection is validly made pursuant to section 104L to a notice given under this part, the objector is not liable to a penalty under this Act—

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

### **Appeal from panel of referees**

**104Q.(1)** A person aggrieved by a determination of a panel of referees notified to the person pursuant to section 104O, may appeal against the determination within 7 days of being so notified to a stipendiary magistrate sitting as a Magistrates Court in the district appointed for such courts under the *Justices Act 1886* within which is situated the building to which the determination relates.

(2) In order to institute an appeal, an aggrieved person must file a notice of appeal specifying the grounds of appeal in the office of the registrar of the Magistrates Court and give a copy of the notice to the convenor of the panel

of referees.

(3) An appeal is to be limited to 1 or both of the grounds of—

- (a) denial of natural justice; or
- (b) error of law.

(4) The stipendiary magistrate has jurisdiction—

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

### *Division 5—Injunctions relating to high risk buildings*

#### **Injunctions**

**104R.(1)** Where the chief commissioner is satisfied in relation to any building that the risk to persons in the event of fire 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 chief 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 6—Regulations*

#### **Regulations relating to this part**

**104S.** The power of the Governor in Council to make regulations under section 154 includes the power to make regulations for or with respect to—

- (a) the maintenance free from obstruction of adequate means of escape in the event of fire threatening any part of a building;
- (b) the maintenance of fire safety installations in buildings including authorisation of the removal, replacement or substitution of any fire safety installation;
- (c) regulating the presence or use within buildings of furniture, furnishings, fittings, equipment, paints or finishes of any description in order to reduce the risk of fire;
- (d) requiring the maintenance of fire and evacuation plans in a specified form—
  - (i) setting forth the action to be taken in the event of fire threatening a building;
  - (ii) imposing obligations to provide instructions in preparation for the event of fire or to take specified action in the event of fire threatening a building;
- (e) requiring a fire and evacuation plan or class of such a plan to be approved by the chief commissioner;
- (f) requiring instruction or training of persons visiting, working in or inhabiting a building in relation to fire prevention and fire safety generally;
- (g) imposing obligations to take specified action in the event of fire threatening a building;

- (h) regulating the numbers of persons using a building at any one time;
- (i) requiring the stationing of persons at places within a building under specified circumstances;
- (j) the prevention, control or extinguishing of fires in buildings generally;
- (k) the institution and determination of objections under division 4 and appeals from determinations;
- (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 10—FUNDING**

### *Division 1—Interpretation*

#### **Definitions**

**105.(1)** In this part—

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

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

- (a) any lessee or licensee from the Crown; and
- (b) a purchaser (including a purchaser from the Crown) under any agreement giving possession of the property; and



*Fire and Rescue Authority Act 1990*

(c) a statutory corporation (whether or not representing the Crown).

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

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

the term does not include—

- (d) property vested in the Aboriginal and Islander Affairs Corporation; or
- (e) property belonging to any class of property prescribed under a regulation not to be prescribed property.

(2) To avoid doubt, it is declared that, for the definition “prescribed property”, paragraph (a)—

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

### *Division 2—Funding for urban fire brigades*

#### **Constitution of urban districts**

**106.(1)** A regulation may—

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

- (d) alter the boundaries of an urban district;
- (e) amalgamate 2 or more urban districts;
- (f) divide an urban district into 2 or more urban districts.

(2) In any proceeding the production of any map purporting to be certified by the chief commissioner as showing the boundary of any urban district or alteration of the boundary of any urban district is evidence of the matters shown or stated.

(3) Each district constituted under the *Fire Brigades Act 1964* and in existence immediately before the appointed day shall, on that day, be taken to be an urban district constituted under subsection (1).

### **Liability to contribute**

**107.(1)** For each financial year the owners of prescribed properties must contribute in accordance with this part to the cost of administering and giving effect to this Act.

(1A) An owner of prescribed property is not liable to contribute unless a fire brigade operated by fire officers provides services to prescribed properties in the urban district in which that prescribed property is situated or provided those services at the time when the liability to contribute arose.

(2) For each financial year there must be paid from the consolidated fund to the authority—

- (a) an amount representing one-seventh of the estimates for the financial year in question (as established by the budget of the authority approved for that year) of the amount to be received from the owners of prescribed properties other than prescribed properties owned by a Commonwealth public trading enterprise; and
- (b) such further amount as the Treasurer may authorise.

(3) If, for any financial year, the Treasurer believes that any anticipated reduction by the Commonwealth in financial assistance payments to the State (not including any grant related to the provision of fire services to properties owned by the Commonwealth) will be attributable to the amount payable under this part by Commonwealth public trading enterprises as owners of prescribed properties, the Treasurer may make a corresponding

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

(4) In this section—

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

### **Annual contributions of owners of prescribed properties**

**108.(1)** A regulation may prescribe the amounts of the contributions to be paid by owners of prescribed properties for a financial year.

(2) A regulation under subsection (1) shall prescribe the amounts of the contributions by categorising prescribed properties and prescribing differing amounts of contributions in accordance with those categories.

(3) Categorisation of prescribed properties is to be on the bases stated in the regulation.

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

1. The purposes for which properties are used.
2. The nature and availability of services supplied by fire service entities servicing properties.
3. The nature and availability of facilities of fire service entities servicing properties.
4. The urban district or class of urban districts in which properties are located.
5. A combination of all or any of examples 1, 2, 3 and 4.

(4) As soon as is practicable after a regulation is made under this section, the authority must give notice in writing to each component local government of the amounts of contributions payable by owners of prescribed properties in respect of the financial year to which the regulation relates.

### **Annual returns by component local governments**

**109.(1)** To enable the amounts of contributions payable by owners of prescribed properties to be assessed in respect of each financial year, each component local government must furnish to the authority a return disclosing the particulars prescribed under a regulation relating to properties

that—

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

### **Discount for pensioners**

**110.(1)** In this section—

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

(2) The Governor in Council may by regulation declare that each pensioner, who is the owner of a prescribed property that is the principal place of residence of that pensioner, be granted a discount on the contributions payable pursuant to this part in respect of that property at such rate as is specified in the regulation.

(3) If a pensioner entitled to a discount in respect of prescribed property is not the sole owner, the discount is an amount that bears to the amount of the discount to which the pensioner would have been entitled as the sole owner, the same proportion as the pensioner’s interest in the property bears to the total of the interests of all owners of the property.

(4) For the purposes of subsection (3)—

- (a) owners who hold interests in a property as joint tenants are taken to hold interests in the property as tenants in common in equal shares; and
- (b) a pensioner who holds an interest in a property is taken to also hold any interest in the property held by the spouse of the pensioner.

**Duties of owner of prescribed property and component local government**

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

**(2)** Subject to this part a component local government must collect those annual contributions and other amounts.

**Determinations and notifications of contributions**

**112.(1)** In respect of each financial year, a component local government as at the first day of the financial year—

- (a) must determine the prescribed properties within its area; and
- (b) must determine the annual contributions payable in respect of prescribed properties by reference to the categories prescribed under a regulation made under section 108.

**(2)** After a local government makes its determinations for any financial year, it must give the owner of each prescribed property within its area a fire levy notice stating—

- (a) the annual contribution in respect of the property; and
- (b) the amount of any arrears (including interest and other charges) of annual contribution in respect of the property.

**Appeal against local government's determination**

**113.(1)** An owner of property to whom a fire levy notice is given may appeal to the chief 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 typographical or similar error, mathematical error or because the local government wrongly categorised the property in terms of a regulation made under section 108;

- (c) that, for the purpose of determining the contributions payable, the prescribed property should in the circumstances be taken to be within a category (prescribed under a regulation made under section 108) other than that on which the local government based its determination.

(2) A person wishing to appeal must lodge a notice to that effect with the chief commissioner setting out the grounds of the appeal within 30 days after the fire levy notice is given.

(3) The chief commissioner may require an appellant or the local government concerned to provide information relevant to the determination of the appeal.

(4) The chief commissioner may allow or reject an appeal.

(5) If the chief 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 chief commissioner.

(6) If the chief 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 chief commissioner's determination.

(6A) If the local government has already made payments to the authority in respect of those contributions, the amount refundable must be paid to the appellant by the authority.

(7) The determination of the chief commissioner in respect of an appeal is final.

### **Manner of giving notification**

**114.(1)** A fire levy notice may be given to the owner of prescribed property—

- (a) as an item on a rate notice given to the owner in respect of that

property; or

- (b) as a separate notice given before 1 January of the financial year to which the notice relates.

(2) Where for any financial year a component local government gives to the owner of prescribed property in respect of that property 2 or more rate notices, each relating to part of that financial year, a fire levy notice is taken to be given to the owner in accordance with subsection (1)(a) if each rate notice contains an item for the payment in respect of that property of—

- (a) such amount as bears to the total of the annual contribution for the financial year the same proportion as the period (in months) for which the rate notice is given bears to 12; and
- (b) the amount of any arrears of annual contribution.

(3) Where notification is given as a separate notice, that notice is taken to be a rate notice under the *Local Government Act 1993* or, in the case of Brisbane City Council, the *City of Brisbane Act 1924*.

(4) A notification must not be given as an item on a rate notice unless—

- (a) where only 1 rate notice is given for a financial year—that rate notice is given before 1 January of that financial year;
- (b) where 2 or more rate notices are given for a financial year—the first of those notices is given before 1 January of that financial year.

### **Annual contribution etc. deemed to be rates**

**115.(1)** An amount shown in a fire levy notice, whether given by way of a separate notice or an item on a rate notice, is taken to be a general rate levied by the local government and the relevant provisions relating to general rates apply with all necessary modifications.

(2) In this subsection—

“**relevant provisions**” means—

- (a) the *Local Government Act 1993*, chapter 14 (Rates and charges) other than the following provisions—
- section 964 (Making of rates and charges)

- section 997 (Resolution to remove valueless land from land record)
  - section 1008(3) (Levying rates)
  - part 5 (Levying and payment of rates), division 4 (Discounts and other benefits for prompt payment of rates)
  - section 1027 (Change in unimproved value of land)
  - section 1028 (Land becomes or ceases to be rateable land)
  - section 1030 (Entitlement to occupy land is ended)
  - part 6 (Concessions)
  - part 7 (Recovery of rates), division 4 (Acquisition by local government of valueless land); and
- (b) for the Brisbane City Council—any corresponding provisions of the *City of Brisbane Act 1924*, part 3 (Rates and charges).

(3) Notwithstanding subsections (1) and (2), rates made and levied under either Act mentioned in subsection (2) are in priority to amounts that, pursuant to subsection (1), are taken to be general rates.

### **Contribution to be paid into fund of component local government**

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

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

### **Retention of administration fee by component local governments**

**117.(1)** For each financial year, a component local government is entitled to an amount (an “**administration fee**”) for performing functions under this part, including determining the annual contributions payable for prescribed properties, giving fire levy notices and collecting contributions for prescribed properties.

(2) The administration fee for a financial year may be kept from annual contributions for prescribed properties paid or payable for the financial year.



(3) Each component local government may decide the way in which it keeps the administration fee.

(4) A regulation may prescribe the way in which the administration fee is to be calculated.

### **Payments by component local governments to authority**

**118.(1)** A component local government must from time to time make payments to the authority out of its operating fund (or, in the case of Brisbane City Council, out of the city fund) from moneys received or recovered by the local government pursuant to this part.

(2) The amount of a payment shall be the total of the moneys received or recovered by the local government during the relevant financial year or declared period less the total of all amounts retained by the local government pursuant to section 117.

(3) An amount payable under this section must be paid within 14 days after the expiration of the financial year or declared period to which the amount relates or within such further time as the authority 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.

### **Failure by component local government to make payment**

**119.(1)** Where a component local government fails to pay to the authority any amount payable pursuant to section 118 within the required period, the local government, from the day on which the period expires, is liable to pay to the authority interest on the amount at the percentage prescribed under a regulation under the *Local Government Act 1993*, section 1018(3)(a).<sup>12</sup>

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<sup>12</sup> The *Local Government Act 1993*, section 1018 (Overdue rates may bear interest) sets out various matters about overdue rates under that Act. Specifically, section 1018(3) provides that for overdue rates ‘the rate of interest must not be more than ... the percentage prescribed by regulation ...’.

(2) Any interest not paid by a component local government to the authority within the time specified in a written demand for payment given by the authority is recoverable, together with expenses of recovery, in a court of competent jurisdiction.

### **Payments and interest to be debt**

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

### **Payment of arrears**

**121.(1)** Where any amount relating to contributions payable in respect of prescribed property is in arrears, the owner may apply in writing to the component local government in whose area the property is situated for approval to pay the outstanding amount in instalments.

(2) The local government may refuse the application or may grant it subject to any conditions it thinks fit.

### **Notices about contributions**

**122.(1)** Where a component 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 authority has underestimated any amount so payable;

the authority 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 authority whether or not the amount as calculated by the local government has been paid.

**Recovery of arrears**

**123.(1)** Where any amount relating to contributions remains unpaid at the expiration of the period specified for payment in a fire levy notice or a notice given pursuant to section 122 and proceedings for recovery of the amount have not been instituted or have not been completed by the component local government in whose area the relevant prescribed property is situated, the authority may take action in a court of competent jurisdiction to recover that amount and interest on that amount.

**(2)** For subsection (1), the rate of the interest is the percentage decided by the component local government, under the *Local Government Act 1993*, section 1018(1), in relation to an overdue rate for the period for which the amount remains unpaid.<sup>13</sup>

**(3)** For the purpose of subsection (1), the authority may take any action (including the selling of land) that a local government may take to recover unpaid rates and for that purpose—

- (a) the amount outstanding is taken to be rates unpaid to a local government and, notwithstanding section 115(3), to be in priority to any rates made and levied in respect of the prescribed property by the component local government in whose area the property is situated; and
- (b) the authority is taken to be the mayor of that local government; and
- (c) any document under the seal of the authority is taken to be under the common seal of that local government.

**(4)** Where a court makes an order against the owner of prescribed property for the recovery of any amount in an action referred to in subsection (1), it may also make an order for the recovery of any other outstanding amount relating to contributions payable in respect of that property that has not been paid in accordance with notification given under this part.

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<sup>13</sup> The *Local Government Act 1993*, section 1018(1) (Overdue rates may bear interest) provides that an 'overdue rate bears interest ..... at the percentage decided by the local government ...'.

**Remitting contributions**

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

**Proof of amounts owing re contributions**

**125.** In any proceeding for the recovery of any amount relating to contributions, a certificate signed by the chief 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 urban district and within the area of a specified component local government; and
- (c) that during that period a person was the owner of the property; and
- (d) that the person owes any specified amount in respect of contributions;

is evidence of the matters stated.

**Where services of commercial agent engaged**

**126.(1)** Where the authority or a component local government engages the services of a commercial agent (licensed as such under the *Auctioneers and Agents Act 1971*) for the purpose of collecting any arrears of annual contribution payable by an owner of prescribed property, then, notwithstanding section 55<sup>14</sup> of that Act, the owner may be required by the authority or the local government by notice in writing to pay an amount, not exceeding an amount representing the prescribed per centum of the amount

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<sup>14</sup> *Auctioneers and Agents Act 1971*, section 55 (Debtors not to be charged expenses of debt collecting)

of arrears, by way of a collection fee.

(2) The amount, if not paid as required, is recoverable by the authority or the local government, together with any expenses of recovery, in a court of competent jurisdiction.

### **Application of Crown Proceedings Act**

**127.** 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.

### **Fire levies not revenue in determining remuneration of employees of local government**

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

- (a) money retained as a collection fee under section 117 is included;
- (b) all other money received or recovered under this part is excluded.

### ***Division 3—Funding for rural fire brigades***

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

**128A.** A local government may make and levy the following rates or charges and contribute amounts raised to rural fire brigades operating in its local government area—

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

- (ii) a separate rate or charge under the *Local Government Act 1993*, section 972.

## **PART 11—GENERAL**

### **Protection for acts done pursuant to Act**

**129.(1)** No matter or thing done or omitted to be done by any person pursuant to this Act or bona fide and without negligence for the purposes of this Act subjects that person to any liability.

**(2)** A person (and any assistant) who discharges a function or exercises a power under this Act in order to avert or reduce actual danger to any person or property or to the environment may use force to a person that is reasonable in the circumstances and that does not cause and is not likely to cause death or grievous bodily harm and is not liable to be charged with any offence in respect of the use of that force.

**(3)** Where any question arises as to whether a person's liability for any act or omission, the subject of any proceedings, is negated under subsection (1) and the person claims to have acted pursuant to or for the purposes of this Act, the burden of proof of negligence and the absence of good faith lies upon the person alleging to the contrary.

**(4)** If a person against whom proceedings are taken in any court for an act or omission alleges that the act was done or omission made for the purposes of this Act, the court may, on application, order a stay of proceedings if satisfied—

- (a) that there is no reasonable ground for alleging either negligence or want of good faith; or
- (b) that the proceedings are frivolous or vexatious.

**(5)** This section does not take away any defence a person has independently of this section.

**Inquiries into fires**

**130.(1)** The Minister may order an inquiry into the origin, causes and circumstances of any fire.

**(2)** An inquiry into a fire must be held by a coroner within the meaning of the *Coroners Act 1958* and the provisions of that Act apply with all necessary modifications and, for the purpose of applying those provisions, the term “**Minister**” in section 8 of that Act is taken to mean the Minister within the meaning of this Act.

**Representation of authority at inquiries**

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

**Construction of policies of fire insurance**

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

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

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

**Report of fire**

**133.** The authority may, upon a request by or on behalf of an insurance company, furnish to the company details of any report in the possession of the authority relating to the attendance at a fire or other incident of a fire

authority officer or any other person who is subject to the direction of the chief commissioner.

### **Right of way to fire officers**

**134.(1)** A driver of a vehicle (other than a train) must, to the extent practicable, give clear and uninterrupted passage to any fire officer or any person acting under the direction of a fire officer who appears to be doing any act for the purpose of controlling or extinguishing a fire or dealing with any other emergency.

**(2)** A person who fails to comply with subsection (1) commits an offence against this Act.

### **Exemption from tolls**

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

### **Inspection of records of local governments**

**137.(1)** A person authorised by the chief commissioner for the purpose of this section (an “**authorised officer**”) may—

- (a) enter any premises in which a local government carries on business, during the ordinary hours of business;
- (b) examine, make copies of or take extracts from any document or record (in whatever form it is kept) relating to a function of the local government under this Act or a function of the chief commissioner;
- (c) make inquiries for the purposes of this Act.

**(2)** A person who has custody of or control over documents or records of the type described in subsection (1)(b) must, when required to do so by an authorised officer—

- (a) produce any of those documents or records to the officer;
- (b) furnish information to the officer concerning any of those



documents or records and otherwise assist the officer.

(3) A person who fails to comply with any requirement made by an authorised officer pursuant to subsection (2) commits an offence against this Act.

### **Use of brigade equipment on roads while unregistered**

**138.** The provisions of the *Transport Operations (Road Use Management) Act 1995* that prohibit the use on a road of an unregistered vehicle unless the use is authorised by a permit under that Act do not apply in respect of a vehicle used on a road where—

- (a) it is being used by a rural fire brigade to carry persons or equipment for the purpose of preventing, controlling or extinguishing a fire or for training purposes or is being used for any other purpose authorised in writing by the chief commissioner; and
- (b) it bears a clear identification as a vehicle of a rural fire brigade; and
- (c) there is in force a contract of insurance providing an indemnity, such as is prescribed by the *Motor Accident Insurance Act 1994*, section 23(1) in respect of injury caused by, through or in connection with the vehicle.

### **Interstate assistance at fire**

**139.(1)** In this section—

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

(2) Every member of a fire brigade (or similar body having the function of extinguishing fire) from outside Queensland who is present at a fire in Queensland to assist at the fire and any plant and equipment in the member’s charge is at the disposal of the person in charge at the fire and is taken to be under the control and direction of that person.

(3) If there is no person in charge at a fire, the member of the brigade or similar body from outside Queensland who is in charge of other members

of that brigade or body in attendance, has the control and direction of all persons assisting at the fire and has all the powers conferred by or pursuant to this Act on an authorised fire officer.

### **Ownership of property**

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

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

### **Surrender of equipment**

**141.(1)** A person, upon ceasing to be a fire authority officer, must surrender to the authority—

- (a) any form of identification; and
- (b) anything issued to the person for official use;

unless otherwise ordered by the authority.

**(2)** A justice, acting upon the complaint of the chief 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 anything not surrendered in accordance with subsection (1).

**(3)** A person authorised to execute a warrant may, for that purpose—

- (a) enter any premises in which the person believes the thing sought may be located;
- (b) break open anything the person believes may contain the thing sought.

### **Vacating premises**

**142.(1)** A person, upon ceasing to be a fire authority officer, must

immediately vacate any premises the property of the authority or to the possession of which the authority is entitled, unless the chief commissioner otherwise orders.

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

### **Confidentiality**

**142A.(1)** A person who discloses information that has come to the person's knowledge because the person is concerned in the administration of this Act commits an offence against this Act unless—

- (a) the information is not of a confidential or privileged nature or would normally be available to any member of the public on request; or
- (b) the disclosure is made in the course of the administration of this Act; or
- (c) the disclosure occurs in accordance with a requirement imposed or authorisation granted by or under a law of the State or the Commonwealth.

(2) For the purposes of this section—

- (a) a person is concerned in the administration of this Act if the person holds office, is appointed or employed, exercises a power or discharges a function pursuant to this Act;
- (b) the circumstances under which information is taken to come to a person's knowledge because the person is concerned in the administration of this Act includes where—
  - (i) information known to the person is confirmed; or

- (ii) information comes to the knowledge of the person because of an opportunity provided;

because the person is concerned in the administration of this Act.

### **Protection of name**

**143.(1)** A person must not—

- (a) have the expression ‘Queensland Fire Service’, ‘Queensland Fire Services’ or ‘Queensland Fire and Rescue Authority’, or an expression containing any of those expressions as the name under which the person carries on any business; or
- (b) use such an expression in any advertisement, sign or document relating to a business, whether carried on by that person or another;

unless authorised to do so by the authority.

(3) Where a person carrying on business under a name registered under any Act requests any person charged with keeping the register to cancel or alter the registration of the name for the purpose of complying with subsection (1), no fees or charges are payable in respect of the making of the request or compliance with it.

### **Charges for services**

**144.(1)** Charges for any service provided by the authority may be prescribed under a regulation.

(2) If no charge is prescribed for a service, the authority may fix a charge.

(3) The person for whose benefit a service is provided is liable for any charge for the service.

(4) If a service involves attending to any incident that endangers or may endanger any person or property or the environment—

- (a) the person who caused the incident is liable for any charge for the service; and
- (b) if that person caused the incident while acting in the course of employment or as an agent—the employer or principal is also

*Fire and Rescue Authority Act 1990*

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liable for any charge.

(5) If a service involves attending to a fire or chemical incident occurring in or on any property (real or personal) or endangering the property, each of the following persons is liable for any charge for the service—

- (a) the owner of the property;
- (b) in the case of a seagoing ship—the owner and the master.

(6) If a service involves attending to a fire lit under the authority of this or any other Act, no charge is payable by any person except in the following circumstances—

- (a) the person who lit the fire is liable for any charge if that person acted recklessly or negligently in lighting the fire or in failing to control it;
- (b) if that person lit the fire while acting in the course of employment or as an agent—the employer or principal is also liable for any charge.

(7) The owner of prescribed property is not liable for any charge for a service of attending to a fire in or on that property or endangering that property.

(8) The owner of property other than prescribed property is not liable for any charge for a service of attending to a grass fire (that is, a fire that predominantly consumes vegetation) if it is shown that the fire was not lit by the owner nor by an employee or agent of the owner acting in the course of that employment or agency.

(9) If a service involves attending to an incident caused by a person while acting in the course of employment or as an agent, the employer or principal is not liable for any charge for the service if it is proved that—

- (a) the person who caused the incident was acting contrary to instructions; and
- (b) the employer or principal could not have prevented the incident by exercising reasonable supervision.

(10) If 2 or more persons are liable under this section for any charge, liability is joint and several.

(11) The liability of a person to pay any charge for a service of attending

to an unauthorised fire does not affect the person's liability to be proceeded against and punished for lighting the fire.

(11A) In subsection (11)—

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

(12) In this section—

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

(13) In any proceeding to recover charges payable under this section, a certificate signed by the chief commissioner stating—

- (a) that an amount is owing to the authority on that account; or
- (b) that any person is or was the owner of the property concerned or, in the case of a seagoing ship, the master; or
- (c) that any person is the person for whose benefit a service was rendered;

is evidence of the matters stated.

### **Service of documents**

**145.(1)** Where, by or under any Act, any notice or other document is required or authorised to be served on the authority, the notice or other document is taken to be properly served if served on a person authorised by the authority in that behalf, either generally or in a particular case.

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

### **When unauthorised grass fire a crime**

**146.** A person who wilfully and unlawfully lights or attempts to light a grass fire (that is, a fire that predominantly consumes vegetation) with intent to injure any person or property is guilty of a crime and is liable on

conviction on indictment to imprisonment for 5 years or a penalty of 500 penalty units.

### **Offences**

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

**(2)** A person who fails to comply with any provision of this Act commits an offence against this Act.

### **Prosecutions**

**148.** A prosecution for an offence against this Act is by way of summary proceedings under the *Justices Act 1886*.

**General penalty**

**149.(1)** Subject to any other provision of this Act, a person who is convicted of an offence against this Act is liable to a maximum penalty of 50 penalty units or 6 months imprisonment.

**(2)** However, if an offence defined in section 72 or 147(1)(d), (e), (f) or (g)<sup>15</sup> is committed during a state of fire emergency at a place to which the declaration of the emergency applies, the offender is liable to a maximum penalty of 250 penalty units or 1 year's imprisonment.

**Court may order costs of rehabilitation etc. of protected area**

**149A.** On conviction of a person for an offence against section 62<sup>16</sup> in relation to a protected area, the court may order the person to pay to the State such amount as it considers appropriate for, or towards—

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

**Continuing offences**

**150.(1)** Where a person is convicted of an offence against this Act (whether an offence to which section 149 applies or an offence for which a specific penalty is provided) of such a nature that the act or omission by which it is constituted continues from day to day, the person is liable, in addition to any other punishment to which the person is liable under this Act, to a penalty of 5 penalty units for each day the act or omission continues, from (but excluding) the day it first occurs to (but excluding) the day on which the person is convicted of the offence.

**(2)** A person who, having been convicted of an offence of the kind described in subsection (1), continues to do the act or make the omission by which that offence was constituted may from time to time be prosecuted for the same offence and is liable to a penalty of 10 penalty units for each day the act or omission continues, from (and including) the day on which the

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<sup>15</sup> Section 72 (Offences re lighting fires) or 147 (Offences)

<sup>16</sup> Section 62 (Offence to light unauthorised fire)



person was last convicted of the offence to (but excluding) the day on which the person is again convicted of the offence pursuant to this subsection.

### **Offence by body corporate**

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

**(2)** In subsection (1)—

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

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

### **Evidentiary**

**153.(1)** In any proceeding, whether under this Act or not—

- (a) it is not necessary to prove the appointment of the commissioner or chief commissioner, or of an officer of the fire service or a fire authority officer, or of any chief fire warden, fire warden, forest officer or field officer but this does not prejudice the right of any person to prove an appointment has not been properly made;
- (b) it is not necessary to prove the authority of a person referred to in paragraph (a) to do any act or take any proceeding for the purposes of this Act but this does not prejudice the right of any person to prove the absence of authority;
- (c) a signature purporting to be that of a person referred to in paragraph (a) is presumed to be genuine unless the contrary is proved;
- (d) a person who purports to do or to have done anything for the purposes of this Act pursuant to the authority of an instrument of delegation made under this Act shall, if the person purported to

have made the delegation could have done that thing pursuant to this Act, be presumed to act or to have acted in accordance with a valid instrument of delegation unless the contrary is proved;

- (e) a notice, permit or other document purporting to have been made under this Act is taken to have been validly made unless the contrary is proved;
- (f) a certificate signed by the chief commissioner and purporting to set out any determination of the commissioner, chief commissioner or the authority is evidence of the matters stated;
- (g) a certificate under the seal of the authority stating—
  - (i) that the commissioner or authority is or was at any specified time or during any specified period the owner of property described in the certificate; and
  - (ii) that no consent has been given to the act or breach of duty specified in the certificate alleged to have been committed in respect of the property;

is evidence of the matters stated.

(2) In subsection (1)—

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

“**fireservice**” means the Queensland Fire Service in existence immediately before the commencement.

### **References to fire safety officer**

**153A.** A reference in an Act or document to a fire safety officer within the meaning of the *Fire Safety Act 1974* is taken to be a reference to an authorised fire officer within the meaning of this Act.

### **Approval of forms**

**153B.** The chief executive may approve forms for use under this Act.

**Regulation-making power**

**154.(1)** The Governor in Council may make regulations under this Act.

**(2)** A regulation may be made for or about—

- (a) the records required for the purposes of this Act;
- (b) all matters relating to the entitlements, authorities, responsibilities and liabilities of fire authority officers;
- (c) the institution and conduct of appeals under part 4, division 3;
- (d) offences against the regulations and the amount of any penalty for an offence, not exceeding 30 penalty units in any case.

**(3)** Regulations under this Act may adopt wholly or partly and specifically or by reference, a code of practice issued by the chief commissioner and any of the standard rules, codes, specifications or methods of Standards Australia, the British Standards Institute or any other body identified by the regulations.

## **PART 12—SAVINGS AND TRANSITIONAL PROVISIONS**

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

**Definitions**

**155.** In this division—

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

**“commencement”** means the commencement of section 8 of the amendment Act.

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

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

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

### **References to commissioner**

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

### **Vesting of assets**

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

### **Legal or disciplinary proceedings**

**159.(1)** A legal proceeding that could have been started or continued by or against the commissioner or the fire service before the commencement may be started or continued by or against the authority.

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

### **Fire authority officers**

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

### **Conditions of employment of transferred officers**

**161.(1)** The conditions of employment applying to a transferred officer must be no less favourable than the conditions that applied to the officer immediately before the commencement.

(2) A transferred officer remains entitled to all rights accrued or accruing to the officer as an employee of the fire service.

(3) Without limiting subsection (2), a transferred officer is entitled to receive annual, sick and long service leave and any similar entitlements accrued or accruing to the officer as an employee of the fire service.

(4) The recognised service of a transferred officer is taken to be service as an employee of the authority for the purpose of any law dealing with rights or entitlements mentioned in this section.

(5) In subsection (4)—

“**recognised service**” of a transferred officer means the officer’s service as an employee of the fire service, and includes any previous service of the officer taken to be service with the fire service.

## **Trusts**

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

## **Duty to assist transfer of property**

**163.(1)** The registrar of titles and all persons who keep registers of dealings in property must, if asked by the authority, make in the register all entries necessary to record the vesting of property in the authority by this division.

(2) A request under this section is not liable to fees or stamp duty.

## **Superannuation scheme**

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

## **Suspension**

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

## **Appeals**

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

## **Things taken to have been done etc. by chief commissioner**

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

**(2)** If the action mentioned in subsection (1) involves a period of time, the subsection must not be construed as extending or otherwise affecting the period.

**(3)** In this section—

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

## **Things taken to have been done etc. by the authority**

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

**(2)** If the action mentioned in subsection (1) involves a period of time, the subsection must not be construed as extending or otherwise affecting the period.

**(3)** In this section—

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

### **Previous fund**

**170.(1)** The State Fire Services Trust Fund is closed.

**(2)** The amount standing at credit in the State Fire Services Trust Fund immediately before the commencement of this section must be transferred by the Treasurer to a fund established by the Treasurer under the *Financial Administration and Audit Act 1977*, section 11, for the purposes of the authority.<sup>17</sup>

### ***Division 2—Provision for Emergency Services Legislation Amendment Act 1998***

### **Board members go out of office**

**171.(1)** On the commencement of this section the members of the board go out of office.

**(2)** In this section—

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

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<sup>17</sup> The *Financial Administration and Audit Act 1977*, section 11 (Powers of Treasurer re trust and special funds) provides, in part, that the Treasurer ‘.. may establish additional funds that will form part of the trust and special funds and specify the purpose for each such additional fund ....’.

**SCHEDULE 4****MATTERS CONCERNING OPERATION OF THE  
RURAL FIRE COUNCIL**

section 51

**Definitions**

1. In this schedule—

“**board**” means the rural fire council.

“**member**” means a member of the rural fire council.

**Reappointment**

2. A member, if otherwise qualified, is eligible for reappointment.

**Removal from office**

3. The Governor in Council may at any time remove a member from office and the removal takes effect upon notice of the decision being given to the member by the Minister.

**Vacancy in office**

4.(1) A casual vacancy is taken to arise in the membership of a board if a member—

- (a) dies;
- (b) resigns office by giving notice to the Minister;
- (c) is absent without prior leave granted by the board from 3 consecutive ordinary meetings of the board of which due notice has been given;
- (d) ceases to be qualified for appointment;



**SCHEDULE 4 (continued)**

(e) is removed from office.

(2) Attendance of a member of a board at the time and place appointed for a meeting of the board is taken to constitute presence at a meeting notwithstanding that, because a quorum is not present, the meeting scheduled is not held and the secretary to the board must enter in the minutes the name of any member in attendance.

**Filling casual vacancy**

5.(1) Where a casual vacancy arises in the office of member, the Governor in Council may appoint a person to fill the vacancy.

(2) A person appointed to fill a casual vacancy, unless sooner resigning office or removed from office, holds office for the balance of his or her predecessor's term of office and, if otherwise qualified, is eligible for reappointment.

**Meetings and procedure**

6. A board shall meet at such times and conduct its meetings and business in such manner as may be prescribed under a regulation and, to the extent to which those matters are not prescribed, at such times and in such manner as it determines.

**When presiding officer absent**

7. In the absence of the presiding officer (and, where a deputy has been appointed, if that person is also absent) the members present at a meeting of a board must elect one of their number as presiding officer for the day.

**Validation of proceedings**

8. Subject to there being the quorum prescribed for meetings, no proceedings of a board are invalidated by reason of any defect in the appointment of any person as member or by reason of any vacancy existing in the membership of the board.

## SCHEDULE 4 (continued)

**Disclosure of interest**

**9.(1)** If any member of a board present at a meeting of the board has any pecuniary interest, direct or indirect, in any matter to be considered at that meeting the person must, as soon as is practicable after the meeting commences, disclose the fact of that interest and must not participate in consideration of or vote concerning the matter.

**(2)** For the purpose of this section, a person is taken to have an indirect pecuniary interest in a matter if that person—

- (a) is, personally or through a nominee, a member of a company or other body that has a direct pecuniary interest in the matter; or
- (b) is the partner of a person who has a direct pecuniary interest in the matter; or
- (c) is employed by a person who has a direct pecuniary interest in the matter unless the employer is a statutory body established for a public purpose; or
- (d) has a spouse, or lives in a de facto relationship with a person, who has a direct pecuniary interest in the matter or an indirect pecuniary interest of the kind described in paragraph (a), (b) or (c); or
- (e) is lineally related to a person, or has a brother or sister, who has a direct pecuniary interest in the matter or an indirect pecuniary interest of the kind described in paragraph (a), (b) or (c).

**(3)** A person who, in respect of a matter before a board for consideration, fails to comply with subsection (1) commits an offence against this Act unless it is proved that the person did not know of the pecuniary interest in the matter.

**(4)** Any disclosure by a member of a board of a pecuniary interest in a matter before the board must be recorded by the secretary to the board.

**(5)** A board may by resolution exclude from its meeting a member who has a pecuniary interest in a matter while the matter is being considered by the board.

## SCHEDULE 4 (continued)

**Fees, allowances and expenses**

**10.** A member is entitled to such fees, allowances and expenses as are approved by the Governor in Council but in no case is an officer of the public service, the authority or the police service entitled to fees and allowances for discharging functions as member during ordinary hours of duty as an officer.

**SCHEDULE 5****USES OF BUILDINGS**

section 104H

**1.** A building in which there is a room at a level other than ground level used for the purpose of the sale of food or drink to the public or the provision of cabaret entertainment or dance facilities to the public.

**2.** A building used to provide residential accommodation at a floor level other than ground level.

**3.** A building used to provide residential accommodation within an educational institution, a children's hostel or children's welfare institution.

**4.** A building used to provide residential accommodation for medical, psychiatric or geriatric care.

**5.** A building used to sell goods or services to the public in which there is a sales area—

(a) below ground level; or

(b) at a floor level more than 1 floor above ground level; or

(c) exceeding 1000 m<sup>2</sup> at any floor level.

**6.** A building used to accommodate a shop or shops selling goods or services to the public from which the only means of escape is through an enclosed arcade, mall or like structure.

**7.** A building other than a drive-in picture theatre used to accommodate more than 200 persons attending for a public meeting or for recreational, cultural or conference purposes.

**8.** A building used as a workplace within the meaning of the *Workplace Health and Safety Act 1995* in which persons are employed to work in a room or rooms—

(a) below ground level; or

(b) at a floor level more than 1 floor level above ground level.

## SCHEDULE 5 (continued)

**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.

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 21 July 2000. Future amendments of the Fire and Rescue Authority Act 1990 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

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

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 11 of 1995	26 April 1995
2	to Act No. 57 of 1995	3 April 1996
2A	to Act No. 54 of 1996	10 March 1997
2B	to Act No. 28 of 1997	1 August 1997
3	to Act No. 52 of 1997	8 January 1998
3A	to Act No. 13 of 1998	1 May 1998
4	to Act No. 37 of 1998	3 December 1998
4A	to Act No. 20 of 1999	27 May 1999
4B	to Act No. 42 of 1999	1 December 1999
4C	to Act No. 42 of 1999	12 January 2000

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

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Changed citations and remade laws	1, 2
Changed names and titles	1
Corrected minor errors	2, 3
Obsolete and redundant provisions	1
Renumbered provisions	1, 2

## 6 List of legislation

### **Fire and Rescue Authority Act 1990 No. 10 (prev Fire Service Act 1990)**

date of assent 25 May 1990

ss 1–2 commenced on date of assent

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

as amended by—

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

date of assent 10 September 1991

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

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

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

date of assent 17 December 1991

ss 1–2 commenced on date of assent

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

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

date of assent 13 May 1992

ss 1–2 commenced on date of assent

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

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

date of assent 22 May 1992

ss 1–2 commenced on date of assent

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

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

date of assent 7 December 1992

commenced on date of assent



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

date of assent 3 June 1993  
commenced on date of assent

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

date of assent 7 December 1993  
ss 1–2 commenced on date of assent  
remaining provisions commenced 26 March 1994 (see s 2(5))

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

date of assent 1 December 1994  
ss 1–2 commenced on date of assent  
remaining provisions never proclaimed into force and rep 1995 No. 58 s 5(1)  
sch 7

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

date of assent 1 December 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 26 March 1994 (see s 2)

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

date of assent 1 December 1994  
commenced on date of assent

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

date of assent 5 April 1995  
commenced on date of assent

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

date of assent 22 November 1995  
ss 7–10 and 41 (in so far as it inserts new ss 155–156) commenced 8 December  
1995 (1995 SL No. 355)  
remaining provisions commenced on date of assent

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

date of assent 28 November 1995  
commenced on date of assent

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

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

**Fire Service Amendment Act 1996 No. 42**

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

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

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

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

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 30 June 1997 (see s 2(3))

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

date of assent 22 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 13 July 1997 (1997 SL No. 210)

**Fire and Rescue Authority Amendment Act 1997 No. 52**

date of assent 16 October 1997

ss 1–2 commenced on date of assent

s 12 commenced 24 February 1997 (see s 2(2))

s 8 commenced 1 July 1997 (see s 2(3))

ss 7, 13 sch amd 3 commenced 19 December 1997 (1997 SL No. 487)

remaining provisions commenced 28 November 1997 (1997 SL No. 411)

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

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 30 April 1998 (1998 SL No. 55)

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

date of assent 13 November 1998

commenced on date of assent

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

date of assent 30 April 1999

commenced on date of assent

**Radiation Safety Act 1999 No. 20 ss 1–2, 233**

date of assent 30 April 1999

ss 1–2 commenced on date of assent

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

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

date of assent 16 June 1999

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

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

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

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

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

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

date of assent 2 September 1999

ss 1–2 commenced on date of assent

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

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

date of assent 23 March 2000

ss 1–2 commenced on date of assent

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

**7 List of annotations****Title** amd 1996 No. 42 s 4**Short title****s 1** sub 1996 No. 42 s 5**Commencement****s 2** om R2 (see RA s 37)**Repeals****s 3** om R1 (see RA s 40)**Amendments of Acts****s 4** om R1 (see RA s 40)**Savings and transitional****s 5** amd R1 (see RA s 37); 1995 No. 55 s 4  
exp 22 November 1995 (see s 5(15))  
om R2 (see RA s 37)  
AIA s 20A applies (see s 5(14))**Definitions****prov hdg** sub 1995 No. 55 s 5(1)**s 6** def “**appointed member**” ins 1997 No. 52 s 3 sch  
om 1998 No. 37 s 9 schdef “**approved form**” ins 1995 No. 55 s 5(3)def “**approved superannuation scheme**” ins 1995 No. 55 s 5(3)  
om 1997 No. 21 s 25def “**authorised fire officer**” ins 1997 No. 52 s 3 schdef “**authority**” ins 1996 No. 42 s 6(2)def “**authorized fire officer**” om 1991 No. 51 s 3.2def “**board**” ins 1996 No. 42 s 6(2)

om 1998 No. 37 s 9 sch

def “**broadcasting service**” ins 1995 No. 55 s 5(3)def “**chief commissioner**” ins 1996 No. 42 s 6(2)def “**chief executive officer**” ins 1998 No. 37 s 9 schdef “**commissioner**” om 1996 No. 42 s 6(1)def “**conviction**” ins 1996 No. 42 s 6(2)def “**fire authority officer**” ins 1996 No. 42 s 6(2)

- def “**fire ban area**” ins 1995 No. 55 s 5(3)
- def “**fire officer**” amd 1996 No. 42 s 6(3), (4)
- def “**fire service**” ins 1995 No. 55 s 5(3)
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- def “**fire service officer**” ins 1995 No. 55 s 5(3)
  - om 1996 No. 42 s 6(1)
- def “**fire service superannuation scheme**” ins 1995 No. 55 s 5(3)
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- def “**Local Authority**” om 1993 No. 70 s 804 sch
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- def “**Minister**” om R1 (see RA s 39)
- def “**officer of the Queensland Fire Service**” om 1995 No. 55 s 5(2)
- def “**protected area**” ins 1992 No. 20 s 159 sch 2
- def “**Queensland Fire Service**” om 1995 No. 55 s 5(2)
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- def “**vessel**” amd 1999 No. 42 s 54(3) sch pt 3

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**div hdg** ins 1991 No. 51 s 3.18

**Regulations relating to this part**

**s 104S** ins 1991 No. 51 s 3.18  
 amd 1996 No. 42 s 21 sch 2

**PART 10—FUNDING****Division 1—Interpretation**

**div hdg** ins 1994 No. 71 s 4

**Definitions**

**prov hdg** sub 1994 No. 71 s 5  
**s 105** amd 1997 No. 28 s 295 sch 3

def “**component local government**” sub 1993 No. 70 s 804 sch  
 def “**prescribed property**” sub 1994 No. 69 s 229 sch 2 (never  
 proclaimed into force and om 1995 No. 58 s 5(1))  
 amd 1995 No. 55 s 23

**Division 2—Funding for urban fire brigades**

**div hdg** ins 1994 No. 71 s 6

**Constitution of urban districts**

**s 106** amd 1995 No. 55 s 24; 1996 No. 42 s 21 sch 2

**Liability to contribute**

**s 107** amd 1996 No. 42 s 21 sch 2

**Annual contributions of owners of prescribed properties**

**s 108** amd 1995 No. 55 s 25; 1996 No. 42 s 21 sch 2

**Annual returns by component local governments**

**s 109** amd 1995 No. 55 s 26; 1996 No. 42 s 21 sch 2

**Discount for pensioners**

**s 110** amd 1995 No. 55 s 27

**Determinations and notifications of contributions**

**s 112** amd 1991 No. 51 s 3.19; 1995 No. 55 s 28

**Appeal against local government’s determination**

**s 113** amd 1995 No. 55 s 29; 1996 No. 42 ss 21 sch 2, 3 sch 3; 1998 No. 37  
 s 9 sch

**Manner of giving notification**

**s 114** amd 1993 No. 70 s 804 sch

**Annual contribution etc. deemed to be rates**

**s 115** amd 1993 No. 70 s 804 sch

**Contribution to be paid into fund of component local government**

**s 116** sub 1993 No. 70 s 804 sch

**Retention of administration fee by component local governments**

**s 117** amd 1995 No. 55 s 30  
 sub 1997 No. 52 s 8

**Payments by component local governments to authority**

**prov hdg** sub 1996 No. 42 s 20 sch 1

**s 118** amd 1995 No. 55 s 31; 1996 No. 42 s 21 sch 2; 1997 No. 52 s 9;  
 1998 No. 37 s 9 sch

**Failure by component local government to make payment**

**s 119** amd 1995 No. 55 s 32; 1996 No. 42 s 21 sch 2; 1997 No. 52 s 10

**Payments and interest to be debt**

**s 120** amd 1996 No. 42 s 21 sch 2

**Notices about contributions**

**prov hdg** sub 1996 No. 42 s 20 sch 1

**s 122** amd 1996 No. 42 s 21 sch 2

**Recovery of arrears**

**s 123** amd 1995 No. 55 s 33; 1996 No. 42 s 21 sch 2; 1997 No. 52 s 11

**Remitting contributions**

**prov hdg** sub 1996 No. 42 s 20 sch 1

**s 124** amd 1996 No. 42 s 21 sch 2

**Proof of amounts owing re contributions**

**s 125** amd 1995 No. 55 s 34; 1996 No. 42 s 3 sch 3

**Where services of commercial agent engaged**

**s 126** amd 1996 No. 42 s 21 sch 2; 1999 No. 19 s 3 sch

**Division 3—Funding for rural fire brigades**

**div hdg** ins 1994 No. 71 s 7

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

**s 128A** ins 1994 No. 71 s 7  
amd 1995 No. 11 s 7  
sub 1999 No. 30 s 22

**PART 11—GENERAL****Representation of authority at inquiries**

**prov hdg** sub 1996 No. 42 s 20 sch 1

**s 131** amd 1996 No. 42 s 21 sch 2

**Report of fire**

**s 133** amd 1996 No. 42 ss 21 sch 2, 3 sch 3

**Role of police officers at fire or chemical incident**

**prov hdg** sub 1996 No. 42 s 20 sch 1

**s 136** amd 1996 No. 42 s 3 sch 3  
om 2000 No. 5 s 461 sch 3

**Inspection of records of local governments**

**s 137** amd 1996 No. 42 s 21 sch 2

**Use of brigade equipment on roads while unregistered**

**s 138** amd 1996 No. 42 s 21 sch 2; 1999 No. 19 s 3 sch

**Interstate assistance at fire**

**s 139** amd 1996 No. 42 s 3 sch 3

**Ownership of property**

**prov hdg** sub 1996 No. 42 s 20 sch 1

**s 140** amd 1996 No. 42 ss 21 sch 2, 3 sch 3

**Surrender of equipment**

**s 141** amd 1996 No. 42 ss 21 sch 2, 3 sch 3

**Vacating premises**

**s 142** amd 1996 No. 42 ss 21 sch 2, 3 sch 3

**Confidentiality**

**s 142A** ins 1991 No. 51 s 3.20

**Protection of name**

s 143 amd R1 (see RA s 38); 1996 No. 42 ss 15, 21 sch 2

**Charges for services**

s 144 amd 1995 No. 55 s 35; 1996 No. 42 ss 21 sch 2, 3 sch 3; 1997 No. 52  
s 3 sch

**Service of documents**

s 145 amd 1996 No. 42 s 21 sch 2

**Offences**

s 147 amd 1991 No. 51 s 3.21

**Prosecutions**

s 148 amd 1995 No. 55 s 36

**General penalty**

s 149 amd 1995 No. 55 s 37

**Court may order costs of rehabilitation etc. of protected area**

s 149A ins 1992 No. 20 s 159 sch 2

**Power of police to arrest without warrant**

s 152 om 2000 No. 5 s 461 sch 3

**Evidentiary**

s 153 amd 1995 No. 55 s 38; 1996 No. 42 ss 16, 21 sch 2, 3 sch 3

**References to fire safety officer**

s 153A ins 1994 No. 87 s 3 sch 2

**Approval of forms**

s 153B ins 1995 No. 55 s 39

**Regulation-making power**

prov hdg sub 1995 No. 55 s 40(1)

s 154 amd 1991 No. 51 s 3.22; R1 (see RA s 39); 1995 No. 55 s 40(2)–(6); 1996  
No. 42 ss 21 sch 2, 3 sch 3

**PART 12—SAVINGS AND TRANSITIONAL PROVISIONS**

pt hdg ins 1995 No. 55 s 41

sub 1996 No. 42 s 17

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

div hdg ins 1998 No. 37 s 9 sch

**Definitions**

s 155 prev s 155 ins 1995 No. 55 s 41  
exp 8 December 1996 (see s 156(4))  
pres s 155 ins 1997 No. 52 s 12  
amd 1998 No. 37 s 9 sch

**Continuation of appeals**

s 156 ins 1995 No. 55 s 41  
exp 8 December 1996 (see s 156(4))



**References to commissioner**

- s 157**      prev s 157 ins 1995 No. 55 s 41  
               exp 22 February 1996 (see s 157(3))  
               pres s 157 ins 1996 No. 42 s 19

**Vesting of assets**

- s 158**      prev s 158 ins 1995 No. 55 s 41  
               exp 3 April 1996 (see s 158(2))  
               pres s 158 ins 1996 No. 42 s 19

**Legal or disciplinary proceedings**

- s 159**      prev s 159 ins 1995 No. 55 s 41  
               exp 22 November 1995 (see s 159(3))  
               pres s 159 ins 1996 No. 42 s 19

**Fire authority officers**

- s 160**      prev s 160 ins 1995 No. 55 s 41  
               exp 22 November 1995 (see s 160(3))  
               pres s 160 ins 1996 No. 42 s 19

**Conditions of employment of transferred officers**

- s 161**      ins 1996 No. 42 s 19

**Trusts**

- s 162**      ins 1996 No. 42 s 19

**Duty to assist transfer of property**

- s 163**      ins 1996 No. 42 s 19  
               amd 1998 No. 37 s 9 sch

**Superannuation scheme**

- s 164**      ins 1996 No. 42 s 19

**Suspension**

- s 165**      ins 1996 No. 42 s 19

**Appeals**

- s 166**      ins 1996 No. 42 s 19

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

- s 167**      ins 1996 No. 42 s 19

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

- s 168**      ins 1996 No. 42 s 19

**Transitional regulations**

- s 169**      ins 1996 No. 42 s 19  
               exp 24 February 1998 (see s 169(2))

**Previous fund**

- s 170**      ins 1997 No. 52 s 13

**Division 2—Provision for Emergency Services Legislation Amendment Act 1998**

- div hdg**    ins 1998 No. 37 s 14

**Board members go out of office**

s 171 ins 1998 No. 37 s 14

**SCHEDULE 1**

om R1 (see RA s 40)

**SCHEDULE 2**

om R1 (see RA s 40)

**SCHEDULE 3—TRANSITIONAL PROVISIONS**

exp 22 November 1995 (see s 5(15))

om R2 (see RA s 37)

AIA s 20A applies (see s 5(14))

**SCHEDULE 4—MATTERS CONCERNING OPERATION OF THE RURAL  
FIRE COUNCIL**

sch hdg amd 1995 No. 55 s 42(1); 1997 No. 21 s 27(1)–(2)

**Definitions****prov hdg** sub 1995 No. 55 s 42(2)s 1 def “**board**” amd 1995 No. 55 s 42(3)

sub 1997 No. 21 s 27(3)–(4)

def “**member**” amd 1995 No. 55 s 42(3)

sub 1997 No. 21 s 27(3)–(4)

**Filling casual vacancy**

s 5 amd 1995 No. 55 s 42(4)

**Meetings and procedure**

s 6 amd 1995 No. 55 s 42(5)

**Fees, allowances and expenses**

s 10 amd 1996 No. 42 s 3 sch 3

**SCHEDULE 5—USES OF BUILDINGS**

ins 1991 No. 51 s 3.23

amd 1993 No. 32 s 3 sch 1

sub 1995 No. 55 s 43

## **8 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Coal Mining Safety and Health Act 1999 No. 39 s 299 sch 1** reads as follows—

### **FIRE AND RESCUE AUTHORITY ACT 1990**

**1. Section 95(1)(b), ‘Coal Mining Act 1925’—**

*omit, insert—*

*‘Coal Mining Safety and Health Act 1999’.*

**2. Section 104A, definition “building”, paragraph (b), ‘Coal Mining Act 1925’—**

*omit, insert—*

*‘Coal Mining Safety and Health Act 1999’.*

**Mining and Quarrying Safety and Health Act 1999 No. 40 s 274 sch 1** reads as follows—

### **FIRE AND RESCUE AUTHORITY ACT 1990**

**1. Section 95(1)(a), ‘Mines Regulation Act 1964’—**

*omit, insert—*

*‘Mining and Quarrying Safety and Health Act 1999’.*

**2. Section 104A, definition “building”, paragraph (b), ‘Mines Regulation Act 1964’—**

*omit, insert—*

*‘Mining and Quarrying Safety and Health Act 1999’.*