# Fire Services Property Levy Act 2012

**No. 58 of 2012**

Authorised Version as at 17 October 2012

## TABLE OF PROVISIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PART 1—PRELIMINARY</strong></td>
<td>1</td>
</tr>
<tr>
<td>1 Purpose</td>
<td>1</td>
</tr>
<tr>
<td>2 Commencement</td>
<td>2</td>
</tr>
<tr>
<td>3 Definitions</td>
<td>3</td>
</tr>
<tr>
<td>4 Meaning of owner</td>
<td>5</td>
</tr>
<tr>
<td>5 Meaning of non-reviewable in relation to certain determinations or decisions</td>
<td>6</td>
</tr>
<tr>
<td>6 Act binds the Crown</td>
<td>6</td>
</tr>
<tr>
<td><strong>PART 2—THE FIRE SERVICES PROPERTY LEVY</strong></td>
<td>7</td>
</tr>
<tr>
<td>7 What is the fire services property levy?</td>
<td>7</td>
</tr>
<tr>
<td>8 Property that is subject to the levy</td>
<td>7</td>
</tr>
<tr>
<td>9 Determining the parcel of land owned or occupied for levy purposes</td>
<td>7</td>
</tr>
<tr>
<td>10 Land that is not subject to the levy</td>
<td>10</td>
</tr>
<tr>
<td>11 Amount of fixed charge determined by land use classification</td>
<td>12</td>
</tr>
<tr>
<td>12 Determination of levy rates</td>
<td>13</td>
</tr>
<tr>
<td>13 Levy rates may be based on location and land use classification</td>
<td>15</td>
</tr>
<tr>
<td>14 Levy rates based on location of leviable land</td>
<td>15</td>
</tr>
<tr>
<td>15 Levy rates based on land use classification of leviable land</td>
<td>16</td>
</tr>
<tr>
<td>16 Use of valuations</td>
<td>17</td>
</tr>
<tr>
<td>17 Calculating the levy amount payable</td>
<td>17</td>
</tr>
<tr>
<td>18 Minister may specify maximum levy amount payable</td>
<td>18</td>
</tr>
<tr>
<td>19 Liability to pay levy</td>
<td>18</td>
</tr>
<tr>
<td>20 Councils to pay only fixed charge in respect of specified leviable land</td>
<td>19</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td><strong>PART 3—COLLECTION OF LEVY BY COLLECTION AGENCY</strong></td>
<td><strong>21</strong></td>
</tr>
<tr>
<td><strong>Division 1—Appointment, functions and general powers</strong></td>
<td><strong>21</strong></td>
</tr>
<tr>
<td>21 Appointment, functions and powers of a collection agency under this Act</td>
<td>21</td>
</tr>
<tr>
<td>22 Further powers of collection agencies</td>
<td>22</td>
</tr>
<tr>
<td>23 Authorised officers</td>
<td>22</td>
</tr>
<tr>
<td>24 Levy records to be kept by a collection agency</td>
<td>23</td>
</tr>
<tr>
<td><strong>Division 2—Levy collection by collection agencies</strong></td>
<td><strong>24</strong></td>
</tr>
<tr>
<td>25 Levy assessment notice</td>
<td>24</td>
</tr>
<tr>
<td>26 Payment of levy amount</td>
<td>27</td>
</tr>
<tr>
<td>27 Deferred payments and waiver in respect of rateable leviable land</td>
<td>27</td>
</tr>
<tr>
<td>28 Deferred payments and waiver in respect of non-rateable leviable land that is classified residential</td>
<td>29</td>
</tr>
<tr>
<td>29 Concessions</td>
<td>30</td>
</tr>
<tr>
<td>30 Collection agency must charge levy interest on unpaid levy amount</td>
<td>32</td>
</tr>
<tr>
<td>31 Joint liability to pay levy</td>
<td>34</td>
</tr>
<tr>
<td>32 Person acquiring leviable land</td>
<td>34</td>
</tr>
<tr>
<td>33 Collection agency may require occupier to pay rent</td>
<td>36</td>
</tr>
<tr>
<td>34 Recovery of levy not affected by objection, review or appeal</td>
<td>37</td>
</tr>
<tr>
<td>35 Unpaid levy amount</td>
<td>38</td>
</tr>
<tr>
<td>36 Refund of amounts overpaid</td>
<td>39</td>
</tr>
<tr>
<td>37 Levy amounts and levy interest collected by collection agency to be separately accounted for</td>
<td>40</td>
</tr>
<tr>
<td>38 Cancellation of assessment of liability to pay levy amount made in error</td>
<td>41</td>
</tr>
<tr>
<td>39 Revised assessment of liability to pay levy amount</td>
<td>41</td>
</tr>
<tr>
<td><strong>Division 3—Collection agency returns and payment of levy to Commissioner</strong></td>
<td><strong>43</strong></td>
</tr>
<tr>
<td>40 Returns to be submitted to the Commissioner</td>
<td>43</td>
</tr>
<tr>
<td>41 Payment of collected levy to Commissioner</td>
<td>43</td>
</tr>
<tr>
<td><strong>PART 4—COMMISSIONER OVERSIGHT</strong></td>
<td><strong>45</strong></td>
</tr>
<tr>
<td><strong>Division 1—Administration of Part</strong></td>
<td><strong>45</strong></td>
</tr>
<tr>
<td>42 Administration</td>
<td>45</td>
</tr>
<tr>
<td>43 Authorised officers</td>
<td>45</td>
</tr>
<tr>
<td>44 Identity cards for authorised officers performing functions under this Part</td>
<td>45</td>
</tr>
<tr>
<td>45 Delegation</td>
<td>45</td>
</tr>
<tr>
<td>46 Provision of staff</td>
<td>46</td>
</tr>
<tr>
<td>47 Use of consultants and contractors</td>
<td>46</td>
</tr>
</tbody>
</table>
Division 2—Role of, and functions and powers of, Commissioner 46
48 Functions and powers of the Commissioner under this Act 46
49 Commissioner to keep proper accounts 46
50 Levy paid into Consolidated Fund on receipt by Commissioner 47
51 Minister may request the Commissioner to investigate
   collection costs of collection agencies 47
52 Commissioner to pay fees to collection agencies following
   determination by Minister 47
53 Power of Commissioner under this Part 47

Division 3—Investigative powers 47
54 Power of investigation 47
55 Power of entry, search and inspection 48
56 Search warrant 50
57 Announcement before entry 52
58 Copy of warrant to be given to occupier 52
59 Protection against self-incrimination 53
60 Access to public records without fee 53

Division 4—Miscellaneous provisions 54
61 Means of payment by collection agencies 54
62 Appropriation of Consolidated Fund 54
63 Legal proceedings in Commissioner’s name 54

PART 5—SECRECY AND GENERAL PROVISIONS 55
Division 1—Secrecy 55
64 Prohibition on certain disclosures of information by authorised
   persons 55
65 Permitted disclosures to particular persons 55
66 Permitted disclosures of a general nature 56
67 Permitted disclosure that may identify a particular person 56
68 Prohibition on secondary disclosure of information 56
69 Further restrictions on disclosure 57

Division 2—General 57
70 Collection agency fees for levy functions determined by
   Minister 57
71 Alteration of levy records 58
72 Minister may issue directions 58
73 Delegation by Minister 59
74 Minister may request suspension of Council 59
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division 3—Service</td>
<td>59</td>
</tr>
<tr>
<td>Subdivision 1—Service on or by a collection agency</td>
<td>59</td>
</tr>
<tr>
<td>75 Service on a collection agency</td>
<td>59</td>
</tr>
<tr>
<td>76 Service on a person by a collection agency</td>
<td>60</td>
</tr>
<tr>
<td>77 Evidence of service</td>
<td>60</td>
</tr>
<tr>
<td>Subdivision 2—Service on or by the Commissioner</td>
<td>61</td>
</tr>
<tr>
<td>78 Service of documents on Commissioner</td>
<td>61</td>
</tr>
<tr>
<td>79 Day of service of document or payment of money</td>
<td>61</td>
</tr>
<tr>
<td>80 Service of documents by Commissioner</td>
<td>61</td>
</tr>
<tr>
<td>81 Service on a person by the Commissioner</td>
<td>62</td>
</tr>
<tr>
<td>Division 4—Miscellaneous</td>
<td>63</td>
</tr>
<tr>
<td>82 Obstructing collection agency</td>
<td>63</td>
</tr>
<tr>
<td>83 Regulations</td>
<td>63</td>
</tr>
<tr>
<td>84 Supreme Court—Limitation of jurisdiction</td>
<td>64</td>
</tr>
<tr>
<td>PART 6—TRANSITIONAL ARRANGEMENTS</td>
<td>65</td>
</tr>
<tr>
<td>Division 1—Review of the insurance industry</td>
<td>65</td>
</tr>
<tr>
<td>85 Definitions</td>
<td>65</td>
</tr>
<tr>
<td>86 Commission to review premiums of insurance companies following introduction of levy under this Act</td>
<td>66</td>
</tr>
<tr>
<td>87 Conduct of review</td>
<td>67</td>
</tr>
<tr>
<td>88 Objectives not to apply</td>
<td>67</td>
</tr>
<tr>
<td>89 Powers relating to reviews</td>
<td>67</td>
</tr>
<tr>
<td>90 Protection against self-incrimination</td>
<td>68</td>
</tr>
<tr>
<td>91 Report</td>
<td>69</td>
</tr>
<tr>
<td>Division 2—Amendment of Essential Services Commission Act 2001</td>
<td>70</td>
</tr>
<tr>
<td>92 Amendment of section 10—Functions of the Commission</td>
<td>70</td>
</tr>
<tr>
<td>93 Amendment of section 38—Restriction on disclosure of confidential information</td>
<td>70</td>
</tr>
<tr>
<td>PART 7—AMENDMENT OF COUNTRY FIRE AUTHORITY ACT 1958</td>
<td>72</td>
</tr>
<tr>
<td>94 Amendment of section 3—Definitions</td>
<td>72</td>
</tr>
<tr>
<td>95 Amendment of sections 7 and 10—Constitution and quorum of Authority</td>
<td>72</td>
</tr>
<tr>
<td>96 Amendment of section 75—Annual estimate of expenditure and revenue</td>
<td>72</td>
</tr>
<tr>
<td>97 Amendment of section 76—Amounts of contributions</td>
<td>73</td>
</tr>
<tr>
<td>98 Amendment of section 77—Returns of premiums</td>
<td>73</td>
</tr>
<tr>
<td>99 Amendment of section 78—Penalties in relation to returns</td>
<td>74</td>
</tr>
<tr>
<td>100 Repeal of section 103A</td>
<td>74</td>
</tr>
</tbody>
</table>
PART 8—AMENDMENT OF METROPOLITAN FIRE BRIGADES ACT 1958

103 Amendment of section 3—Definitions 76
104 Amendment of section 36—Annual estimate of expenditure and revenue 76
105 Amendment of section 37—Contributions towards annual expenditure 77
106 Amendment of section 40—Returns of premiums 77
107 Amendment of section 41—Penalties in relation to returns 77
108 Amendment of section 47—Power of Minister in case of default of Board 78
109 Repeal of section 69A 78
110 Repeals 78

PART 9—AMENDMENT OF VALUATION OF LAND ACT 1960

111 Amendment of section 2—Definitions 79
112 Amendment of section 5—Functions of valuer-general 82
113 Amendment of section 6—Participation in general valuations made by a valuation authority 82
114 Amendment of section 7—Requirement to confer with valuer-general 82
115 Amendment of section 7AA—Requirement to report on council general valuation 83
116 Amendment of section 7AB—Return of amended council general valuation 83
117 Amendment of section 7AC—Assessment of council general valuation by valuer-general 84
118 Amendment of section 7AE—Order where council general valuation reported not generally true and correct 84
119 Amendment of section 7AF—Declaration where general valuation certified true and correct 85
120 Amendment of sections 7AG and 7A—Restriction on payment of valuers for general valuations 85
121 Amendment of section 7B—Council to provide valuation to valuer-general 85
122 Amendment of section 7C—Valuer-general to maintain valuation record 85
123 Amendment of section 8AA—Fees for copy of valuation 86
124 Amendment of section 13DC—Valuations generally 86
125 Amendment of section 13DF—Supplementary valuation 87
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>126</td>
<td>New Part IIA inserted</td>
</tr>
<tr>
<td><strong>PART IIA—VALUATIONS FOR FIRE SERVICES</strong>&lt;br&gt;<strong>PROPERTY LEVY ACT 2012</strong></td>
<td><strong>PART IIA—VALUATIONS FOR FIRE SERVICES</strong>&lt;br&gt;<strong>PROPERTY LEVY ACT 2012</strong></td>
</tr>
<tr>
<td>13E</td>
<td>Application of Part</td>
</tr>
<tr>
<td>13F</td>
<td>Where council is valuation authority</td>
</tr>
<tr>
<td>13G</td>
<td>Where valuer-general is valuation authority</td>
</tr>
<tr>
<td>13H</td>
<td>General valuation to be made every two years</td>
</tr>
<tr>
<td>13I</td>
<td>Minister may direct a general valuation of non-rateable leviable land</td>
</tr>
<tr>
<td>13J</td>
<td>Council valuations</td>
</tr>
<tr>
<td>13K</td>
<td>Valuations generally</td>
</tr>
<tr>
<td>13L</td>
<td>Supplementary valuation</td>
</tr>
<tr>
<td>13M</td>
<td>Certification of supplementary valuation</td>
</tr>
<tr>
<td>13N</td>
<td>Valuation authority to make supplementary valuation on behalf of collection agency</td>
</tr>
<tr>
<td>13O</td>
<td>Valuer's powers and duties</td>
</tr>
<tr>
<td>13P</td>
<td>Person may apply for valuation</td>
</tr>
<tr>
<td>127</td>
<td>Amendment of section 15—Notice of valuation</td>
</tr>
<tr>
<td>128</td>
<td>Amendment of section 16—Who may object?</td>
</tr>
<tr>
<td>129</td>
<td>Amendment of section 17—Grounds for objection</td>
</tr>
<tr>
<td>130</td>
<td>Amendment of section 19—Further limitation on lodging objections if previous objection lodged</td>
</tr>
<tr>
<td><strong>PART 10—CONSEQUENTIAL AMENDMENT TO VICTORIAN MANAGED INSURANCE AUTHORITY ACT 1996 AND REPEAL</strong></td>
<td><strong>PART 10—CONSEQUENTIAL AMENDMENT TO VICTORIAN MANAGED INSURANCE AUTHORITY ACT 1996 AND REPEAL</strong></td>
</tr>
<tr>
<td>Division 1—Consequential amendment</td>
<td>Division 1—Consequential amendment</td>
</tr>
<tr>
<td>131</td>
<td>Amendment of Victorian Managed Insurance Authority Act 1996</td>
</tr>
<tr>
<td><strong>Division 2—Repeal</strong></td>
<td><strong>Division 2—Repeal</strong></td>
</tr>
<tr>
<td>132</td>
<td>Repeal</td>
</tr>
<tr>
<td><strong>PART 11—FURTHER AMENDMENT OF ESSENTIAL SERVICES COMMISSION ACT 2001 AND RELATED REPEALS</strong></td>
<td><strong>PART 11—FURTHER AMENDMENT OF ESSENTIAL SERVICES COMMISSION ACT 2001 AND RELATED REPEALS</strong></td>
</tr>
<tr>
<td>133</td>
<td>Repeal of Division 1 of Part 6</td>
</tr>
<tr>
<td>134</td>
<td>Amendment of section 10—Functions of the Commission</td>
</tr>
<tr>
<td>135</td>
<td>Amendment of section 38—Restriction on disclosure of confidential information</td>
</tr>
<tr>
<td>136</td>
<td>Repeal</td>
</tr>
</tbody>
</table>

**SCHEDULE—AVPCC Allocation** 102
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENDNOTES</td>
<td>103</td>
</tr>
<tr>
<td>1. General Information</td>
<td>103</td>
</tr>
<tr>
<td>2. Table of Amendments</td>
<td>104</td>
</tr>
<tr>
<td>3. Explanatory Details</td>
<td>105</td>
</tr>
</tbody>
</table>
Authorised Version No. 001

Fire Services Property Levy Act 2012

No. 58 of 2012

Authorised Version as at
17 October 2012

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is to—

(a) impose a fire services property levy on all land in Victoria, unless specifically exempted, to fund the Metropolitan Fire and Emergency Services Board and the Country Fire Authority; and

(b) provide for the appointment of each Council as a collection agency in respect of its municipal district; and

(c) enable the Minister to direct a Council to be a collection agency in respect of land not located in its municipal district; and

(d) enable a collection agency to collect the fire services property levy; and

(e) to provide for the Commissioner of State Revenue—

(i) to receive the fire services property levy collected by collection agencies and pay it into the Consolidated Fund; and

(ii) to generally monitor the performance of collection agencies; and
(f) empower the Essential Services Commission to review the movement in the cost of insurance premiums following the enactment of the Act; and

(g) make consequential amendments to the Country Fire Authority Act 1958, the Essential Services Commission Act 2001, the Metropolitan Fire Brigades Act 1958, the Valuation of Land Act 1960 and the Victorian Managed Insurance Authority Act 1996.

2 Commencement

(1) This Act (other than sections 94, 95, 97, 100, 101, 102, 103, 105, 108, 109 and 110 and Parts 10 and 11) comes into operation on the day after the day on which this Act receives the Royal Assent.

(2) Sections 97(3) and 105(2) come into operation on 31 December 2012.

(3) Sections 95, 97(1), 97(2), 102, 105(1) and 108 and Part 10 come into operation on 1 July 2013.

(4) Subject to subsection (5), sections 94, 100, 101(1), 103, 109 and 110(1) come into operation on a day or days to be proclaimed.

(5) If a provision referred to in subsection (4) does not come into operation before 1 July 2014, it comes into operation on that day.

(6) Subject to subsection (7), sections 101(2) and 110(2) come into operation on a day or days to be proclaimed.

(7) If a provision referred to in subsection (6) does not come into operation before 1 July 2015, it comes into operation on that day.

(8) Part 11 comes into operation on 31 December 2016.
3 Definitions

In this Act—

authorised person means—

(a) an authorised officer within the meaning of section 23;
(b) an authorised officer within the meaning of section 43;
(c) any other person engaged (whether as an officer or employee or otherwise) in the administration of this Act;

AVPCC means an Australian Valuation Property Classification Code based on the Valuation Best Practice Specifications Guidelines;

capital improved value has the same meaning as it has in section 2(1) of the Valuation of Land Act 1960;

CFA means the Country Fire Authority established under the Country Fire Authority Act 1958;

collection agency means a Council—

(a) appointed to collect levy in respect of leviable land in its municipal district including leviable land owned by the Council;
(b) directed by the Minister to be the collection agency in respect of non-rateable leviable land outside the municipal district of the Council;

Commissioner means the Commissioner of State Revenue under the Taxation Administration Act 1997;
Authorised by the Chief Parliamentary Counsel

Fire Services Property Levy Act 2012
No. 58 of 2012
Part 1—Preliminary

 Council has the same meaning as it has in section 3(1) of the Local Government Act 1989;

country area of Victoria means that part of Victoria which lies outside the metropolitan fire district;

fixed charge means the part of the levy amount that is fixed in accordance with section 11;

leviable land means land specified in section 8;

levy means the levy payable in respect of leviable land in accordance with Part 2 and is comprised of—

(a) the levy amount; and

(b) any levy interest that may be payable in respect of an unpaid levy amount;

levy amount means the amount of levy payable by an owner as assessed and calculated in accordance with Part 2;

levy interest means interest payable on unpaid levy amounts by an owner;

levy rate means levy rate determined by the Minister under Part 2;

levy records means the records maintained by a collection agency under section 24;

levy year means 1 July to 30 June;

MFB means the Metropolitan Fire and Emergency Services Board established under the Metropolitan Fire Brigades Act 1958;

metropolitan fire district means metropolitan fire district within the meaning of section 4 of the Metropolitan Fire Brigades Act 1958;
municipal district has the same meaning as it has in section 3(1) of the Local Government Act 1989;

non-rateable leviable land means leviable land—
(a) that is located in a municipal district but is not rateable land;
(b) that is not located in a municipal district;

non-reviewable decision has the meaning given by section 5;

owner has the meaning given by section 4;

public body has the meaning given by section 10(2);

rateable land has the same meaning as it has in section 3(1) of the Local Government Act 1989;

valuation authority has the same meaning as it has in section 2(1) of the Valuation of Land Act 1960;

Valuation Best Practice Specifications Guidelines has the same meaning as it has in section 2(1) of the Valuation of Land Act 1960;

valuer-general means the valuer-general within the meaning of the Valuation of Land Act 1960.

4 Meaning of owner

(1) For the purposes of this Act, an owner, in relation to land, means—
(a) a person entitled to a parcel of land for a freehold estate in possession;
(b) a person entitled to a parcel of land under a lease of Crown land;
(c) a person entitled to a parcel of land under a licence of Crown land if the person has a right, absolute or conditional, of acquiring the fee simple.

(2) Subsection (1)(b) does not apply to a person entitled to land under a sublease of Crown land.

5 Meaning of non-reviewable in relation to certain determinations or decisions

If a provision of this Act provides that a determination or decision is a non-reviewable decision no court or administrative review body has jurisdiction or power to entertain any question as to the validity or correctness of the determination or decision.

6 Act binds the Crown

(1) This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all other capacities.

(2) Nothing in this Act makes the Crown in any of its capacities liable to be prosecuted for an offence.
PART 2—THE FIRE SERVICES PROPERTY LEVY

7 What is the fire services property levy?

The fire services property levy is a levy that is—

(a) an annual charge payable by the owner of leviable land;

(b) unless section 20 applies, calculated in accordance with section 17.

8 Property that is subject to the levy

(1) The levy is assessable against any parcel of land subject to separate ownership or occupation in accordance with section 9.

(2) Land specified in subsection (1) is leviable land.

9 Determining the parcel of land owned or occupied for levy purposes

(1) The ownership or occupation of a parcel of land for the purposes of valuation and the assessment of levy under this Act must be determined in accordance with this section.

(2) Several parcels of land must be regarded as together forming leviable land and levied accordingly if the parcels of land—

(a) are in the same—

   (i) municipal district; or

   (ii) area that is not located in a municipal district; and

(b) are occupied by the same person; and

(c) are separated from each other only by a road or railway or other similar area across or around which movement is reasonably possible.
(3) If any person is liable to be levied in respect of 2 or more unoccupied parcels of land in the same municipal district or in an area not located in a municipal district and the parcels form one continuous area, the parcels must be regarded as together forming leviable land and levied accordingly.

(4) If a portion of a parcel of land on which a building is erected is occupied separately, or is obviously adapted to being occupied separately, from other land in the parcel, that portion must be regarded as forming separate leviable land and must be levied accordingly.

(5) If any portion of a parcel or parcels of land forming leviable land for the purposes of a levy rate or of a rate to be levied by any other collection agency using the valuation is subject—

(a) to a rate levied in respect of that portion only; or

(b) to a differential rate which differs from the rate levied in respect of the remainder of that parcel or those parcels—

the value of the land must be apportioned so as to show separately the value of the portion.

(6) If land comprising one undertaking extends continuously beyond the boundaries of any municipal district, for the purposes of any levy—

(a) the value of so much of the land as is within any one municipal district, must be assessed as part of the value of the whole of the land;

(b) the fixed charge part of the levy is to be apportioned so that the entire fixed charge for the undertaking is levied only in respect of the largest portion of the land and every other portion of land that forms a part of the
undertaking is deemed to have a fixed charge of $0.

(7) If 2 or more portions of the land comprising one undertaking under subsection (6)(b) are equally the largest, the Minister must in writing direct which of the portions of land the fixed charge is to be levied against.

(8) If any person is liable to be levied in respect of 2 or more parcels of leviable land that is farm land within the meaning of section 2(1) of the Valuation of Land Act 1960, or would be farm land if it were 2 hectares or more in area, and the parcels of land constitute a single farm enterprise, the person may apply to the collection agency for an exemption from the liability to pay the fixed charge part of the levy in respect of each parcel of leviable land that constitutes the single farm enterprise if—

(a) an exemption is not claimed in respect of at least one parcel of leviable land which forms part of the single farm enterprise; and

(b) in the case of a single farm enterprise which is occupied by more than one person, an exemption is not claimed in respect of more than one principal place of residence.

(9) In subsection (8), *single farm enterprise* means 2 or more parcels of leviable land—

(a) which—

(i) are farm land; and

(ii) are farmed as a single enterprise; and

(iii) are occupied by the same person or persons—

whether or not the parcels of land are contiguous or are located in the same municipal district; or
(b) which—

(i) as to all the properties except one, are farm land farmed as a single enterprise occupied by the same person or persons; and

(ii) as to one property contiguous with at least one of the other properties, is the principal place of residence of that person or one of those persons.

(10) An application made to a collection agency under subsection (8) must be in the form and made within the period—

(a) specified in a direction of the Minister made under section 72; or

(b) if the Minister has not made a direction for the purposes of this section, specified by the relevant collection agency.

(11) A collection agency may require an applicant for an exemption under subsection (8) to give further particulars, or to verify particulars, in respect of the person's application.

(12) A person who has made an application for, or who has been granted, an exemption under subsection (8), must advise the relevant collection agency of any change in circumstances that could affect the person's eligibility for an exemption under that subsection.

10 Land that is not subject to the levy

(1) The following land is not land in respect of which the levy is payable—

(a) state owned land including—

(i) land of the Crown; or
(ii) land of a public body—
except where that land is leased or licensed to any person;

(b) Commonwealth land;

(c) any parcel of land that has been allocated an exempt land use classification;

(d) any other land exempted by the regulations.

(2) In this section—

controlled has the same meaning as it has in the Australian Accounting Standards as issued by the Australian Accounting Standards Board;

public body means—

(a) a controlled entity of the State which is classified as a General Government sector entity as defined and listed in the Annual Financial Report for the State of Victoria; or

(b) a body (other than a body specified in paragraph (a)), office or trust—

(i) established by or under an Act or enactment; or

(ii) established by the Governor in Council or Minister—
declared by the Minister, by notice published in the Government Gazette, to be a public body for the purposes of this section.
11 Amount of fixed charge determined by land use classification

(1) The fixed charge part of the levy, payable in respect of leviable land, is—

(a) based on the land use classification of that leviable land as specified in subsection (2); and

(b) to be adjusted for each levy year commencing on or after 1 July 2014 in accordance with subsection (3).

Note
The manner of determining the land use classification for a parcel of land that is leviable land is specified in section 15.

(2) The fixed charge payable in respect of—

(a) residential land is $100.00;

(b) commercial land is $200.00;

(c) industrial land is $200.00;

(d) primary production land is $200.00;

(e) public benefit land is $200.00;

(f) vacant land (excluding vacant residential land) is $200.00.

(3) The CPI adjusted fixed charge for a levy year commencing on or after 1 July 2014 is to be determined in accordance with the following formula—

\[ C = \frac{L \times A}{B} \]

where—

\( C \) is the CPI adjusted fixed charge being determined, rounded down to the nearest 2 decimal places;
L is the amount of the fixed charge for the previous levy year;

A is the sum of the consumer price index numbers for the 4 consecutive quarters of March, June, September and December, with the March and June quarters being the March and June quarters of the previous levy year (levy year before the levy year in which 31 May falls);

B is the sum of the consumer price index numbers for the 4 consecutive quarters of March, June, September and December, with the March and June quarters being the March and June quarters of the levy year that is 2 years before the levy year (2 years before the levy year in which 31 May falls).

(4) The CPI adjusted fixed charge determined under subsection (3) is to be rounded up or down to the nearest $1 (and, if the amount by which the fixed charge is to be rounded is 50 cents, is to be rounded up).

(5) The Minister must publish the CPI adjusted fixed charge for a levy year on an appropriate website on or before 31 May in the previous year.

(6) In this section—

consumer price index means the Consumer Price Index (All Groups Index) for Melbourne issued by the Australian Statistician (or, if the regulations prescribe another economic index for the purposes of this section, that other index).

12 Determination of levy rates

(1) On or before 31 May each year, the Minister may determine and specify, by notice published in the Government Gazette, the levy rates for the next levy year.
(2) In determining the levy rates under subsection (1), the Minister must have regard to—

(a) in the case of the levy rates for the 2013–2014 levy year—

(i) the annual funding requirements of the MFB, for which the State will contribute 12·5% and the levy will fund 87·5%, as determined under section 37 of the Metropolitan Fire Brigades Act 1958; and

(ii) the annual funding requirements of the CFA, for which the State will contribute 22·5% and the levy will fund 77·5%, as determined under section 76 of the Country Fire Authority Act 1958; and

(iii) any transitional costs associated with the introduction of the levy; and

(iv) the administrative costs of collection agencies in performing functions under this Act; and

(v) any other matter the Minister considers is relevant to the proper determination of the levy rates;

(b) in the case of the levy rates for each levy year subsequent to the 2013–2014 levy year—

(i) the funding requirements of the MFB and CFA in the levy year in which a determination under subsection (1) is to be made and any likely changes to the funding requirements of the MFB and CFA in the following levy year; and

(ii) any surplus financial assets for the MFB and CFA; and
(iii) any shortfall in the collection of the levy; and

(iv) the administrative costs of collection agencies in performing functions under this Act; and

(v) any other matter the Minister considers is relevant to the proper determination of the levy rates.

(3) For the purposes of subsections (2)(a)(iv) and (2)(b)(iv), the Minister may consult persons who the Minister reasonably believes represent the interests of a collection agency in the performance of the functions of a collection agency under this Act.

(4) Subject to subsection (2), a determination of the Minister under this section is in his or her absolute discretion.

(5) A determination made by the Minister under this section is a non-reviewable decision.

13 Levy rates may be based on location and land use classification

The Minister may determine different levy rates under section 12 based on—

(a) the location of the leviable land as specified in section 14; and

(b) the land use classification of leviable land as specified in section 15.

14 Levy rates based on location of leviable land

(1) The Minister may determine different levy rates based on whether leviable land is located in the metropolitan fire district or in the country area of Victoria.
(2) If the Minister does not determine and specify a levy rate based on location by 31 May for the next levy year, the levy rate for the next levy year is the most recent levy rate based on location set by the Minister.

15 Levy rates based on land use classification of leviable land

(1) The following land use classifications are specified for the purpose of the Minister determining different levy rates based on the land use classification of leviable land—
   (a) residential;
   (b) commercial;
   (c) industrial;
   (d) primary production;
   (e) public benefit;
   (f) vacant land (excluding vacant residential land).

(2) Levy is not payable in respect of land that has been given an exempt land use classification.

(3) Land is taken to be used for one of the purposes referred to in subsection (1) or (2) based on the AVPCC allocated to a parcel of land by the valuation authority under the Valuation of Land Act 1960.

(4) A parcel of land is taken to have the land use classification specified in the Schedule based on the AVPCC allocated to that parcel of land under subsection (3).

(5) The land use classification determined under subsection (4) and specified in the Schedule is a non-reviewable decision.
16 Use of valuations

For the purposes of calculating the capital improved value of leviable land, valuations made under the *Valuation of Land Act 1960* in respect of rateable and non-rateable leviable land by a valuation authority must be used.

17 Calculating the levy amount payable

Subject to section 18, the levy amount payable by an owner of leviable land is to be determined in accordance with the formula—

$$LA = FC + (LR \times CIV)$$

where—

**LA** is the levy amount;

**FC** means—

(a) if section 9(6)(b) applies to the leviable land and the leviable land is not the largest portion in an undertaking, $0;

(b) if section 9(7) applies and the portion in an undertaking is not the portion in respect of which the Minister has made a direction, $0;

(c) in all other cases, the fixed charge that applies to the leviable land specified in section 11(2) as adjusted under section 11(3);

**LR** is the levy rate determined by the Minister under section 12 that applies to the leviable land;

**CIV** means the capital improved value of the leviable land.
18 Minister may specify maximum levy amount payable

(1) The Minister may specify by notice published in the Government Gazette the maximum levy amount payable in respect of leviable land.

(2) The maximum levy amount payable specified by the Minister under subsection (1) may vary based on the land use classification of the leviable land.

19 Liability to pay levy

(1) Subject to section 20, the owner of leviable land is liable to pay the levy amount and levy interest on that land.

(2) For the purposes of this Act and Parts II and IIA of the Valuation of Land Act 1960 a caravan park is a single parcel of leviable land in respect of which the caravan park owner is taken to be the single occupier and is liable to pay the levy.

(3) A person who has a licence to pasture any animals on Crown land under the Forests Act 1958, the Land Act 1958 or the Water Act 1989, is taken to be the owner of the land and is liable to pay the levy on that land as if it is leviable land.

(4) A person who has or should have a licence under the Land Act 1958 in respect of unused roads or water frontages is taken to be the owner of the land and is liable to pay the levy on that land as if it is leviable land.

(5) A person who is a licensee of vested land under Part 3A of the Victorian Plantations Corporation Act 1993 is taken to be the owner of the land and is liable to pay the levy on that land as if it is leviable land.

(6) A levy amount or levy interest payable in relation to leviable land that is unpaid and any costs awarded to a collection agency by a court or in
any proceedings in relation to a levy amount or levy interest are a first charge on that land.

Note

Amounts referred to in subsection (6) are an equal first charge on land together with any rates or charges and any costs awarded to a Council by a court—see section 156(6) of the Local Government Act 1989.

20 Councils to pay only fixed charge in respect of specified leviable land

(1) This section applies to leviable land that—

(a) is vested in, occupied by or under the care, control and management of a Council; and

(b) is not used for commercial or business purposes; and

(c) is taken to have a public benefit land use classification in accordance with section 15 and is allocated any of the following AVPCC—

(i) 750–752;
(ii) 821;
(iii) 824;
(iv) 829;
(v) 832;
(vi) 835–837;
(vii) 842;
(viii) 844–845;
(ix) 900–973;
(x) 990–991.

Note

An AVPCC that has a decimal place is to be treated as a whole number rounded down to the nearest whole number.
(2) A Council is liable to pay only the relevant fixed charge specified in section 11(2) in respect of leviable land to which this section applies.

(3) For the avoidance of doubt, a Council is not liable to pay the levy amount calculated in accordance with section 17 in respect of leviable land to which this section applies.

(4) In this section, *land used for commercial or business purposes* includes land used—

(a) by golf clubs; or

(b) for race-courses.
PART 3—COLLECTION OF LEVY BY COLLECTION AGENCY

Division 1—Appointment, functions and general powers

21 Appointment, functions and powers of a collection agency under this Act

(1) For the purposes of this Act each Council is appointed as a collection agency in respect of land in its municipal district including in respect of land owned by the Council in its municipal district.

(2) The Minister may, in writing, direct a Council to be a collection agency in respect of non-rateable leviable land that is not located within the boundaries of a municipal district.

(3) A collection agency appointed under subsection (1) has the following functions under this Act—

(a) to assess the amount of levy payable in a levy year by an owner of leviable land in the municipal district of the collection agency;

(b) to collect the levy payable in respect of leviable land in the municipal district of the collection agency;

(c) to keep records of a kind specified in section 24(1)(a)(i) in respect of leviable land in its municipal district;

(d) any other function conferred on a collection agency by or under this Act.

(4) A Council that has been directed to be a collection agency in respect of non-rateable leviable land that is not located within the boundaries of its municipal district under subsection (2) has the following functions—
(a) to assess the amount of levy payable in a levy year by an owner of the non-rateable leviable land;

(b) to collect the levy payable in respect of the non-rateable leviable land;

(c) to keep records of a kind specified in section 24(1)(a)(ii) in respect of the non-rateable leviable land;

(d) any other function conferred on a collection agency by or under this Act.

(5) Without limiting the powers of a Council under the Local Government Act 1989, a Council appointed as, or directed to be, a collection agency has power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this Act.

22 Further powers of collection agencies

A collection agency may exercise powers under the following sections of the Local Government Act 1989, with any such modifications as are necessary, in order to perform its functions and duties under this Act as if the collection agency were acting in its role as a Council under the Local Government Act 1989—

(a) section 229 of the Local Government Act 1989 (land information certificate);

(b) section 232 of the Local Government Act 1989 (proceedings).

23 Authorised officers

A person who is appointed as an authorised officer under the Local Government Act 1989 is an authorised officer for the purposes of this Act (except in Part 4 of this Act).
24 Levy records to be kept by a collection agency

(1) A collection agency must keep records (levy records) of the following information for the purposes of section 21(3) and (4)—

(a) a brief description of leviable land that is—
   (i) in the municipal district of the collection agency and subject to a separate assessment of levy;
   (ii) if the collection agency has been directed by the Minister to collect levy in respect of leviable land not located in its municipal district that is subject to a separate assessment of levy—that non-rateable leviable land;

(b) the capital improved value for the time being determined or adopted by the valuation authority for land specified in paragraph (a);

(c) the land use classification for land specified in paragraph (a);

(d) the AVPCC allocated to land specified in paragraph (a);

(e) the names and addresses of owners of land specified in paragraph (a);

(f) any prescribed information.

(2) The levy records to be kept by a collection agency under this section—

(a) must be current;

(b) must be made available—
   (i) to a permitted person on request; or
   (ii) at the request of a person acting on behalf of a permitted person;

(c) must be recorded accurately;
(d) may be organised in parts and stored in different locations and responsibility for the maintenance of each part may be allocated to different persons.

(3) A collection agency may alter levy records kept under this section at any time in order to keep the records current.

(4) In this section, permitted person means—

(a) the collection agency keeping the records;
(b) the owner of leviable land, in respect of the records kept on the land owned by that person;
(c) the Commissioner;
(d) a prescribed person.

Division 2—Levy collection by collection agencies

25 Levy assessment notice

(1) The collection agency must give a written notice (the assessment notice) to—

(a) the owner of any leviable land in respect of which a levy has been assessed as being payable (except if the owner of the leviable land is the collection agency in its capacity as a Council); or

(b) if the owner has made a written request that specifies a person in respect of whom the assessment notice should be sent—the person specified in the written request (the specified person).

Note

A collection agency is required to submit a return to the Commissioner—see section 40.
(2) The assessment notice must specify—

(a) the date of the notice;

(b) the name and address of the owner of the leviable land and, if applicable, the specified person;

(c) the levy amount due including—

(i) the fixed charge and the amount derived from multiplying the levy rate with the capital improved value; and

(ii) how that amount is calculated;

(d) the levy rate;

(e) the land use classification;

(f) the address or a legal description of the leviable land;

(g) the capital improved value of the leviable land;

(h) the date by which the levy amount must be paid;

(i) any outstanding levy amount and any levy interest that may be due in respect of an outstanding levy amount payable in respect of the leviable land;

(j) that, if the leviable land is rateable land, the owner may apply for a waiver, deferral or concession in respect of the levy amount in accordance with section 27;

(k) that, if the leviable land is classified residential for land use classification purposes but is not rateable land, the owner may apply for a waiver, deferral or concession in respect of the levy amount in accordance with section 28;

(l) any prescribed matters.
(3) An assessment notice must be given to the owner, or the specified person, at least 14 days before the payment of the levy amount is due.

(4) The details of an assessment notice required to be specified under subsection (2) must—

(a) if the notice is in respect of leviable land other than non-rateable leviable land—be specified on the notice of the general rates, municipal charges, service rates and service charges under section 158 of the Local Government Act 1989 sent by the collection agency to an owner or specified person, in its capacity as a Council;

(b) if the notice is in respect of non-rateable leviable land—by providing a separate notice or as part of any other notice a collection agency may send to an owner or specified person.

(5) Despite anything to the contrary in the Local Government Act 1989, if an amount (being an amount less than the instalment amount or lump sum amount payable) is paid in respect of rateable leviable land in accordance with a notice given under subsection (4)(a), that amount must be divided proportionally towards the payment of the rates or charges owed under Part 8 of the Local Government Act 1989 and the levy owed under this Act.

(6) If subsection (5) applies, after the part payment of the instalment or lump sum has been divided as provided in that subsection, the collection agency must transfer to the Commissioner, in accordance with section 41, the amount of the payment that has been assigned to payment of the levy.
26  Payment of levy amount

(1) A collection agency must allow a person to pay a levy amount in 4 instalments.

(2) An instalment is due and payable on the same date fixed by the Minister administering the *Local Government Act 1989*, by notice published in the Government Gazette, under section 167(2) of that Act for payment of a rate or charge under that Act.

(3) A collection agency may allow a person to pay a levy amount in a lump sum.

(4) If allowed, a lump sum payment of a levy amount is due and payable on the same date fixed by the Minister administering the *Local Government Act 1989*, by notice published in the Government Gazette, under section 167(2B) of that Act for payment of a lump sum payment of general rates, municipal charges, service rates or services charges.

27  Deferred payments and waiver in respect of rateable leviable land

(1) Sections 170, 171 and 171A of the *Local Government Act 1989* apply to a collection agency for the purposes of the payment of levy in respect of rateable leviable land in the municipal district of the collection agency subject to the modifications specified in this section.

(2) Section 170 of the *Local Government Act 1989* applies as if—

(a) for "Council" there were substituted "collection agency";

(b) for "rate or charge" there were substituted "levy amount".
(3) Section 170(3) of the **Local Government Act 1989** applies as if for paragraphs (a) and (b) there were substituted—

"(a) require that person to pay the whole or part of any deferred levy amount within 14 days from the date of the notice if—

(i) it considers that the person's circumstances have so changed that the payment would no longer cause hardship to the person; or

(ii) the person no longer owns or occupies the land in relation to which the levy amount was levied; and

(b) require the payment of levy interest for the late payment of the levy amount from the date the collection agency retracts the deferral of payment of the levy amount.".

(4) Sections 171 and 171A of the **Local Government Act 1989** apply as if—

(a) for "Council" there were substituted "collection agency";

(b) for "rate or charge" there were substituted "levy amount";

(c) for "rates or charges" there were substituted "levy amount";

(d) for "rates, charges" there were substituted "levy amount";

(e) for "interest" there were substituted "levy interest".

(5) A collection agency may only defer or waive the whole or part of a levy payment under this section if the collection agency has waived the whole or part of any rate or charge or interest under sections 170, 171 and 171A of the **Local**
Government Act 1989 in its capacity as a Council in respect of the same land.

28 Deferred payments and waiver in respect of non-rateable leviable land that is classified residential

(1) Subject to the modifications specified in this section, sections 170, 171 and 171A of the Local Government Act 1989 apply to a Council directed to be a collection agency under section 21(2) for the purposes of the payment of levy in respect of non-rateable leviable land that is classified residential for land use classification purposes.

(2) Section 170 of the Local Government Act 1989 applies as if—

(a) for "Council" there were substituted "collection agency";

(b) for "rate or charge" there were substituted "levy amount".

(3) Section 170(3) of the Local Government Act 1989 applies as if for paragraphs (a) and (b) there were substituted—

"(a) require that person to pay the whole or part of any deferred levy amount within 14 days from the date of the notice if—

(i) it considers that the person's circumstances have so changed that the payment would no longer cause hardship to the person; or

(ii) the person no longer owns or occupies the land in relation to which the levy amount was levied; and

(b) require the payment of levy interest for the late payment of the levy amount from the date the collection agency retracts the deferral of payment of the levy amount.".
(4) Sections 171 and 171A of the Local Government Act 1989 apply as if—

(a) for "Council" there were substituted "collection agency";

(b) for "rate or charge" there were substituted "levy amount";

(c) for "rates or charges" there were substituted "levy amount";

(d) for "rates, charges" there were substituted "levy amount";

(e) for "interest" there were substituted "levy interest".

29 Concessions

(1) Subject to subsection (2), an owner of leviable land who holds a concession card is entitled to receive a discount of $50.00 off the total levy amount due in respect of leviable land which is used exclusively for residential purposes by the owner and is the owner's sole or principal place of residence.

(2) The amount of the discount specified in subsection (1) does not increase if 2 or more owners of a parcel of leviable land each hold a concession card.

(3) For the avoidance of doubt, an owner who is entitled to a discount under subsection (1) is only entitled to the discount in respect of one assessable parcel of land and that land must be the owner's principal place of residence.

(4) For the purposes of this section, land is not taken to be occupied as a principal place of residence unless there is a building affixed to the land (including a home unit) that—
(a) is designed and constructed primarily for residential purposes; and
(b) may lawfully be used as a place of residence.

(5) If land with a land use classification of primary production has a building affixed to it that—
(a) is designed and constructed primarily for residential purposes; and
(b) is occupied by the owner as the owner's sole or principal place of residence—
the land in respect of which the building is affixed is taken to be used as the owner's principal place of residence.

(6) In determining whether land is used or occupied as the principal place of residence of a person, account must be taken of every place of residence of the person, whether in Victoria or elsewhere.

(7) For the purposes of this section, if land on which home units are situated is owned by a body corporate, the land is deemed to be owned by the shareholders of the body corporate who are entitled to exclusive occupancy of the home units.

(8) In this section, concession card means—
(a) a pensioner concession card issued under section 1061ZF of the Social Security Act 1991 of the Commonwealth; or
(b) a Gold Card, being a card issued to—
(i) a person who is eligible for treatment under Part V of the Veterans' Entitlements Act 1986 of the Commonwealth;
(ii) a person who is eligible to receive a pension under section 13(1) of the Veterans' Entitlements Act 1986 of the Commonwealth as the widow or
widower of a veteran within the meaning of that Act;

(iii) a partner of a deceased member or former member within the meaning of the Military Rehabilitation and Compensation Act 2004 of the Commonwealth who has been compensated under section 234(1)(b) of that Act;

(iv) a member or former member within the meaning of the Military Rehabilitation and Compensation Act 2004 of the Commonwealth who is eligible for, in receipt of, or has at any time received Special Rate Disability Pension under that Act.

30 Collection agency must charge levy interest on unpaid levy amount

(1) A collection agency must require a person to pay levy interest on any levy amount—

(a) which that person is liable to pay; and

(b) which has not been paid by the date specified under section 26 for payment; and

(c) if the leviable land is rateable land, the person is required to pay interest on rates that are payable in respect of that land.

(2) The levy interest—

(a) is to be calculated at the rate fixed under section 2 of the Penalty Interest Rates Act 1983 that applied on the first day of July immediately before the due date for the payment; and
(b) becomes payable—

(i) if the payment was payable in instalments only, on and from the date on which the missed instalment was due; or

(ii) if the payment was payable either in instalments or in a lump sum and the first instalment was paid by the date it was due, on and from the date on which the relevant subsequent missed instalment was due; or

(iii) if the payment was payable either in instalments or in a lump sum, and neither the first instalment nor the lump sum were paid by the dates the first instalment or the lump sum were due, on and from the date on which each missed instalment of levy became due; and

(c) continues to be payable until the payment or recovery of the levy.

(3) If a collection agency obtains a court order requiring the payment of the levy amount payable, levy interest continues to accrue under this section until the payment or recovery of the levy amount.

(4) A collection agency may waive levy interest accrued under subsection (3).

(5) A collection agency may—

(a) if the land is leviable land that is rateable land, exempt any person from paying the whole or part of any levy interest generally or specifically if the collection agency is also exempting the person from paying the whole or part any interest owed in respect of rates on that land;
Fire Services Property Levy Act 2012
No. 58 of 2012
Part 3—Collection of Levy by Collection Agency

(b) if the land is non-rateable leviable land which is classified residential for land use classification purposes, exempt any person from paying the whole or part of any levy interest generally or specifically.

(6) A collection agency may recover levy interest due to it on a levy amount in the same way as it may recover the levy amount.

31 Joint liability to pay levy

(1) If 2 or more persons are jointly liable to pay a levy under Part 2, a collection agency may recover the whole of the levy from—
   (a) all of those persons; or
   (b) any of those persons; or
   (c) any one of those persons.

(2) A person who is jointly liable to pay a levy under Part 2 and who pays that levy to the collection agency may recover a contribution from any other person who is liable to pay the whole or part of that levy.

32 Person acquiring leviable land

(1) A person who becomes the owner of leviable land must pay—
   (a) any levy amount on the leviable land which is current; and
   (b) any arrears of the levy amount on the leviable land and any levy interest which is due and payable.
(2) If a collection agency has obtained an award for legal costs in relation to any levy owing by the previous owner of the leviable land, subsection (1) applies to the amount of legal costs remaining unpaid as if the legal costs were arrears of the levy.

Note
Legal costs in relation to levy owing and that are deemed in accordance with this section to be arrears of levy should be included in any statement under section 32 of the Sale of Land Act 1962.

(3) If the previous owner of the leviable land had been paying any levy amount by instalments at the time the ownership of the leviable land changed, the person who becomes the owner of the land may continue the payment of that levy amount by instalments.

(4) The person who becomes the owner of leviable land may also pay a levy amount by instalments.

(5) In all other cases, the person who becomes the owner of leviable land must pay any amount due under subsection (1)—

(a) by the date it was due to have been paid by the previous owner of the leviable land; or

(b) if that date has already passed, within 14 days from the date the person becomes the owner of the land.

(6) Subsections (3) and (4)—

(a) do not apply to instalment payments relating to a levy amount that is in arrears; and

(b) are not to be read as enabling a new owner to obtain the benefit of any concession in respect of the levy amount that the new owner is not entitled to in her, his or its own right.
(7) If there is any inconsistency between—

(a) the amount claimed by a collection agency or any person to be arrears under subsection (1)(b) in respect of a specific period; and

(b) the amount appearing on a certificate issued under section 229 of the **Local Government Act 1989** as the arrears in respect of that period—

the collection agency to whom the arrears are payable may recover an amount which is not more than the amount appearing on the certificate and interest which has accrued on the amount appearing on the certificate since the issue of the certificate.

33 Collection agency may require occupier to pay rent

(1) If any levy is due and unpaid in relation to leviable land, the collection agency may send a notice to the person liable to pay the levy.

(2) The notice must state—

(a) that after 14 days from the date the notice is sent, the occupier of the leviable land may be required by notice sent to that person to pay to the collection agency the rent then due or further rent as it falls due by that person for the land; and

(b) that the rent must be paid to the collection agency until the levy has been paid.

(3) A payment of rent by a person under this section is a discharge of the debt for that rent and must be treated as payment of rent for the purposes of any tenancy law.
(4) Subsection (3) does not apply if the person has agreed to pay any levy on that land.

Note
See also section 35(4).

(5) If a person fails to pay any or all of the rent due under this section, the collection agency may recover the unpaid amount as a debt due to it by that person.

34 Recovery of levy not affected by objection, review or appeal

(1) The right of the collection agency to recover levy is not suspended by an objection, review or appeal of a valuation made or adopted under the Valuation of Land Act 1960.

(2) If an objection, review or appeal results in the alteration of a valuation or a decision to attribute a different AVPCC to leviable land, an adjustment must be made by the collection agency and—

(a) any levy amount or levy interest paid by the person that, as a consequence of a decision following an action taken by a person under subsection (1), amounts to an overpayment—

(i) if the person owes a levy amount or levy interest other than the amount adjusted, the overpayment must be used to pay the outstanding levy amount or levy interest owed by the person;

(ii) if subparagraph (i) does not apply, the overpayment may be refunded to the person by the collection agency;

(b) any additional levy amount that becomes payable as a consequence of any action taken by a person under subsection (1), may be
recovered as unpaid levy by the collection agency in accordance with this Part.

(3) Interest, at the rate specified in section 30(2)(a), accrues daily on any amount to be refunded to a person under subsection (2)(a) from the day of the decision referred to in that subsection until the day the person is paid the amount to be refunded.

35 Unpaid levy amount

(1) If a levy amount (including any instalment or any part of a levy amount) remains unpaid after it is due and payable, the collection agency may recover it in the Magistrates’ Court or by suing for debt.

(2) If any levy amount is recovered from an owner of leviable land and an agreement with the owner of the land states that the occupier of the land must pay any levy amount, the owner may recover the levy amount from the occupier in the same manner in which the owner may recover rent owing to that owner.

(3) An occupier who pays any levy amount under this section need not pay more than the amount of rent owed by the occupier at the time of the demand or the payment.

(4) Subsection (3) does not apply—

(a) if the occupier has agreed to pay any levy amount;

(b) if, after the collection agency requests that the occupier disclose the rent and the name and address of the person to whom it is payable, the occupier does not do so.
(5) For the purposes of this section, the owner has the burden of proof of showing that—

(a) the occupier had agreed to pay any levy amount; and

(b) the levy amount to be paid on any leviable land by that occupier is more than the rent owed by the occupier for the land.

(6) The rental agreement between the occupier and the owner with terms specifying that the occupier will pay the levy amount is sufficient evidence to satisfy the burden of proof under subsection (5).

36 Refund of amounts overpaid

(1) If a person who has paid a levy amount under this Act believes they have paid more than the levy amount owed, the person may apply to that collection agency for a refund of the amount paid in excess of the levy amount in accordance with subsection (3).

(2) Subsection (1) does not apply to a person who believes an overpayment in respect of the levy amount has been made based on—

(a) the valuation made or adopted under \textit{Valuation of Land Act 1960} in respect of leviable land; or

(b) the AVPCC allocated to the leviable land.

Note

Part III of the \textit{Valuation of Land Act 1960} provides for a person aggrieved by a valuation or AVPCC allocation to make an objection.

(3) An application for a refund must—

(a) be in writing;

(b) specify the grounds on which the person believes they have made an overpayment;
37 Levy amounts and levy interest collected by collection agency to be separately accounted for

(1) A collection agency must separately account for levy amounts and levy interest collected by the collection agency under this Act.

(2) Levy amounts and levy interest collected by a collection agency under this Act is held on trust by the collection agency on behalf of the Commissioner.

(3) Subject to subsection (4), any interest earned on levy amounts and levy interest may be retained by the collection agency.

(4) The Commissioner may require interest earned on levy amounts and levy interest to be paid to the Commissioner if he or she determines that a collection agency has failed to perform its duties or is in breach of its obligations under this Act.

(5) Any amount collected by a collection agency that is determined or found to be an overpayment under section 36(4) or (5) must be refunded to the person who made the overpayment.
(6) A determination made by the Commissioner under subsection (4) is a non-reviewable decision.

38 Cancellation of assessment of liability to pay levy amount made in error

(1) A collection agency may cancel an assessment of a person's liability to pay a levy amount in respect of leviable land if the collection agency is satisfied that an assessment has been made in error.

(2) If a collection agency has made an assessment in error under subsection (1), the collection agency must—

(a) if the collection agency determines that an assessment should not have been issued—issue a withdrawal notice;

(b) if the collection agency determines that a fresh assessment in respect of the leviable land should be issued—give the person another assessment notice under section 25;

(c) if the person paid any of the levy amount specified in an assessment referred to in subsection (1)—

(i) refund the amount paid; or

(ii) if a fresh assessment has been made under paragraph (b), apply the amount paid to any levy amount owed under the fresh assessment.

39 Revised assessment of liability to pay levy amount

(1) This section applies if—

(a) a supplementary valuation is carried out in respect of leviable land under sections 13DF or 13L of the Valuation of Land Act 1960; and
(b) the valuer-general certifies the supplementary valuation to be correct.

(2) If this section applies, the collection agency must—

(a) conduct another assessment of the levy amount in respect of the leviable land; and

(b) if the levy amount owed by the owner in respect of the leviable land varies based on the supplementary valuation—give the owner of that land a revised assessment notice.

(3) If, under subsection (2), the assessment of the levy amount following the supplementary valuation results in a variation that means an owner has paid a levy amount in excess of what is owed by the owner based on the subsequent assessment the collection agency must refund that amount in accordance with section 36(5) together with any interest that has accrued in accordance with subsection (4).

(4) Interest, at the rate specified in section 30(2)(a), accrues daily on any amount to be refunded to the owner under subsection (3) from the day the valuer-general certifies the supplementary valuation to be correct until the day the owner is paid the amount to be refunded.

(5) If a supplementary valuation is in respect of leviable land that is rateable land, the revised assessment of the levy amount must be included in the revised rates notice to be sent to the owner of the land.
Division 3—Collection agency returns and payment of levy to Commissioner

40 Returns to be submitted to the Commissioner

A collection agency must submit a return to the Commissioner—

(a) in a form approved by the Commissioner; and

(b) in accordance with any directions issued by the Minister.

41 Payment of collected levy to Commissioner

(1) A collection agency must pay all levy amounts and levy interest received under this Part to the Commissioner in 4 instalments.

(2) Subject to subsections (3) and (4), an instalment is due and payable to the Commissioner 28 days after the date fixed by the Minister administering the Local Government Act 1989, by notice published in the Government Gazette, under section 167(2) of that Act for payment of a rate or charge by instalment under that Act.

(3) If the date fixed by the Minister administering the Local Government Act 1989 for payment of the third instalment of a rate or charge under section 167(2) of that Act is different to the date fixed by that Minister under section 167(2B) of that Act for payment of a lump sum, any lump sum payments and any payments of the third instalment of levy are due and payable to the Commissioner 28 days after the later date fixed by the Minister for the third instalment and lump sum payments.
(4) If a collection agency receives any late payments of levy amounts and levy interest under this Part, the collection agency may forward those amounts to the Commissioner at the same time as the next instalment is payable.
PART 4—COMMISSIONER OVERSIGHT

Division 1—Administration of Part

42 Administration

The Commissioner has the general administration of this Part and any regulations made for the purposes of this Part.

43 Authorised officers

(1) The Commissioner is an authorised officer for the purposes of this Part.

(2) Subject to section 44, any person who is appointed as an authorised officer under the *Taxation Administration Act 1997* is an authorised officer for the purposes of this Part.

44 Identity cards for authorised officers performing functions under this Part

An authorised officer specified in section 43(2) who performs any function under sections 55, 56, 57 and 58 must be issued with an identity card in a form approved by the Commissioner—

(a) containing the person's name, signature and photograph; and

(b) stating that the person is an authorised officer for the purposes of this Part.

45 Delegation

The Commissioner, by instrument, may delegate to any person employed or engaged in the administration or enforcement of this Act or any other law under the general administration of the Commissioner, other than this power of delegation.
46 Provision of staff

There may be employed under Part 3 of the
Public Administration Act 2004 any employees
that are necessary to assist the Commissioner in
the performance of his or her powers, duties or
functions under this Act.

47 Use of consultants and contractors

The Commissioner may engage any consultants
and contractors that may be necessary or
convenient to enable the Commissioner to
perform his or her functions under this Act.

Division 2—Role of, and functions and powers of,
Commissioner

48 Functions and powers of the Commissioner under
this Act

The Commissioner has the following functions
under this Act—

(a) to receive levy amounts and levy interest
    collected by a collection agency and pay
    those amounts into the Consolidated Fund;

(b) to monitor the performance of a Council
    appointed as, or directed to be, a collection
    agency under this Act;

(c) any other function conferred on the
    Commissioner under this Act.

49 Commissioner to keep proper accounts

The Commissioner must keep proper accounts of
payments of levy made by a collection agency to
the Commissioner.
50 Levy paid into Consolidated Fund on receipt by Commissioner

(1) The Commissioner must, as soon as practicable, pay into the Consolidated Fund all levy received from a collection agency on receipt of the levy from a collection agency.

(2) The Commissioner must, as soon as practicable, pay into the Consolidated Fund any interest the Commissioner has received under section 37(4).

51 Minister may request the Commissioner to investigate collection costs of collection agencies

The Minister may require the Commissioner to review the costs of collection agencies in performing functions under this Act for the purposes of determining the fees to be paid to collection agencies.

52 Commissioner to pay fees to collection agencies following determination by Minister

The Commissioner must make arrangements for collection agencies to be paid fees for the performance of functions under this Act following a determination of the Minister under section 70.

53 Power of Commissioner under this Part

Without limiting the powers of the Commissioner under the Taxation Administration Act 1997, the Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions under this Part.

Division 3—Investigative powers

54 Power of investigation

(1) The Commissioner may conduct an investigation under this Division for the purposes of exercising his or her functions under this Part.
(2) For the purposes of an investigation under this Division, the Commissioner may, by written notice, require a person—

(a) to give the Commissioner written information specified in the notice; or

(b) to attend at a specified time and place before the Commissioner or an authorised officer to answer questions relevant to the investigation; or

(c) to produce a document to the Commissioner at a specified time and place.

(3) The Commissioner may require information or evidence that is not given orally to be provided in the form of, or verified by, a statutory declaration.

(4) The Commissioner may require evidence that is given orally to be given on oath and for that purpose the Commissioner or an authorised officer may administer an oath.

(5) The person to whom the notice is given must comply with the notice within the period specified in the notice or any extended period allowed by the Commissioner.

Penalty: In the case of a natural person, 40 penalty units;

In the case of a body corporate, 200 penalty units.

55 Power of entry, search and inspection

(1) An authorised officer may, for the purposes of an investigation under this Division, exercise any of the following powers—

(a) inspect premises and any thing found at the premises;
(b) require a person to produce a document relevant to the investigation for inspection and (if necessary) to operate a computer or other device in which information is stored to produce a document in understandable form;

(c) retain a document for inspection, to make a copy of it, or to take extracts from it;

(d) require a person to answer questions relevant to the investigation;

(e) require a person to give the authorised officer any other assistance that may be reasonable in the circumstances to carry out the investigation.

(2) An authorised officer may enter premises for the purposes of an investigation—

(a) with the consent of the occupier; or

(b) on the authority of a warrant issued under section 56.

(3) An occupier who consents in writing to entry, search and inspection of his or her premises under this section must be given a copy of the signed consent immediately.

(4) An authorised officer must not exercise any powers under this section if the authorised officer fails to produce, on request, his or her identity card issued under this Part for inspection by the occupier of the premises.

(5) An authorised officer may carry out an investigation with any assistants and equipment the authorised officer reasonably requires to carry out an investigation.
(6) A person must not—

(a) hinder or obstruct an authorised officer who is carrying out an investigation or a person assisting the authorised officer; or

(b) without reasonable excuse, refuse or fail to comply with a requirement made by an authorised officer in the exercise of powers conferred by this section; or

(c) answer a question put by an authorised officer under this section knowing that the answer is false or misleading.

Penalty: In the case of a natural person, 100 penalty units;
In the case of a body corporate, 500 penalty units.

(7) A person is not guilty of an offence under subsection (6) arising from the entry of an authorised officer onto premises unless the court hearing the charge is satisfied that, at the material time, the authorised officer—

(a) identified himself or herself as an authorised officer; and

(b) warned the person that a failure or refusal to comply with the requirement may constitute an offence.

56 Search warrant

(1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to particular premises if the authorised officer believes on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be relevant to the administration of this Part.
(2) If a magistrate is satisfied by the evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on the premises a particular thing that may be relevant to the administration of this Part, the magistrate may issue a search warrant authorising an authorised officer named in the warrant and any assistants the authorised officer considers necessary—

(a) to enter the premises, or the part of the premises, named or described in the warrant; and

(b) to search for and seize, or secure against interference, a thing named or described in the warrant; and

(c) if reasonably necessary for the purposes referred to in paragraph (b), to break open any receptacle in or on the premises.

(3) In addition to any other requirement, a search warrant issued under this section must state—

(a) the premises to be searched; and

(b) a description of the thing for which the search is to be made; and

(c) any conditions to which the warrant is subject; and

(d) that entry is authorised to be made during business hours only unless entry during those hours is unreasonable in the circumstances; and

(e) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.

(4) A search warrant must be issued in accordance with the Magistrates' Court Act 1989 and in the form prescribed under that Act.
(5) The rules to be observed with respect to search warrants mentioned in the *Magistrates' Court Act 1989* extend and apply to warrants under this section.

57 **Announcement before entry**

(1) Before executing a search warrant, the authorised officer named in the warrant or person assisting the authorised officer must announce that he or she is authorised by the warrant to enter the premises and give any person at the premises an opportunity to allow entry to the premises.

(2) The authorised officer or a person assisting the authorised officer need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—

(a) the safety of any person; or

(b) that the effective execution of the search warrant is not frustrated.

58 **Copy of warrant to be given to occupier**

If the occupier or another person who apparently represents the occupier is present at premises when a search warrant is being executed, the authorised officer must—

(a) identify himself or herself to that person by producing his or her identity card issued under this Part for inspection by that person; and

(b) give to that person a copy of the execution copy of the warrant.
59 Protection against self-incrimination

(1) A person may refuse or fail to give information, produce documents or answer questions that the person is required to give, produce or answer under this Division on the ground that giving the information, producing the documents or answering the questions would tend to incriminate the person.

(2) Subsection (1) does not excuse the person from giving information, producing documents or answering questions that the person is required by this Division to give, produce or answer on the ground that giving the information, producing the documents or answering the questions would tend to incriminate the person in respect of an offence against this Act.

(3) However, information given, documents produced or questions answered by a person as required by this Division are not admissible in evidence against the person in any proceeding in respect of an offence against this Act.

Note
Subsection (3) does not extend to offences in other Acts or at common law, such as perjury.

60 Access to public records without fee

The Commissioner is entitled to inspect and take copies of any public record relevant to the assessment or collection of levy under this Act without payment of any fee that would be payable but for this section.
Division 4—Miscellaneous provisions

61 Means of payment by collection agencies

Levy may be paid to the Commissioner—

(a) by electronic funds transfer; or

(b) if the Commissioner directs that another method of payment be used—by that method.

62 Appropriation of Consolidated Fund

If the Commissioner is authorised or required to pay an amount under this Act the amount is to be paid from the Consolidated Fund which is appropriated by this section to the necessary extent.

63 Legal proceedings in Commissioner's name

(1) Legal proceedings may be taken by or against the Commissioner in the name "Commissioner of State Revenue".

(2) A person who takes legal proceedings in the name of the Commissioner is taken to be authorised to take those proceedings, in the absence of evidence to the contrary.
PART 5—SECRECY AND GENERAL PROVISIONS

Division 1—Secrecy

64 Prohibition on certain disclosures of information by authorised persons

(1) A person who is or was an authorised person must not disclose any information obtained under, or in relation to the administration of, this Act, except as permitted by this Part.

Penalty: 60 penalty units.

(2) For the purposes of the Freedom of Information Act 1982, information referred to in subsection (1) is information of a kind to which section 38 of that Act applies.

65 Permitted disclosures to particular persons

(1) An authorised person may disclose information obtained under, or in relation to the administration of, this Act—

(a) with the consent of the person to whom the information relates or at the request of a person acting on behalf of that person; or

(b) in connection with the administration and enforcement of this Act; or

(c) in accordance with a requirement imposed under an Act; or

(d) to an authorised recipient, being—

(i) the valuer-general;

(ii) the Secretary to the Department of Treasury and Finance;

(iii) the Essential Services Commission established under the Essential Services Commission Act 2001;

(iv) the CFA;
(v) the MFB;
(vi) the Treasurer;
(vii) a person prescribed to be an authorised recipient for the purposes of this section.

66 Permitted disclosures of a general nature

The Commissioner and the Chief Executive Officer of a Council in its capacity as a collection agency, may disclose information obtained under, or in relation to the administration of, this Act, unless that information will or is likely to identify a particular person.

67 Permitted disclosure that may identify a particular person

Despite section 66, the Commissioner and Chief Executive Officer of a Council in its capacity as a collection agency, may disclose information obtained under, or in relation to the administration of, this Act that will or is likely to identify a particular person if that disclosure is permitted by this Act or is necessary for the administration of this Act.

68 Prohibition on secondary disclosure of information

(1) A person must not disclose any information obtained from an authorised person in accordance with section 65 unless—

(a) the disclosure is made to enable the person to exercise a function conferred on the person by law for the purpose of the enforcement or administration of a law or protecting the public revenue; and
(b) the Commissioner or the Chief Executive Officer of a Council in its capacity as a collection agency, as appropriate, consents to the disclosure.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 300 penalty units.

(2) For the purposes of the Freedom of Information Act 1982, information referred to in subsection (1) is information of a kind to which section 38 of that Act applies.

69 Further restrictions on disclosure

A person who is or was an authorised person is not required to disclose or produce in any Court any information obtained under or in relation to the administration of this Act except—

(a) if it is necessary to do so for the purposes of the administration of this Act; or

(b) if the requirement is made for the purposes of enabling a person who is specified for the time being to be an authorised recipient to exercise a function conferred or imposed on the person by law.

Division 2—General

70 Collection agency fees for levy functions determined by Minister

(1) The Minister may, by determination, specify the following—

(a) any fees to be paid to collection agencies for the performance of functions under this Act;
(b) when collection agencies may be paid fees for the performance of functions under this Act;

(c) the procedures for the payment of any fees to collection agencies under this Act.

(2) The Minister may specify differential fees for each collection agency based on the costs incurred by each collection agency in performing functions under this Act.

(3) In making a determination under subsection (1), the Minister must have regard to the costs a collection agency may reasonably incur in performing functions under this Act including any administrative costs incurred in preparing to perform functions under this Act.

(4) For the purposes of this section the Minister may consult persons who the Minister reasonably believes represent the interests of a collection agency.

71 Alteration of levy records

(1) An owner of leviable land may apply to a collection agency for an alteration of the levy records if, following receipt of a notice under section 25, the owner has cause to believe that the records contain incorrect information.

(2) An application under subsection (1) must be in the manner and form specified by the collection agency that sent the notice under section 25.

72 Minister may issue directions

(1) The Minister may issue written directions to collection agencies or the Commissioner in relation to the performance of functions by collection agencies or the Commissioner under this Act.
(2) A direction issued under subsection (1) must not be inconsistent with this Act.

(3) The Minister may amend or revoke a direction made under subsection (1).

73 Delegation by Minister

The Minister may, by instrument, delegate to a person or body any power, duty or function of the Minister under this Act other than this power of delegation.

74 Minister may request suspension of Council

If the Minister is satisfied that there has been a serious failure by a Council to perform its functions as a collection agency under this Act, the Minister may request the Minister administering the Local Government Act 1989 to exercise his or her functions under section 219 of the Local Government Act 1989 in respect of that Council.

Division 3—Service

Subdivision 1—Service on or by a collection agency

75 Service on a collection agency

Any document required to be served on or given to a collection agency may be served on or given to the collection agency by—

(a) delivering the document to a member of staff of the Council that has been appointed as a collection agency at the Council office; or

(b) sending the document by post to the postal address of the Council appointed as a collection agency.
76 Service on a person by a collection agency

(1) Any document required to be served on or given to a person by a collection agency under this Act or the regulations may be served on or given to the person by—

(a) delivering the document to the person; or

(b) leaving the document at his or her usual or last known place of residence or business with a person apparently not less than 16 years and apparently residing or employed at that place; or

(c) sending the document by post addressed to the person at his or her last known place of residence or business.

(2) If a document is required to be served on or given to the owner or occupier of any land and his or her name is not known the document may be addressed to the "the owner" or "the occupier".

(3) The document may be put up on a conspicuous position on the land if the name and address of the owner are not known and there is no occupier of the land.

(4) If a document required to be served on or given to an owner or occupier of any land by a collection agency is properly served on or given to the owner or occupier of the land the document is binding on every subsequent owner or occupier of the land.

77 Evidence of service

A statutory declaration by a person who has served on, or given a document to, a collection agency or on behalf of a collection agency in accordance with this Act stating the manner, place and time the document was served or given is evidence of the document having been served or given.
Subdivision 2—Service on or by the Commissioner

78 Service of documents on Commissioner

A document authorised or required to be served on, given to or lodged with the Commissioner for the purposes of this Act may be served, given or lodged—

(a) by delivering it to an office of the Commissioner; or

(b) by post addressed to the Commissioner at an office of the Commissioner; or

(c) by a means indicated by the Commissioner as being an available means of service (such as by facsimile transmission or by delivering it, addressed to the Commissioner, to the facilities of a document exchange); or

(d) by leaving it with a person who has authority to accept documents on the Commissioner's behalf.

79 Day of service of document or payment of money

If a document is served on the Commissioner or a payment of money is tendered to the Commissioner at a time on a day that is after the ordinary hours of business when the offices of the Commissioner are open to the public on that day, the document or payment is taken to have been served on or tendered to the Commissioner on the following business day.

80 Service of documents by Commissioner

(1) A document authorised or required to be served on or given to a person by the Commissioner for the purposes of this Act may be served on or given to the person—

(a) personally; or
(b) by leaving it at the last address of the person known to the Commissioner (including, in the case of a body corporate, the registered office or a business address of the body corporate); or

(c) by post addressed to the person at the last address of the person known to the Commissioner (including, in the case of a body corporate, the registered office or a business address of the body corporate); or

(d) by a means indicated by the person as being an available means of service (such as by facsimile or other electronic transmission or by delivering it, addressed to the person, to the facilities of a document exchange); or

(e) by any means provided for the service of the document by another Act or law.

(2) To avoid doubt, this section applies to the service of any court process in proceedings under Part 4.

(3) If a person (the agent) has actual authority to accept service of a document on behalf of another, the Commissioner may, for the purposes of this Act, serve the document on the agent as if the agent were that other person.

81 Service on a person by the Commissioner

(1) For the purposes of this Act, a document must be taken, unless the contrary is proved, to have been served on or given to a person by the Commissioner—

   (a) in the case of a delivery in person—at the time the document is delivered;

   (b) in the case of posting—2 business days after the day on which the document was posted;
(c) in the case of a facsimile or other electronic transmission—at the time the facsimile or transmission is received.

(2) If a facsimile or other electronic transmission is received after 5.00 p.m. on any day, it must be taken to have been received on the next business day.

**Division 4—Miscellaneous**

82 **Obstructing collection agency**

A person must not obstruct a collection agency, or a member of staff of Council that has been appointed to be a collection agency, in the performance of anything the collection agency or the member is empowered to do under this Act or regulations made under this Act.

Penalty: 60 penalty units.

83 **Regulations**

(1) The Governor in Council may make regulations for or with respect to—

(a) prescribing land classifications for land that may be exempt from assessment for levy purposes;

(b) prescribing conditions to apply to any exemptions prescribed under paragraph (a);

(c) generally prescribing any other matter or thing required or permitted to be prescribed or necessary to be prescribed for the purposes of this Act.

(2) The regulations may—

(a) be of general or limited application; and

(b) differ according to differences in time, place or circumstances; and
(c) provide in a specified case or class of case for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

84 Supreme Court—Limitation of jurisdiction

It is the intention of sections 5, 12, 15 and 37 to alter or vary section 85 of the Constitution Act 1975.
PART 6—TRANSITIONAL ARRANGEMENTS

Division 1—Review of the insurance industry

85 Definitions

In this Part—

Commission means the Essential Services Commission established under the Essential Services Commission Act 2001;

insurance against fire means insurance against the risk of fire or the risk of loss of profits consequent on fire whether the insurance is associated with insurance against any other risk or not;

insurance company means—

(a) a person (including a body corporate or unincorporate, a partnership or an underwriter) who, in Victoria, issues, or undertakes liability under, policies of insurance against fire in respect of property in Victoria; or

(b) a Lloyd's underwriter who—

(i) issues, or undertakes liability under, policies of insurance against fire in respect of property in Victoria; and

(ii) is a member of the Australian Fire Brigades Charges Scheme and makes payments to the Fund established under that Scheme;

insurance premium means any premium received by or due to an insurance company for insurance against fire including any base premium, fire services levy, GST or stamp duty;
86 Commission to review premiums of insurance companies following introduction of levy under this Act

(1) After consulting the Minister administering the Essential Services Commission Act 2001, the Minister administering this Act may by written notice, request the Commission to conduct a review and report to the Minister administering this Act on the following—

(a) movement in the cost of insurance premiums from 1 July 2012 to 30 June 2014;

(b) in relation to the review of insurance premiums of insurance companies following the enactment of this Act, any related matter that the Minister specifies in writing for review.

(2) The written notice must specify—

(a) the terms of reference for the review;

(b) the date by when the review must be conducted and the report completed being a date not later than 31 December 2016.

(3) The Minister administering this Act may—

(a) amend the terms of reference;

(b) extend the period within which a report is to be submitted to the Minister;

(c) request the Commission to provide an interim report.
87 Conduct of review

(1) Subject to this Part, the Commission may conduct a review under this Part in any manner the Commission considers appropriate.

(2) In conducting a review, the Commission is not bound by the rules of evidence and may inform itself on any matter in any way it thinks fit.

88 Objectives not to apply

Except to the extent (if any) that the Minister otherwise determines, the objectives of the Commission under the *Essential Services Commission Act 2001* or any other Act do not apply to the functions and powers of the Commission under this Part.

89 Powers relating to reviews

(1) The Commission may serve on any person—

(a) a notice requiring that person to provide evidence in writing;

(b) a notice to produce specified documents;

(c) a summons to appear before the Commission to provide evidence.

(2) The Commission may make an order for the manner of service, including substituted service, of a notice or summons under subsection (1).

(3) A person must not, without lawful excuse, fail to comply with a notice or summons of the Commission.

Penalty: In the case of a natural person, 40 penalty units; In the case of a body corporate, 200 penalty units.
(4) A person must not give information to the Commission that he or she knows is false or misleading.

Penalty: In the case of a natural person, 100 penalty units;
In the case of a body corporate, 500 penalty units.

90 Protection against self-incrimination

(1) A person may refuse or fail to provide written or verbal evidence or produce specified documents that the person is required to provide or produce under this Division on the ground that providing the written or verbal evidence or producing the specified documents would tend to incriminate the person.

(2) Subsection (1) does not excuse the person from providing written or verbal evidence or producing specified documents that the person is required by this Division to provide or produce on the ground that providing the written or verbal evidence or producing the specified documents would tend to incriminate the person in respect of an offence against this Act.

(3) However, written or verbal evidence provided or specified documents produced by a person as required by this Division are not admissible in evidence against the person in any proceeding in respect of an offence against this Act.

Note
Subsection (3) does not extend to offences in other Acts or at common law, such as perjury.
91 Report

(1) The Commission must submit a copy of any report under section 86 to the Minister.

(2) The Minister may give a copy of any report received under subsection (1) to a third party.

(3) If, in the opinion of the Commission, a report will contain confidential or commercially sensitive information, the Commission must divide the report into—

(a) a document containing the confidential or commercially sensitive information; and

(b) another document containing the rest of the report.

(4) Any information that the Commission may disclose under section 38 of the Essential Services Commission Act 2001 is not confidential or commercially sensitive for the purposes of subsection (2) unless an appeal panel, within the meaning of that Act, states that it is imposing a restriction under section 56(7)(b)(i) of that Act.
Division 2—Amendment of Essential Services Commission Act 2001

92 Amendment of section 10—Functions of the Commission

In section 10 of the Essential Services Commission Act 2001 after paragraph (l) insert—

"(la) to perform the functions conferred on the Commission by the Fire Services Property Levy Act 2012;".

93 Amendment of section 38—Restriction on disclosure of confidential information

(1) For section 38(1)(a) of the Essential Services Commission Act 2001 substitute—

"(a) information or a document is given to the Commission under—

(i) section 37, 37A or 51; or

(ii) section 212E of the Accident Towing Services Act 2007; or

(iii) section 89 of the Fire Services Property Levy Act 2012; and".

(2) In section 38(2)(c)(iii) of the Essential Services Commission Act 2001, after "2007" insert "or section 91 of the Fire Services Property Levy Act 2012".
(3) In section 38(3)(c) of the Essential Services Commission Act 2001, after "2007" insert "or section 91(3) of the Fire Services Property Levy Act 2012".
PART 7—AMENDMENT OF COUNTRY FIRE AUTHORITY ACT 1958

94 Amendment of section 3—Definitions

In section 3(1) of the Country Fire Authority Act 1958, the definitions of insurance against fire, insurance company and insurance intermediary are repealed.

95 Amendment of sections 7 and 10—Constitution and quorum of Authority

(1) In section 7(1) of the Country Fire Authority Act 1958—
   (a) for "twelve" substitute "ten";
   (b) paragraph (d) is repealed.

(2) In section 10(1) of the Country Fire Authority Act 1958, for "seven" substitute "six".

96 Amendment of section 75—Annual estimate of expenditure and revenue

For section 75(1) of the Country Fire Authority Act 1958 substitute—

"(1) For the purposes of enabling the Minister to determine the levy rate under section 12 of the Fire Services Property Levy Act 2012, the Authority must provide the Minister with an estimate of—
   (a) the expenditure which may be incurred by the Authority in the execution of this Act during the next financial year
(including any amounts payable into any fund under this Act); and

(b) the revenue of the Authority during the next financial year (including the amounts payable into any fund under this Act).

(1A) The Authority must provide the Minister with an estimate under subsection (1) by the date specified by the Minister.".

97 Amendment of section 76—Amounts of contributions

(1) For section 76(1)(b) of the Country Fire Authority Act 1958 substitute—

"(b) 77·5 per cent funded by the levy under the Fire Services Property Levy Act 2012.".

(2) In section 76(2) of the Country Fire Authority Act 1958—

(a) for "amount" substitute "amounts";

(b) for "(1)(a) is" substitute "(1) are".

(3) After section 76(2) of the Country Fire Authority Act 1958 insert—

"(3) Each insurance company must submit a report, 14 days after a quarterly instalment is made under subsection (2), of individual gross written premium received by or due to the insurance company during the preceding quarter in a form determined by the Authority.".

98 Amendment of section 77—Returns of premiums

In section 77(1) of the Country Fire Authority Act 1958, for "15 August in each year" substitute "15 September 2013".
99 Amendment of section 78—Penalties in relation to returns

(1) In section 78(1) of the Country Fire Authority Act 1958, for "15 August" substitute "15 September 2013".

(2) In section 78(3) of the Country Fire Authority Act 1958—
   (a) for "1 October" substitute "1 November 2013";
   (b) for "15 August" substitute "15 September 2013".

(3) In section 78(4) of the Country Fire Authority Act 1958—
   (a) for "1 October" (where first occurring) substitute "1 November 2013";
   (b) in paragraph (a), for "15 August" substitute "15 September 2013";
   (c) in paragraph (b), for "1 October" substitute "1 November 2013".

(4) In section 78(5) of the Country Fire Authority Act 1958—
   (a) for "1 October" (where first occurring) substitute "1 November 2013";
   (b) in paragraph (d), for "15 August" substitute "15 September 2013".
   (c) in paragraph (e), for "1 October" substitute "1 November 2013".

100 Repeal of section 103A

Section 103A of the Country Fire Authority Act 1958 is repealed.
101 Repeals

(1) Sections 76(3), 77, 77A, 77B, 78, 79, 80, 80A, 81, 81A, 87, 88, 89, 90, 91, 104, 105, 109D, 110(1)(y) and 110(3) of the Country Fire Authority Act 1958 are repealed.

(2) Sections 24(2) and 24(2A) of the Country Fire Authority Act 1958 are repealed.

102 New section 117 inserted—Transitional—Constitution of the Authority

After section 116 of the Country Fire Authority Act 1958 insert—

"117 Transitional—Constitution of the Authority

The Country Fire Authority is the same body despite the changes to its membership made by section 95 of the Fire Services Property Levy Act 2012.".

s. 101
PART 8—AMENDMENT OF METROPOLITAN FIRE BRIGADES ACT 1958

103 Amendment of section 3—Definitions

In section 3(1) of the Metropolitan Fire Brigades Act 1958, the definitions of insurance against fire, insurance company and insurance intermediary are repealed.

104 Amendment of section 36—Annual estimate of expenditure and revenue

For section 36(1) of the Metropolitan Fire Brigades Act 1958 substitute—

"(1) For the purposes of enabling the Minister to determine the levy rate under section 12 of the Fire Services Property Levy Act 2012, the Board must provide the Minister with an estimate of—

(a) the expenditure which may be incurred by the Board in the execution of this Act during the next financial year (including any amounts payable into any fund under this Act); and

(b) the revenue of the Board during the next financial year (including the amounts payable into any fund under this Act).

(1A) The Board must provide the Minister with an estimate under subsection (1) by the date specified by the Minister.".
105 Amendment of section 37—Contributions towards annual expenditure

(1) For section 37(1)(b) and (c) of the Metropolitan Fire Brigades Act 1958 substitute—

"(b) seven-eighths funded by the levy under the Fire Services Property Levy Act 2012.".

(2) After section 37(2) of the Metropolitan Fire Brigades Act 1958 insert—

"(3) Each insurance company must submit a report, 14 days after a quarterly instalment is made under subsection (2), of individual gross written premium received by or due to the insurance company during the preceding quarter in a form determined by the Board.".

106 Amendment of section 40—Returns of premiums

In section 40(1) of the Metropolitan Fire Brigades Act 1958, for "15 August in each year" substitute "15 September 2013".

107 Amendment of section 41—Penalties in relation to returns

(1) In section 41(1) of the Metropolitan Fire Brigades Act 1958, for "15 August" substitute "15 September 2013".

(2) In section 41(3) of the Metropolitan Fire Brigades Act 1958—

(a) for "1 October" substitute "1 November 2013";

(b) for "15 August" substitute "15 September 2013".

(3) In section 41(4) of the Metropolitan Fire Brigades Act 1958—

(a) for "1 October" (where first occurring) substitute "1 November 2013";
(b) in paragraph (a), for "15 August" substitute "15 September 2013";

(c) in paragraph (b), for "1 October" substitute "1 November 2013".

(4) In section 41(5) of the Metropolitan Fire Brigades Act 1958—

(a) for "1 October" (where first occurring) substitute "1 November 2013";

(b) in paragraph (d), for "15 August" substitute "15 September 2013";

(c) in paragraph (e), for "1 October" substitute "1 November 2013".

108 Amendment of section 47—Power of Minister in case of default of Board

In section 47 of the Metropolitan Fire Brigades Act 1958 omit "and receive and recover from the municipalities and the insurance companies respectively".

109 Repeal of section 69A

Section 69A of the Metropolitan Fire Brigades Act 1958 is repealed.

110 Repeals

(1) Sections 34(1)(t), 34(2), 37(3), 38, 39, 40, 40A, 40B, 41, 42, 43, 44, 44A, 45, 45A, 66, 67, 68, 69, 70, 73, 74 and 77A of the Metropolitan Fire Brigades Act 1958 are repealed.

(2) Sections 27(1A) and 27(1B) of the Metropolitan Fire Brigades Act 1958 is repealed.
PART 9—AMENDMENT OF VALUATION OF LAND ACT 1960

111 Amendment of section 2—Definitions

(1) Insert the following definitions in section 2(1) of the Valuation of Land Act 1960—

"AVPCC means an Australian Valuation Property Classification Code;

collection agency has the same meaning as it has in section 3 of the Fire Services Property Levy Act 2012;

collection agency general valuation means a general valuation that a Council is causing or has caused to be made for non-rateable leviable land that is not located in a municipal district;

fire services property levy has the same meaning as levy has in section 3 of the Fire Services Property Levy Act 2012;

leviable land has the same meaning as it has in section 3 of the Fire Services Property Levy Act 2012;

non-rateable leviable land has the same meaning as it has in section 3 of the Fire Services Property Levy Act 2012;

rateable land has the same meaning as it has in section 3(1) of the Local Government Act 1989;

valuation authority, in relation to non-rateable leviable land, means—

(a) the relevant collection agency under section 13F; or

(b) if the collection agency has nominated the valuer-general under section 13G to cause general valuations to be made—
(i) in respect of the municipal district in which it is council; or

(ii) in respect of land not located in a municipal district where it has been directed by the Minister administering the Fire Services Property Levy Act 2012 to be the collection agency—

the valuer-general;

(c) if the Minister has directed the valuer-general to cause a valuation of non-rateable leviable land to be made—the valuer-general;

Valuation Best Practice Specifications Guidelines means the guidelines prepared by the valuer-general at the commencement of every biennial revaluation and published on the valuer-general's Internet site;".

(2) In section 2(1) of the Valuation of Land Act 1960, in the definition of general valuation, after "an area" insert "or a valuation of all the non-rateable leviable land under Part IIA for which a rating authority is responsible for valuing whether or not the land is in the area of the rating authority".

(3) In section 2(1) of the Valuation of Land Act 1960, for the definition of valuer-general general valuation substitute—

"valuer-general general valuation means a general valuation that the valuer-general is causing or has caused to be made for—

(a) a relevant municipal district;

(b) non-rateable leviable land that is not located in a municipal district.".
(4) After section 2(3) of the Valuation of Land Act 1960 insert—

"(3A) If it is necessary to determine the capital improved value or site value of any non-rateable leviable land in respect of which the fire services property levy is to be levied, but which forms part of a larger property, the capital improved value and site value of each part are as nearly as practicable the sum which bears the same proportion to the capital improved value and site value of the whole property as the estimated annual value of the portion bears to the estimated annual value of the whole property.".

(5) In section 2(4) of the Valuation of Land Act 1960, for "(3) applies" substitute "(3) or (3A) applies (as appropriate)".

(6) In section 2(5) of the Valuation of Land Act 1960, after "rateable land" insert "or non-rateable leviable land (as appropriate)".

(7) In section 2(6) of the Valuation of Land Act 1960—

(a) for "or the Local Government Act 1989" substitute ", the Local Government Act 1989 or the Fire Services Property Levy Act 2012,";

(b) after "rateable land" insert "or non-rateable leviable land".

(8) In section 2(8) of the Valuation of Land Act 1960—

(a) for "or the Local Government Act 1989" substitute ", the Local Government Act 1989 or the Fire Services Property Levy Act 2012,";
(b) after "rateable land" insert "or non-rateable leviable land".

(9) In section 2(9) of the Valuation of Land Act 1960—

(a) after "the Local Government Act 1989" insert ", the Fire Services Property Levy Act 2012";

(b) after "rateable land" insert "or non-rateable leviable land".

(10) In section 2(10) of the Valuation of Land Act 1960, for "or the Local Government Act 1989" substitute ", the Local Government Act 1989 or the Fire Services Property Levy Act 2012".

112 Amendment of section 5—Functions of valuer-general

In section 5(1)(ab) of the Valuation of Land Act 1960 after "councils" insert "or collection agencies or as directed by the Minister under Part IIA".

113 Amendment of section 6—Participation in general valuations made by a valuation authority

(1) In section 6(1)(b) of the Valuation of Land Act 1960, after "council general valuation" insert "or a collection agency general valuation".

(2) In section 6(4) of the Valuation of Land Act 1960, after "council general valuation" insert "or a collection agency general valuation".

114 Amendment of section 7—Requirement to confer with valuer-general

(1) In section 7 of the Valuation of Land Act 1960 after "council general valuation" insert "or collection agency general valuation".
(2) In section 7 of the Valuation of Land Act 1960 for "for the purpose of any rate of another rating authority, the area of which is in the relevant municipal district" substitute—

"for the purpose of any rate or tax of another rating authority, the area of which—

(d) is in the relevant municipal district; or

(e) is not located in the relevant municipal district but is in respect of non-rateable leviable land for which the council is the collection agency.".

115 Amendment of section 7AA—Requirement to report on council general valuation

(1) In the heading to section 7AA of the Valuation of Land Act 1960, after "valuation" insert "and collection agency general valuation".

(2) In section 7AA(1) of the Valuation of Land Act 1960, after "council general valuation" insert "or a collection agency general valuation".

116 Amendment of section 7AB—Return of amended council general valuation

(1) In the heading to section 7AB of the Valuation of Land Act 1960, after "valuation" insert "or collection agency general valuation".

(2) In section 7AB(2) of the Valuation of Land Act 1960—

(a) after "council general valuation" insert "or collection agency general valuation";

(b) after "rate" insert "or fire services property levy".
117 Amendment of section 7AC—Assessment of council general valuation by valuer-general

(1) In the heading to section 7AC of the Valuation of Land Act 1960, after "valuation" insert "or collection agency general valuation".

(2) In section 7AC(1) of the Valuation of Land Act 1960, after "council general valuation" insert "or collection agency general valuation".

118 Amendment of section 7AE—Order where council general valuation reported not generally true and correct

(1) In the heading to section 7AE of the Valuation of Land Act 1960, after "valuation" insert "or collection agency general valuation".

(2) In section 7AE(1) of the Valuation of Land Act 1960, after "council general valuation" insert "or a collection agency general valuation".

(3) For section 7AE(2)(a) of the Valuation of Land Act 1960 substitute—

"(a) require a council to cause a new general valuation to be made as soon as possible on—

(i) in the case of a council general valuation—all of the rateable land in the whole or any part of the municipal district on the basis or bases of value assessed that are specified in the Order;

(ii) in the case of a collection agency general valuation—all the non-rateable leviable land in the whole or any part of the area located outside the municipal district of the Council for which the Council is the collection agency on the basis or bases of value assessed that are specified in the Order; or".
(4) In section 7AE(2)(b) of the Valuation of Land Act 1960, after "council general valuation" insert "or collection agency general valuation".

119 Amendment of section 7AF—Declaration where general valuation certified true and correct

(1) In section 7AF(1)(b) of the Valuation of Land Act 1960, after "council general valuation" insert "or a collection agency general valuation".

(2) In section 7AF(2) of the Valuation of Land Act 1960, for "Part II" substitute "Parts II and IIA".

120 Amendment of sections 7AG and 7A—Restriction on payment of valuers for general valuations

(1) In section 7AG(1) of the Valuation of Land Act 1960, after "a council" insert "or a collection agency".

(2) In section 7A(1) of the Valuation of Land Act 1960, after "council general valuation" insert "or a collection agency general valuation".

121 Amendment of section 7B—Council to provide valuation to valuer-general

(1) In section 7B(1) of the Valuation of Land Act 1960, after "municipal district" insert "or non-rateable land located outside the municipal district.

(2) In section 7B(2)(b) of the Valuation of Land Act 1960, after "section 13DFA(1)" insert "or 13M (as appropriate)".

122 Amendment of section 7C—Valuer-general to maintain valuation record

In section 7C(1) of the Valuation of Land Act 1960—

(a) at the end of paragraph (c) for "Act." substitute "Act; and";
(b) after paragraph (c) insert—

"(d) all valuations provided to the valuer-
genral under Part IIA.".

123 Amendment of section 8AA—Fees for copy of valuation

(1) In section 8AA(1) of the Valuation of Land Act 1960, after "a council" insert "or a collection agency".

(2) In section 8AA(1A) of the Valuation of Land Act 1960—

(a) after "council" insert "or a collection agency";

(b) after "11" insert "or 13H".

(3) In section 8AA(1B) of the Valuation of Land Act 1960—

(a) after "council" insert "or a collection agency";

(b) after "13DFB" insert "or 13N".

124 Amendment of section 13DC—Valuations generally

For section 13DC(1) of the Valuation of Land Act 1960 substitute—

"(1) In every valuation for the purposes of the Local Government Act 1989, each separate occupancy on rateable land must—

(a) be computed at its net annual value, its capital improved value and, if required by a rating authority, its site value;

(b) be allocated an AVPCC based on the Valuation Best Practice Specifications Guidelines.".
125 Amendment of section 13DF—Supplementary valuation

After section 13DF(2)(k) of the Valuation of Land Act 1960 insert—

"(l) if there has been an error made in the AVPCC allocation given to the land, discovery of which has given rise to a change in the land use classification of the land;".

126 New Part IIA inserted

After Part II of the Valuation of Land Act 1960 insert—

"PART IIA—VALUATIONS FOR FIRE SERVICES PROPERTY LEVY ACT 2012

13E Application of Part

This Part applies to the valuation of non-rateable leviable land by a collection agency.

13F Where council is valuation authority

Subject to section 13G, a collection agency is the valuation authority in respect of—

(a) non-rateable leviable land in the municipal district in which it is Council; and

(b) non-rateable leviable land not located in a municipal district if the Minister administering the Fire Services Property Levy Act 2012 has directed that the Council be the collection agency in respect of that land.
13G Where valuer-general is valuation authority

(1) A collection agency may nominate the valuer-general to be the valuation authority—

(a) in respect of non-rateable leviable land located in the municipal district of the nominating collection agency in which it is the Council;

(b) in respect of non-rateable leviable land that is not located in a municipal district if the Minister administering the Fire Services Property Levy Act 2012 has directed that the Council be the collection agency in respect of that land.

(2) On the making of a nomination under subsection (1), the valuer-general has the power to cause a valuation of all non-rateable leviable land in the municipal district of the council which has made the nomination or in respect of non-rateable leviable land in respect of which the council has been directed to be the collection agency.

(3) A nomination under subsection (1) must be made—

(a) to the valuer-general in writing; and

(b) by 30 June of the even calendar year that immediately precedes the next even calendar year in which a general valuation is to be made.

(4) A nomination under subsection (1) continues in force until the nomination is revoked in accordance with subsection (5).
(5) A nomination under subsection (1) may be revoked by a council if the revocation is made—

(a) in the same manner as the nomination was made; and

(b) before 30 June of the even calendar year that immediately precedes the next even calendar year in which a valuation is to be made; and

(c) in respect of a general valuation that has not yet been caused to commence.

13H General valuation to be made every two years

For the purposes of the Fire Services Property Levy Act 2012, a valuation authority must—

(a) cause a general valuation of non-rateable leviable land to be made as at 1 January in every even calendar year; and

(b) before 30 June that year, cause a general valuation made in accordance with paragraph (a)—

(i) to be returned to it; and

(ii) if the valuation authority is the valuer-general—to be provided to the relevant collection agency.

13I Minister may direct a general valuation of non-rateable leviable land

(1) The Minister, after consultation with the valuer-general, may direct a valuation authority to cause a valuation of non-rateable leviable land to be made as at, and returned
before, dates other than those specified in section 13H.

(2) The Minister may direct the valuer-general to cause a valuation of non-rateable leviable land to be made.

13J Council valuations

(1) A valuation authority, when making a valuation under this Act for the purposes of the Fire Services Property Levy Act 2012, may appoint one or more people to carry out the valuation.

(2) A valuation authority must not appoint a person under subsection (1) unless the person holds the qualifications or experience specified from time to time by the Minister by notice published in the Government Gazette.

(3) If—

(a) a valuer who is qualified under subsection (2) and acceptable to a council, as valuation authority, is not reasonably available to the council; and

(b) the valuer-general reasonably believes it is necessary to do so—

the valuer-general, or a valuer nominated by the valuer-general, may carry out valuations for the council for a fee.

13K Valuations generally

(1) In every valuation for the purposes of the Fire Services Property Levy Act 2012, each separate occupancy on non-rateable leviable land must—
(a) be computed at its net annual value, its capital improved value and, if required, its site value; and

(b) be allocated an AVPCC based on the Valuation Best Practice Specifications Guidelines.

(2) In a general valuation, regard must be had to every circumstance affecting the land at the date the valuation is returned that, were it to occur or come into existence subsequently, would be a circumstance in which, under section 13L(2), a supplementary valuation could be made.

13L Supplementary valuation

(1) Despite anything in this or any other Act, a person referred to in section 13J may carry out a supplementary valuation for the purposes of the Fire Services Property Levy Act 2012.

(2) A supplementary valuation may be made in any of the following circumstances—

(a) if any land which should be included in the valuation then in force is not included;

(b) if the value of the land is materially altered by the approval of a planning scheme under the Planning and Environment Act 1987 or an amendment to a planning scheme under that Act, or by the granting, refusal or cancellation of a permit under such a scheme;
(c) if by reason of the sale of lots, any land in respect of which two or more persons are liable to pay the fire services property levy has been valued together as non-rateable leviable land;

(d) if by reason of the purchase of non-rateable leviable land or any other cause, any land in respect of which only one person is liable to pay the fire services property levy has been valued as if more than one person was liable to pay the fire services property levy;

(e) if any land has become non-rateable leviable land since the return of the existing valuation;

(f) if by reason of—

   (i) any building on the land being included in the Heritage Register established under the **Heritage Act 1995**; or

   (ii) any building ceasing to be included in the Heritage Register established under that Act; or

   (iii) the issue of a permit under the **Heritage Act 1995** to remove, demolish or alter a building included in the Heritage Register established under that Act or to subdivide or develop any land—

   the capital improved value, net annual value or site value of that land has been materially decreased or materially increased;
(g) if by reason of the destruction or removal of buildings or other improvements on land by reason of any physical changes of a permanent nature to land or improvements or by the making of roads or any other work of man or by adverse natural causes, the capital improved value, net annual value or site value of that land has been materially decreased;

(h) if any land or part of any land is burdened by a covenant under section 3A(1) of the *Victorian Conservation Trust Act 1972* or, if upon variation or release of such a covenant, the capital improved value, net annual value or site value of that land has been materially decreased or materially increased;

(i) if by reason of the erection or construction of buildings or other improvements on land or by reason of any physical changes of a permanent nature to land or improvements or by the making of roads or any other work of man or by favourable natural causes, the capital improved value, net annual value or site value of that land has been materially increased;

(j) if there has been a change in occupancy which affects the net annual value of the land;

(k) if by reason of the sale, transfer or conveyance of any land or the transfer, surrender or expiration of a lease of any land there are on the land any of the improvements described in

---

*Authorised by the Chief Parliamentary Counsel*

93
paragraph (b) of the definition of *improvements* in section 2(1) which were not made by the person who is the owner or occupier of the land;

(l) if there has been an error made in the AVPCC allocation given to the land, discovery of which has given rise to a change in the land use classification of the land;

(m) if for any reason other than a reason referred to in any of paragraphs (a) to (l), the capital improved value—

(i) of any land specified by Order of the Governor in Council published in the Government Gazette; or

(ii) of the land in any area specified by Order of the Governor in Council published in the Government Gazette—

is or is likely to have been materially altered as a consequence of any Act, proclamation, Order in Council, regulation, by-law or local law;

(n) if any arithmetical error has been made in calculating any valuation upon which any fire services property levy is payable or if by reason of any error in describing the land or any matter relating to the land or any improvements to it, an incorrect valuation has resulted.

(3) Any supplementary valuation when returned and certified by the valuer-general under section 13M must be treated as a part of the valuation in force and has the effect of cancelling anything contained in the existing
valuation which is not consistent with the supplementary valuation.

(4) Despite subsection (3), for the purposes of the Fire Services Property Levy Act 2012, the collection agency that caused the supplementary valuation to be made may use the supplementary valuation before it is certified by the valuer-general.

(5) If a supplementary valuation has been made in any of the circumstances referred to in subsection (2) other than paragraph (e), the amount of any fire services property levy payable in relation to that land must be calculated—

(a) for any period until the day of that return—by reference to the existing valuation; and

(b) from the day after that return for the remainder of the period—upon the supplementary valuation.

(6) If a supplementary valuation has been made in any of the circumstances referred to in subsection (2)(n), the collection agency may adjust the fire services property levy payable retrospectively for any period it considers just.

(7) The valuer in making a supplementary valuation must—

(a) have regard to the general levels of value upon which the valuation in force was based; and

(b) assess the value that the land to which the supplementary valuation applies would have had if at the time at which the last valuation was made it had been in the condition in which it is at the
time of the making of the supplementary valuation, having regard to every circumstance which affects the value of the land at the time of the making of the supplementary valuation, if it is a circumstance requiring the making of a supplementary valuation of the land under subsection (2).

(8) A person who is qualified or authorised to make a supplementary valuation may delete from a valuation return any entry for land if the whole of the land has ceased to be leviable land.

(9) The valuer must make entries on the return showing every alteration made on supplementary valuations or on an adjustment or determination of VCAT or the Supreme Court under Part III for as long as the valuation remains in force.

13M Certification of supplementary valuation

(1) Within one month after returning a supplementary valuation to the collection agency, the valuer must submit a report of the valuation in the prescribed form to the valuer-general.

(2) If, after considering the report by the valuer, the valuer-general is satisfied that the supplementary valuation is correct, the valuer-general must so certify in writing to the collection agency.

(3) If, after considering the report by the valuer, the valuer-general is not satisfied that the supplementary valuation is correct, the valuer-general must inform the valuer, who must make a further supplementary valuation in accordance with section 13L.
(4) The valuer-general may at any time require the valuer to give further information concerning the supplementary valuation to the valuer-general.

(5) If, within 2 months after receiving a report on a supplementary valuation, the valuer-general has not certified the valuation or informed the valuer under subsection (3), the valuer-general is deemed to have certified the valuation at the end of that period.

(6) In calculating the period referred to in subsection (5), any time between the time when the valuer-general requires the valuer to give him or her further information under subsection (4) and the time when that requirement is complied with is not to be counted.

13N Valuation authority to make supplementary valuation on behalf of collection agency

(1) If the valuer-general is the valuation authority, the valuer-general must cause a supplementary valuation under section 13L to be made if so requested by the collection agency.

(2) A request by a collection agency under subsection (1) must be made to the valuer-general in writing.

13O Valuer's powers and duties

(1) A valuer must return valuations in the prescribed form.

(2) Before any valuation and return is made the person appointed to make it must make a statutory declaration that the valuation and return will be impartial and true to the best of that person's judgment and will be made by
that person or under that person's immediate personal supervision.

13P Person may apply for valuation

(1) On written application by a person to the relevant collection agency, the collection agency must provide the person with a copy of the most recent valuation of any non-rateable leviable land.

(2) The copy must specify the date as at which the value was assessed.

(3) Each application must be accompanied by the prescribed fee for each area of land for which a valuation is required.

127 Amendment of section 15—Notice of valuation

(1) In section 15(5) of the Valuation of Land Act 1960—

(a) after "within" insert "or outside";

(b) after "municipal district" (where second occurring) insert "or a tax levied by the collection agency in respect of land outside the municipal district".

(2) In section 15(6)(a) and (7) of the Valuation of Land Act 1960, after "rate" insert "or tax".

(3) After section 15(9) of the Valuation of Land Act 1960 insert—

"(10) This section applies in respect of a general or supplementary valuation made under Part IIA.".
128 Amendment of section 16—Who may object?

After section 16(8) of the Valuation of Land Act 1960 insert—

"(9) This section applies in respect of a general or supplementary valuation made under Part IIA."

129 Amendment of section 17—Grounds for objection

In section 17(g) of the Valuation of Land Act 1960, after "of the land" insert "including the AVPCC allocated to the land".

130 Amendment of section 19—Further limitation on lodging objections if previous objection lodged

In section 19(1) of the Valuation of Land Act 1960, after "rateable land" insert "or leviable land".

__________________

s. 128
PART 10—CONSEQUENTIAL AMENDMENT TO VICTORIAN MANAGED INSURANCE AUTHORITY ACT 1996 AND REPEAL

Division 1—Consequential amendment

131 Amendment of Victorian Managed Insurance Authority Act 1996

Section 7(4) of the Victorian Managed Insurance Authority Act 1996 is repealed.

Division 2—Repeal

132 Repeal

(1) Division 2 of Part 6, Part 9 and Division 1 of this Part are repealed on 1 July 2014.

(2) Parts 7 and 8 and this Part are repealed on 1 July 2016.

Note

The repeal of Division 2 of Part 6 and Parts 7, 8, 9 and 10 does not affect the operation of the amendments made by those Parts (see section 15(1) of the Interpretation of Legislation Act 1984).
PART 11—FURTHER AMENDMENT OF ESSENTIAL SERVICES COMMISSION ACT 2001 AND RELATED REPEALS

133 Repeal of Division 1 of Part 6

Division 1 of Part 6 is repealed.

134 Amendment of section 10—Functions of the Commission

Section 10(la) of the Essential Services Commission Act 2001 is repealed.

135 Amendment of section 38—Restriction on disclosure of confidential information

(1) In section 38(1)(a) of the Essential Services Commission Act 2001—

(a) for "or" after subparagraph (ii) substitute "and";

(b) subparagraph (iii) is repealed.

(2) In section 38(2)(c)(iii) of the Essential Services Commission Act 2001 omit "or section 91 of the Fire Services Property Levy Act 2012".

(3) In section 38(3)(c) of the Essential Services Commission Act 2001 omit "or section 91(3) of the Fire Services Property Levy Act 2012".

136 Repeal

This Part is repealed on 31 December 2017.

Note

The repeal of this Part does not affect the operation of the amendments made by this Part (see section 15(1) of the Interpretation of Legislation Act 1984).
SCHEDULE

Section 15

AVPCC ALLOCATION

<table>
<thead>
<tr>
<th>Item number</th>
<th>Land use classification</th>
<th>AVPCC</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Residential</td>
<td>100–108, 110–130, 132, 134–199, 729, 742</td>
</tr>
<tr>
<td>4</td>
<td>Primary Production</td>
<td>500–599</td>
</tr>
<tr>
<td>6</td>
<td>Vacant</td>
<td>200–201, 300–301, 482, 600–601, 700–706, 782, 800–802</td>
</tr>
</tbody>
</table>

Note

An AVPCC that has a decimal place is to be treated as a whole number rounded down to the nearest whole number.
ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 30 August 2012
Legislative Council: 13 September 2012

The long title for the Bill for this Act was "A Bill for an Act to impose a fire services property levy on all land in Victoria unless specifically exempted, to provide for collection agencies to collect the fire services property levy, to provide for the Commissioner of State Revenue to receive the fire services property levy and pay it into the Consolidated Fund, to make consequential amendments to the Country Fire Authority Act 1958, the Essential Services Commission Act 2001, the Metropolitan Fire Brigades Act 1958, the Valuation of Land Act 1960 and the Victorian Managed Insurance Authority Act 1996 and for other purposes."

Constitution Act 1975:
Section 85(5) statement:

Legislative Assembly: 30 August 2012
Legislative Council: 13 September 2012

Absolute majorities:

Legislative Assembly: 13 September 2012
Legislative Council: 11 October 2012

The Fire Services Property Levy Act 2012 was assented to on 16 October 2012 and came into operation as follows:

Sections 1–93, 96, 98, 99, 104, 106, 107, and 111–130 on 17 October 2012: section 2(1); sections 97(3) and 105(2) on 31 December 2012: section 2(2); sections 95, 97(1)(2), 102, 105(1), 108, 131 and 132 on 1 July 2013: section 2(3); sections 133–136 on 31 December 2016: section 2(8); rest of Act not yet proclaimed.
2. Table of Amendments

There are no amendments made to the Fire Services Property Levy Act 2012 by Acts and subordinate instruments.
3. **Explanatory Details**

   No entries at date of publication.