

PARLIAMENT OF VICTORIA

**Emergency Services Legislation Amendment Bill
2011**

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PARLIAMENT OF VICTORIA

Introduced in the Assembly

**Emergency Services Legislation
Amendment Bill 2011**

A Bill for an Act to amend the **Country Fire Authority Act 1958**, the **Metropolitan Fire Brigades Act 1958**, the **Victoria State Emergency Service Act 2005**, the **Emergency Management Act 1986**, the **Emergency Services Telecommunications Authority Act 2004**, the **Forests Act 1958** and the **Summary Offences Act 1966** and for other purposes.

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

(a) to amend—

(i) the **Country Fire Authority Act 1958**;
and

5

(ii) the **Metropolitan Fire Brigades Act 1958**—

to reflect current organisational arrangements and clarify the command structures applying at fires, to increase penalties and create new offences to mitigate risks that undermine effective emergency response and community safety and to modernise outdated provisions;

(b) to amend the **Victoria State Emergency Service Act 2005** to align compensation provisions with the **Accident Compensation Act 1985**, to clarify that the Victoria State Emergency Service is able to engage in fundraising and promotional activities and to provide a regulation making power regarding the administration and management of units;

(c) to amend each of the **Country Fire Authority Act 1958**, the **Metropolitan Fire Brigades Act 1958** and the **Victoria State Emergency Service Act 2005** to—

(i) insert a definition of major emergency; and

(ii) incorporate a general emergency responsibility to assist in the response to large scale emergencies;

(d) to amend the **Emergency Management Act 1986** to enhance police powers relating to the declaration of emergency areas and the operation of roadblocks and to realign the offence relating to the making of false claims for compensation;

5 (e) to amend the **Emergency Services
Telecommunications Authority Act 2004**
to allow the Emergency Services
Commissioner to determine generic as well
as agency specific standards for the service
performance of the Emergency Services
Telecommunications Authority and to
remove redundant references to certain
ambulance services;

10 (f) to amend the **Forests Act 1958** to insert an
immunity provision applying to authorised
officers and other persons in relation to
things done or omitted to be done in the
exercise of powers or the discharge of duties
15 relating to fire management activities;

(g) to amend the **Summary Offences Act 1966**
as result of changes made to the **Country
Fire Authority Act 1958** and the
Metropolitan Fire Brigades Act 1958.

20 **2 Commencement**

(1) Subject to subsection (2), this Act comes into
operation on a day or days to be proclaimed.

25 (2) If a provision of this Act does not come into
operation before 1 December 2012, it comes into
operation on that day.

**PART 2—AMENDMENT OF COUNTRY FIRE AUTHORITY
ACT 1958**

3 Amendment of section 3—Definitions

5 See:
Act No.
6228.
Reprint No. 13
as at
6 May 2010
and
amending
Act Nos
10 29/2010,
54/2010,
64/2010,
73/2010,
78/2010,
10/2011,
29/2011 and
56/2011.
LawToday:
15 www.
legislation.
vic.gov.au

In section 3(1) of the **Country Fire Authority Act 1958**—

- (a) in the definition of *administrative unit*, for "Department" **substitute** "department";
- (b) in the definition of *apparatus*, for "life or property in case of fire" **substitute** "life, property or the environment or the performance of any function or duty under this Act";
- (c) for the definition of *brigade* **substitute**—
"*brigade* means a brigade registered by the Authority under section 23(1)(b);";
- (d) in the definition of *Chief Officer omit* "urban and rural";
- (e) in the definition of *country area of Victoria* for "metropolitan fire district" **substitute** "metropolitan district";
- (f) in the definition of *Deputy Chief Officer omit* "urban and rural";
- (g) in the definition of *fire*—
 - (i) in paragraph (b), for "extinguished;" **substitute** "extinguished; and";
 - (ii) after paragraph (b) **insert**—
"(c) the threat of a fire re-igniting;";
- (h) for the definition of *owner* **substitute**—
"*owner* has the same meaning as it has in section 3(1) of the **Subdivision Act 1988**";";

(i) the definitions of *metropolitan fire district*, *rural brigade*, *rural district*, *urban brigade* and *urban district* are **repealed**;

(j) **insert** the following definitions—

5 "*Department* means the Department of Sustainability and Environment;

group of brigades means a group of brigades registered by the Authority under section 23A(3);

10 *international fire brigade* means—

 (a) a fire brigade or unit (however described); or

 (b) any other agency or organisation constituted for the purpose of fire management or which has a fire management role; or

 (c) any other emergency services organisation—

 established outside Australia;

20 *interstate fire brigade* means—

 (a) a fire brigade or unit (however described); or

 (b) any other agency or organisation constituted for the purpose of fire management or which has a fire management role; or

 (c) any other emergency services organisation—

 established outside Victoria but within Australia;

30 *metropolitan district* has the same meaning as it has in section 3(1) of the **Metropolitan Fire Brigades Act 1958**;

municipal fire prevention officer means a person appointed by a municipal council under section 96A(1)(a) to be the fire prevention officer for that council;

owners corporation has the same meaning as it has in section 3 of the **Owners Corporations Act 2006**;

4 Amendment of section 4—Declaration of fire danger period

(1) **Insert** the following heading to section 4 of the **Country Fire Authority Act 1958**—

"Declaration of fire danger period".

(2) In section 4 of the **Country Fire Authority Act 1958** **omit** "of Natural Resources and Environment".

5 Amendment of section 7—Constitution of Authority

(1) In section 7(1)(b) of the **Country Fire Authority Act 1958** for "rural brigades" **substitute** "brigades predominantly serving rural communities".

(2) In section 7(1)(c) of the **Country Fire Authority Act 1958** for "urban brigades" **substitute** "brigades predominantly serving urban communities".

6 Amendment of section 11A—Conflicts of interest

In section 11A(3)(a) of the **Country Fire Authority Act 1958** for "full declaration of the interest has been made" **substitute** "declaration of the interest has been made in accordance with this section".

7 Amendment of section 13—Expenses of chairman and members

In section 13(2) of the **Country Fire Authority Act 1958** after "scene of any fire" **insert** "or".

8 New section 20AAA inserted

After section 20 of the **Country Fire Authority Act 1958 insert—**

"20AAA Duty to assist in major emergency

(1) In addition to any other of its duties and functions under this Act, the Authority must assist in the response to any major emergency occurring within Victoria.

(2) In this section—

emergency agency means—

- (a) the Authority;
- (b) the Metropolitan Fire and Emergency Services Board established under the **Metropolitan Fire Brigades Act 1958**;
- (c) the Secretary to the Department of Sustainability and Environment when performing functions or duties or exercising powers under section 62(2) of the **Forests Act 1958**;
- (d) the Victoria State Emergency Service Authority established under the **Victoria State Emergency Service Act 2005**;

major emergency means—

- (a) a large or complex emergency (however caused) which—
 - (i) has the potential to cause or is causing loss of life and extensive damage to property, infrastructure or the environment; or

(ii) has the potential to have or is having significant adverse consequences for the Victorian community or a part of the Victorian community; or

(iii) requires the involvement of 2 or more emergency agencies to respond to the emergency; or

(b) a major fire within the meaning of the **Fire Services Commissioner Act 2010**."

9 Amendment of section 20AA—General powers of Authority

For section 20AA(4) of the **Country Fire Authority Act 1958** substitute—

"(4) Subsection (3)(a) does not apply to an agreement or arrangement for the provision of goods or services by the Authority—

(a) to a brigade or group of brigades or to a person acting on behalf of a brigade or group of brigades; or

(b) where the provision of those goods or services falls within the general duties and functions of the Authority."

10 Section 20B substituted

For section 20B of the **Country Fire Authority Act 1958** substitute—

"20B False alarm of fire

(1) This section applies if a fire brigade in the country area of Victoria responds to a false alarm of fire at a premises given by or originating from—

-
- (a) an automatic fire alarm system; or
- (b) equipment designed to detect a fire or other emergency conditions and transmit a signal of that detection.
- 5 (2) The Authority may, by written notice, require the owner, occupier or owners corporation of the premises to provide details of the circumstances of the false alarm to the Authority.
- 10 (3) A person who receives a notice under subsection (2) may provide the Authority with an explanation of the circumstances of the false alarm of fire and any information supporting the explanation including
- 15 maintenance and testing records.
- (4) The Authority is not required to consider an explanation given by a person under subsection (3) unless it is—
- (a) in writing; and
- 20 (b) provided to the Authority within 14 days after the person has received the notice under subsection (2).
- (5) After the expiry of the period provided under subsection (4)(b) for the provision of an
- 25 explanation, the Authority must consider whether or not there was a reasonable excuse for the occurrence of the false alarm having regard to—
- (a) subject to subsection (4), any
- 30 explanation and information provided by the person under subsection (3); and
- (b) any report of the officer in charge of the fire brigade who attended at the false alarm at the premises; and

- (c) the history of any attendances at the premises; and
- (d) any other information that the Authority considers is relevant.
- 5 (6) If, after considering the matters referred to in subsection (5), the Authority is not satisfied that there was a reasonable excuse for the occurrence of the false alarm of fire, the Authority may by written notice require the
- 10 person to whom the notice under subsection (2) was given to pay to the Authority the fees and charges prescribed for the attendance of the fire brigade in response to the false alarm.
- 15 (7) A person who receives a notice under subsection (6) may apply to VCAT for review of the decision of the Authority to issue the notice.
- 20 (8) An application under subsection (7) for a review must be made within 28 days after the later of—

 - (a) the day on which the applicant is notified of the decision; or
 - 25 (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision—the day on which—

 - 30 (i) the statement of reasons is given to the applicant; or
 - (ii) the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

(9) This section does not apply in relation to an industry brigade."

11 Amendment of section 22—Persons holding property of brigade

(1) In section 22(1) of the **Country Fire Authority Act 1958** for "an urban or rural brigade" substitute "a brigade".

(2) In section 22(2) of the **Country Fire Authority Act 1958** omit "urban or rural".

12 Amendment of section 23—General powers of Authority with respect to brigades, apparatus etc.

(1) In section 23(1)(a) of the **Country Fire Authority Act 1958** omit "urban fire brigades volunteer rural".

(2) In section 23(1)(b) of the **Country Fire Authority Act 1958**—

(a) omit "subject to subsection (2),";

(b) omit "in respect of any urban or rural district".

(3) In section 23(1)(d) of the **Country Fire Authority Act 1958** omit "urban brigades or any rural".

(4) Section 23(2) of the **Country Fire Authority Act 1958** is repealed.

13 Amendment of section 23AA—Industry brigades

In section 23AA(3) of the **Country Fire Authority Act 1958** after "must" insert ", within a reasonable time,".

14 Amendment of section 23A—Groups of brigades

In section 23A(1) of the **Country Fire Authority Act 1958** for "extinction" substitute "suppression".

15 Amendment of section 27—Chief Officer to have control of all brigades etc.

At the end of section 27 of the **Country Fire Authority Act 1958** insert—

- "(2) The Chief Officer may—
- (a) classify a brigade based on its risk profile; and
 - (b) designate the area of operation of a brigade."

16 Amendment of section 30—Powers of officers at fires

(1) In section 30(1) of the **Country Fire Authority Act 1958** for "in any urban or rural district" substitute "anywhere within the country area of Victoria".

(2) For section 30(1)(f) and (g) of the **Country Fire Authority Act 1958** substitute—

- "(f) The Chief Officer may close any road or part of any road affected, or likely to be affected, by a fire or smoke from a fire and may direct traffic on any road in the vicinity of the closed road (or closed part of a road);
- (g) If a person is interfering, by his or her presence or otherwise, with the operations of any brigade or group of brigades or is in or on any land, building or premises that is burning or threatened by fire, the Chief Officer may—
- (i) order the person to withdraw and may include in the order a direction to immediately leave any area affected by the fire by the safest and shortest route; and

- 5 (ii) in the event that the person fails or refuses to withdraw—remove the person or direct a member of a fire brigade or a member of the police force present at the fire to remove the person;"

17 Amendment of section 30A—Authorisation of certain persons

- 10 (1) In section 30A(1)(c) of the **Country Fire Authority Act 1958**—

- (a) **omit** "of Sustainability and Environment";
(b) for "that" (where first occurring) **substitute** "the";
(c) for "that Act." **substitute** "that Act;"

- 15 (2) After section 30A(1)(c) of the **Country Fire Authority Act 1958** insert—

- "(d) a person engaged by the Secretary under section 62C of the **Forests Act 1958**."

20 **18 Amendment of section 31—Police to assist Chief Officer**

- (1) For section 31(3)(b) of the **Country Fire Authority Act 1958** **substitute**—

- 25 "(b) if a person is interfering, by his or her presence or otherwise, with the operations of any brigade or group of brigades or is in or on any land, building or premises that is burning or threatened by fire—

- 30 (i) order the person to withdraw and may include in the order a direction to immediately leave any area affected by the fire by the safest and shortest route; and

(ii) in the event that the person fails or refuses to withdraw—remove the person."

(2) In section 31(4) of the **Country Fire Authority Act 1958** for "this or the last preceding section" substitute "this section or section 30".

19 Amendment of section 32—Duties of water, electricity and gas suppliers

(1) **Insert** the following heading to section 32 of the **Country Fire Authority Act 1958**—

"Duties of water, electricity and gas suppliers".

(2) In section 32(2) of the **Country Fire Authority Act 1958** for "any urban district" substitute "the country area of Victoria".

20 Amendment of section 33—Determination of sole responsibility for fire suppression in certain areas

(1) In section 33(1)(a) of the **Country Fire Authority Act 1958** for "metropolitan fire district" substitute "metropolitan district".

(2) In section 33(2)(a) of the **Country Fire Authority Act 1958** for "Metropolitan Fire Brigade" substitute "Metropolitan Fire and Emergency Services Board".

(3) In section 33(2)(b) of the **Country Fire Authority Act 1958**—

(a) for "forest officer" substitute "person to whom section 30A applies";

(b) for "a forest officer" substitute "such a person".

(4) In section 33(2)(c) of the **Country Fire Authority Act 1958**—

(a) for "metropolitan fire district" substitute "metropolitan district";

(b) for "Metropolitan Fire Brigade" (wherever occurring) **substitute** "Metropolitan Fire and Emergency Services Board".

21 Amendment of section 34—Duties of owner etc. of land in case of fire during fire danger period

- (1) In section 34(1)(a) of the **Country Fire Authority Act 1958** for "possible" **substitute** "reasonable".
- (2) In section 34(1)(b) of the **Country Fire Authority Act 1958** for "forest officer" **substitute** "person to whom section 30A applies".
- (3) At the foot of section 34(1) of the **Country Fire Authority Act 1958 insert—**
"Penalty: 120 penalty units or imprisonment for 12 months or both."
- (4) In section 34(2) of the **Country Fire Authority Act 1958** for "possible" **substitute** "reasonable".
- (5) For the penalty at the foot of section 34(2) of the **Country Fire Authority Act 1958 substitute—**
"Penalty: 120 penalty units or imprisonment for 12 months or both."

22 New section 36A inserted

After section 36 of the **Country Fire Authority Act 1958 insert—**

"36A Determination of sole responsibility for fire prevention in certain areas

- (1) The Authority and the Secretary may jointly determine that either the Authority or the Secretary is solely responsible for the prevention of fires in any part of Victoria which lies outside the metropolitan district.

5 (2) Notice of a determination under subsection (1), describing by plan or otherwise the part of Victoria affected by the determination must be published in the Government Gazette and a newspaper circulating generally in that part of Victoria.

(3) A determination under subsection (1) takes effect on the day that it is published in accordance with subsection (2)."

10 **23 Amendment to section 37—General prohibition against lighting open air fires**

For the penalty at the foot of section 37 of the **Country Fire Authority Act 1958** substitute—

15 "Penalty: 120 penalty units or imprisonment for 12 months or both."

24 New section 37A inserted

After section 37 of the **Country Fire Authority Act 1958** insert—

"37A Direction not to light fire

20 (1) The Chief Officer may, for the purpose of protecting life, property or the environment, direct a person or persons to not light a fire at a place and within a period of time specified in the direction.

25 (2) A person must not, without reasonable excuse, fail to comply with a direction given to the person by the Chief Officer under subsection (1).

30 Penalty: 120 penalty units or imprisonment for 12 months or both."

25 Amendment of section 38—Lighting fires in accordance with permit

(1) After section 38(2) of the **Country Fire Authority Act 1958** insert—

5 "(2A) A permit granted under subsection (1) may allow the person to whom it is granted to light a fire or fires at any time within a period specified in the permit subject to any conditions or restrictions contained in the permit."

10 (2) For section 38(3) of the **Country Fire Authority Act 1958** substitute—

15 "(3) A person to whom a permit is issued under subsection (1) must comply with each of the conditions and restrictions contained in the permit.

 Penalty: 120 penalty units or imprisonment for 12 months or both."

26 Amendment of section 38A—Fires for certain purposes to be lawful

20 (1) Section 38A(1)(a)(iii) of the **Country Fire Authority Act 1958** is repealed.

25 (2) In section 38A(1)(b)(iii) of the **Country Fire Authority Act 1958** for "of the incinerator are cleared of all flammable material" substitute "from the outer perimeters of the incinerator are clear of flammable material".

30 (3) In section 38A(1)(c) of the **Country Fire Authority Act 1958** after "honey," insert "relocating bees, rail maintenance,".

(4) For section 38A(1A) of the **Country Fire Authority Act 1958** substitute—

"(1A) For the purposes of subsection (1)—

incinerator means a structure or device which is used, or may be used, for the destruction or disposal of unwanted materials by burning and is—

- (a) constructed from non-flammable material; and
- (b) fitted with a shield or guard of non-flammable material to prevent the emission of sparks, embers or other burning material;

properly constructed fireplace means a fireplace that is constructed of stone, metal, concrete or any other non-flammable material so as to contain the perimeter of the fire."

27 Amendment of section 39—Prohibited actions near fires

(1) In section 39(a)(i) of the **Country Fire Authority Act 1958** after "another person" **insert** "who has the capacity and the means to extinguish the fire".

(2) In section 39(d) of the **Country Fire Authority Act 1958**—

- (a) after "burning" **insert** "unattended";
- (b) for "forest officer" **substitute** "person to whom section 30A applies".

(3) For the penalty at the foot of section 39 of the **Country Fire Authority Act 1958** substitute—

"Penalty: 120 penalty units or imprisonment for 12 months or both."

28 Amendment of section 39E—Prohibition of high fire risk activities

For the penalty at the foot of section 39E(1) of the **Country Fire Authority Act 1958 substitute—**

"Penalty: 120 penalty units or imprisonment for 12 months or both."

29 Amendment of section 40—Provisions about total fire bans

(1) For the penalty at the foot of section 40(4) of the **Country Fire Authority Act 1958 substitute—**

"Penalty: 240 penalty units or imprisonment for 2 years or both."

(2) Section 40(4A) and (4B) of the **Country Fire Authority Act 1958 are repealed.**

(3) For section 40(4C)(c) of the **Country Fire Authority Act 1958 substitute—**

"(c) at all times when the fire in the appliance is alight the appliance is attended by an adult who has the capacity and the means to extinguish the fire."

(4) For section 40(4D) of the **Country Fire Authority Act 1958 substitute—**

"(4D) For the purposes of subsection (4C)—

fixed appliance means—

- (a) a properly constructed and permanently fixed structure of stone, metal, concrete or any other non-flammable material designed exclusively for meal preparation and fired by gas or electricity; or

(b) an appliance that is designed and commercially manufactured exclusively for meal preparation and that—

(i) uses only gas or electricity; and

(ii) when alight is placed in a stable position."

(5) In section 40(4F) of the **Country Fire Authority Act 1958** for "community charitable organisation" **substitute** "community organisation, a charitable organisation or an organisation involved in fund raising".

(6) At the foot of section 40(4F) of the **Country Fire Authority Act 1958** insert—

Example

A school or sporting group involved in fund raising."

(7) In section 40(5) of the **Country Fire Authority Act 1958** for "the purpose of carrying on the work of a community charitable organisation, statutory corporation or municipal council or an industrial operation or trade, or for the purpose of public entertainment," **substitute** "a purpose specified in subsection (5A)".

(8) In section 40(5)(a) of the **Country Fire Authority Act 1958**—

(a) for "metropolitan fire district" **substitute** "metropolitan district";

(b) for "Chief Fire Officer of the Metropolitan Fire Brigades" **substitute** "Chief Officer of the Metropolitan Fire and Emergency Services".

(9) In section 40(5)(c) of the **Country Fire Authority Act 1958** for "Chief Fire Officer in the Department of Natural Resources and

30 Amendment of section 41—Fire prevention notices

For section 41(3)(d) of the **Country Fire Authority Act 1958 substitute—**

"(d) must contain any prescribed information."

31 Amendment of section 41B—Objection to notices

(1) In section 41B(1) of the **Country Fire Authority Act 1958** for "an objection" **substitute** "a written objection".

(2) For section 41B(2) of the **Country Fire Authority Act 1958 substitute—**

"(2) If—

(a) a person lodges an objection in accordance with subsection (1); and

(b) the fire prevention officer considers the grounds of objection to be reasonable—

the fire prevention officer must consult with the person and make a genuine attempt to resolve the matter that is the subject of the fire prevention notice."

32 Amendment to section 41D—Compliance with notices

For the penalty at the foot of section 41D(1) of the **Country Fire Authority Act 1958 substitute—**

"Penalty: 120 penalty units or imprisonment for 12 months or both."

33 Amendment to section 41E—Fire prevention infringement notices

(1) In section 41E(1) of the **Country Fire Authority Act 1958—**

(a) for "believes" **substitute** "has reason to believe";

(b) **omit** ", requiring that person to pay a penalty of 2 penalty units".

(2) After section 41E(2) of the **Country Fire Authority Act 1958** insert—

"(3) The infringement penalty for an offence against section 41D is 10 penalty units."

34 Repeal of section 44

Section 44 of the **Country Fire Authority Act 1958** is **repealed**.

35 Amendment of section 44A—Power of Chief Officer to close roads

(1) For section 44A(1) of the **Country Fire Authority Act 1958** substitute—

"(1) This section applies—

(a) if there is a fire or a threat of a fire anywhere within the country area of Victoria; and

(b) regardless of whether the fire is lighted under and in accordance with this Division or is part of burning off operations carried out under and in accordance with this Act or any direction or permit given or issued under this Act or under and in accordance with the **Forests Act 1958** or any direction or authority given under that Act.

(1A) The Chief Officer may, for the purpose of protecting life, property or the environment, or if in his or her opinion smoke from a fire impairs visibility on any road to such an extent that the safety of any persons using the road is endangered—

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(a) close any road or part of any road affected, or likely to be affected, as a consequence of a fire or smoke from a fire; and

(b) direct traffic on any road in the vicinity of the closed road or closed part of a road."

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(2) In section 44A(2) of the **Country Fire Authority Act 1958** for "forest officer" **substitute** "person to whom section 30A applies".

36 Amendment of section 45—Power to Governor in Council to transfer municipal officers' powers

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In section 45(1) of the **Country Fire Authority Act 1958** for "any urban or rural district or any part of any urban or rural district" **substitute** "any part of the country area of Victoria".

37 Amendment of section 48—Power to police, Chief Officer etc. to direct extinguishment of fire

20

(1) For section 48(2) of the **Country Fire Authority Act 1958 substitute**—

"(2) An owner, occupier or person to whom a direction has been given under subsection (1A) must, without delay, take all reasonable steps to comply with the direction.

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Penalty: 120 penalty units or imprisonment for 12 months or both."

(2) Section 48(3) of the **Country Fire Authority Act 1958 is repealed.**

38 Amendment of section 49—Obligation of sawmillers

For the penalty at the foot of section 49 of the **Country Fire Authority Act 1958 substitute—**

"Penalty: 60 penalty units."

39 New section 50AA inserted

After section 50 of the **Country Fire Authority Act 1958 insert—**

"50AA Alarm monitoring service to provide prescribed information

- (1) The Authority may, by written notice, require a person who conducts an alarm monitoring service to provide to the Authority the prescribed information within the prescribed period.
- (2) A person must comply with a notice given by the Authority under this section within the prescribed period.

Penalty: 60 penalty units.

- (3) In this section—

alarm monitoring service means a business that—

- (a) receives signals from equipment located at a premises that is designed to detect fire or other emergency conditions at that premises; and
- (b) transmits those signals as appropriate."

40 Amendment of section 52—Appointment of regional fire prevention committees

In section 52(1) of the **Country Fire Authority Act 1958 omit** "(not being a region consisting wholly of urban districts)".

41 Amendment of section 54—Appointment of municipal fire prevention committees

In section 54(2)(b) of the **Country Fire Authority Act 1958** omit "urban or rural".

42 Amendment of section 55A—Municipal fire prevention plans

In section 55A(2)(cb) of the **Country Fire Authority Act 1958** for "designate" substitute "designating".

43 Amendment of section 62—Definitions for Part V

In section 62 of the **Country Fire Authority Act 1958**—

(a) in the definition of *casual fire-fighter*, for "(including an enrolled officer or member of an industry brigade but not including an enrolled officer or member of any other brigade)" substitute "(other than an enrolled officer or member of any brigade, including an industry brigade)";

(b) in the definition of *officer in charge*—

(i) for "forest officer" substitute "person to whom section 30A applies";

(ii) for "metropolitan fire brigade" substitute "Metropolitan Fire and Emergency Services Board".

44 Amendment of section 74E—Remuneration and allowances

In section 74E of the **Country Fire Authority Act 1958** for "from time to time" substitute "as are".

45 Amendment of section 74G—Vacancies

After section 74G(1) of the **Country Fire Authority Act 1958** insert—

"(1A) A resignation under subsection (1) takes effect—

(a) on the date specified in the letter; or

(b) if no date is specified in the letter—on the day the letter is received by the Minister."

46 New section 87AA inserted

After section 87 of the **Country Fire Authority Act 1958** insert—

"87AA Authority may charge for services under other Acts and regulations

If the Authority is required or permitted under another Act, or regulations made under another Act, to provide services (including any advisory services), the Authority may charge for the provision of those services in accordance with the regulations."

47 Amendment of section 91—Owners of houses and property to give information as to insurance

For section 91(3) of the **Country Fire Authority Act 1958** substitute—

"(3) A person to whom a request for information in relation to the person's insurance has been made under this section must, without delay, comply with that request.

Penalty: 60 penalty units.

(4) A person to whom a request for information in relation to the person's insurance has been made under this section must not, in response to that request, give information

that the person knows to be false or give particulars that the person knows to be incorrect.

Penalty: 60 penalty units."

48 Amendment of section 92—Immunity provision

For section 92(1)(c) of the **Country Fire Authority Act 1958** substitute—

"(c) any officer or member of—

- (i) any brigade or group of brigades; or
- (ii) an interstate fire brigade; or
- (iii) an international fire brigade;"

49 Sections 93 and 93A substituted

For sections 93 and 93A of the **Country Fire Authority Act 1958** substitute—

"93 Damage to be covered by fire insurance

(1) This section applies if, in the exercise of any power or the performance of any duty conferred or imposed by or under this Act, damage to property is caused by—

- (a) the Chief Officer; or
- (b) any officer exercising the powers of the Chief Officer; or
- (c) any officer or member of—
 - (i) any brigade or group of brigades; or
 - (ii) an interstate fire brigade; or
 - (iii) an international fire brigade; or
- (d) any brigade or group of brigades; or
- (e) an interstate fire brigade; or
- (f) an international fire brigade.

(2) The damage is taken to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

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(3) Subsection (2) applies despite any clause or condition to the contrary contained in the policy of insurance.

93A Interstate fire brigades and international fire brigades

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(1) Subject to subsection (2), an officer or member of an interstate fire brigade or of an international fire brigade who is present in the country area of Victoria for the purpose of endeavouring to prevent or suppress a fire (including the prevention of a fire outside the country area of Victoria spreading to the country area of Victoria) or to protect life and property must—

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(a) place himself or herself and any equipment or gear in his or her charge (including a fire engine) at the disposal of; and

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(b) obey any orders given to him or her by—

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the Chief Officer or other officer or member who is in charge of the fire fighting operations and is present at the fire.

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(2) If the Chief Officer or other officer or member in charge of the fire fighting operations is not present at the fire, then, until the arrival of the Chief Officer or other officer or member, an officer or member of the interstate fire brigade or international fire brigade who is present at the fire and in charge of that interstate fire brigade or international fire brigade has and may

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exercise all the powers, authorities, duties and functions which by or under this Act are conferred or imposed on the Chief Officer.

(3) Subsection (4) applies if, for the purpose of endeavouring to prevent or suppress a fire (including the prevention of a fire outside the country area of Victoria spreading to the country area of Victoria) or to protect life or property, an interstate fire brigade or an international fire brigade sends only equipment or resources to the country area of Victoria.

(4) If this subsection applies, then, while the equipment or resources remain in the country area of Victoria, the equipment or resources are subject to the control of the Chief Officer or other officer or member who is in charge of the fire fighting operations and is present at the fire."

50 Amendment of section 98—Place where fire occurs

(1) In section 98(2) of the **Country Fire Authority Act 1958** for "the Officer's" substitute "the Chief Officer's".

(2) In section 98(3) of the **Country Fire Authority Act 1958** for "Authority or Officer" (wherever occurring) substitute "Authority or Chief Officer".

51 Amendment of section 102—Collections for brigades to be authorized by Authority

For section 102(2) of the **Country Fire Authority Act 1958** substitute—

"(2) A person must not solicit or collect contributions or subscriptions for the purposes of any brigade, group of brigades or association in the country area of Victoria

unless the person is authorised to do so under subsection (1).

Penalty: 10 penalty units.

- 5 (3) A person who is authorised under subsection (1) to collect contributions or subscriptions for the purposes of any brigade, group of brigades or association must comply with any conditions to which the authority is subject.

10 Penalty: 10 penalty units."

52 Amendment of section 103A—Australian Fire Brigades Charges Scheme

For section 103A(2) and (3) of the **Country Fire Authority Act 1958** substitute—

- 15 "(2) If Lloyd's fails to comply with subsection (1), section 80A applies to Lloyd's."

53 New section 106A inserted

After section 106 of the **Country Fire Authority Act 1958** insert—

"106A Damage or interference with fire indicator panel or other apparatus

- 25 (1) A person must not, without reasonable excuse, damage or interfere with a fire indicator panel.

Penalty: 60 penalty units.

- 30 (2) For the purposes of subsection (1), interference with a fire indicator panel includes any action that causes the transmission of the signal from the fire indicator panel to be isolated, disconnected or disabled.

5 (3) Subsection (1) does not apply to an officer or employee of the Authority who is acting in the exercise of any power or in the performance of any duty conferred or imposed under this Act.

(4) If a fire indicator panel detects a fire and sounds an alarm, a person must not, without the consent of the Authority or reasonable excuse, reset the fire indicator panel.

10 Penalty: 60 penalty units.

(5) In this section—

15 *fire indicator panel* includes any apparatus designed to detect a fire or other emergency conditions and transmit the signal of that detection to the Authority either directly or via an approved monitoring provider."

54 New section 107 substituted

20 For section 107 of the **Country Fire Authority Act 1958 substitute—**

"107 Obstruction of officers and damage to apparatus

(1) A person must not, without reasonable excuse, obstruct, hinder or interfere with—

- 25 (a) the Chief Officer; or
- (b) any other officer or employee of the Authority; or
- (c) any officer or member of—
- 30 (i) a brigade; or
- (ii) a group of brigades; or
- (iii) an interstate fire brigade; or
- (iv) an international fire brigade; or

(d) any other person—

who is exercising a power or performing a duty conferred or imposed by or under this Act.

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Penalty: 60 penalty units.

(2) A person must not, without reasonable excuse, damage or interfere with—

(a) any apparatus or other property of—

(i) the Authority; or

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(ii) a brigade; or

(iii) a group of brigades; or

(iv) an interstate fire brigade; or

(v) an international fire brigade; or

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(b) a fire alarm, hydrant, water plug or other apparatus for the prevention or suppression of fire.

Penalty: 60 penalty units.

(3) A person must not, without reasonable excuse, drive a vehicle over a fire hose.

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Penalty: 60 penalty units.

(4) A person must not, without reasonable excuse, drive a vehicle within such proximity to the place of a fire or to any apparatus in use at a fire as to interfere with—

25

(a) the operations of any brigade, group of brigades, interstate fire brigade or international fire brigade; or

(b) the use of the apparatus.

Penalty: 60 penalty units."

55 New section 107A substituted

For section 107A of the **Country Fire Authority Act 1958 substitute—**

"107A Offences relating to impersonation

5 (1) A person must not use any name, title or description to imply an association with the Authority, without the written authority of the Authority.

Penalty: 60 penalty units.

10 (2) A person must not represent that the person is associated with the Authority unless such an association exists.

Penalty: 60 penalty units.

15 (3) A person must not impersonate an officer of the Authority or a member or volunteer.

Penalty: 60 penalty units.

20 (4) A person must not use any insignia described or set out in the regulations in any manner contrary to the manner set out in the regulations without the written authority of the Authority.

Penalty: 60 penalty units."

56 New section 107B inserted

25 After section 107A of the **Country Fire Authority Act 1958 insert—**

"107B False report of fire

30 (1) A person must not give or cause to be given a false report of a fire to a brigade in the country area of Victoria knowing the report to be false.

Penalty: 60 penalty units.

(2) In addition to any penalty imposed under subsection (1), the court may order a person convicted of an offence under subsection (1) to pay to the Authority—

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(a) the fees and charges prescribed for the attendance of the brigade in response to the false report; or

(b) a lesser amount as the court thinks fit."

57 Repeal of section 109

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Section 109 of the **Country Fire Authority Act 1958** is repealed.

58 Amendment of section 110—Regulations

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(1) In section 110(1)(g)(ii) of the **Country Fire Authority Act 1958** after "brigade" insert ", including an industry brigade".

(2) For section 110(1)(la) of the **Country Fire Authority Act 1958** substitute—

"(la) for providing for—

20

(i) the adoption of constitutions for brigades and groups of brigades and the matters to be included in those constitutions; or

(ii) the adoption of prescribed constitutions for brigades and groups of brigades;"

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(3) After section 110(1)(ua) of the **Country Fire Authority Act 1958** insert—

"(ub) for prescribing the information that an alarm monitoring service must provide to the Authority for the purposes of section 50AA and the period of time within which that information must be provided;"

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(4) In section 110(1)(v) of the **Country Fire Authority Act 1958** omit "in urban districts".

(5) For section 110(1)(w) of the **Country Fire Authority Act 1958** substitute—

"(w) for prescribing for the purposes of this Act, the fees and charges of any brigade in relation to attendance at any fire, answering any alarm or responding to any report of a fire;"

(6) For section 110(1)(wa) of the **Country Fire Authority Act 1958** substitute—

"(wa) for prescribing, or authorising the Authority to fix, the fees and charges to be paid to the Authority for—

- (i) the inspection by the Authority of plans, premises and equipment for the prevention and suppression of fire;
- (ii) any service the Authority is empowered to provide under this or any other Act;
- (iii) any other service rendered by the Authority or by officers of the Authority (whether within or outside Victoria);"

(7) Section 110(1)(wc) of the **Country Fire Authority Act 1958** is **repealed**.

(8) In section 110(1)(zc) of the **Country Fire Authority Act 1958** for "10 penalty units" substitute "20 penalty units".

**PART 3—AMENDMENT OF METROPOLITAN FIRE
BRIGADES ACT 1958**

59 Amendment of section 2—Purposes

In section 2(a) of the **Metropolitan Fire Brigades Act 1958** for "metropolitan fire district" substitute "metropolitan district".

See:
Act No.
6315.
Reprint No. 11
as at
16 June 2011.
LawToday:
www.
legislation.
vic.gov.au

60 Amendment of section 3—Definitions

In section 3(1) of the **Metropolitan Fire Brigades Act 1958**—

(a) for the definition of *emergency substitute*—

"*emergency* has the same meaning as in section 4(1) of the **Emergency Management Act 1986**";

(b) in the definition of *fire*—

(i) in paragraph (b), for "extinguished;" substitute "extinguished; and";

(ii) after paragraph (b) insert—

"(c) the threat of a fire re-igniting;"

(c) for the definition of *metropolitan district substitute*—

"*metropolitan district* means the metropolitan fire district established under section 4;"

(d) for the definition of *owner substitute*—

"*owner* has the same meaning as it has in section 3(1) of the **Subdivision Act 1988**";

(e) for the definition of *unit substitute*—

"*unit* means a brigade or other fire or emergency service unit established under this Act;"

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(f) **insert** the following definitions—

"***Emergency Services Telecommunications Authority*** means the Emergency Services Telecommunications Authority established under section 5 of the **Emergency Services Telecommunications Authority Act 2004**;

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international fire brigade means—

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- (a) a fire brigade or unit (however described); or
- (b) any other agency or organisation constituted for the purpose of fire management or which has a fire management role; or
- (c) any other emergency services organisation—

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established outside Australia;

interstate fire brigade means—

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- (a) a fire brigade or unit (however described); or
- (b) any other agency or organisation constituted for the purpose of fire management or which has a fire management role; or

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- (c) any other emergency services organisation—

established outside Victoria but within Australia;

owners corporation has the same meaning as it has in section 3 of the **Owners Corporations Act 2006**;

61 Amendment of section 6—Metropolitan Fire and Emergency Services Board

In section 6(2)(b) of the **Metropolitan Fire Brigades Act 1958** for "a common seal" substitute "an official seal".

62 Amendment of section 7—Functions of Board

(1) In section 7(1)(a) and (b) of the **Metropolitan Fire Brigades Act 1958** for "metropolitan fire district" substitute "metropolitan district".

(2) In section 7(1)(c) of the **Metropolitan Fire Brigades Act 1958** for "under this Act or any other Act" substitute "under this Act or the regulations or any other Act or any regulations under that Act".

(3) In section 7(3) of the **Metropolitan Fire Brigades Act 1958** for "metropolitan fire district" substitute "metropolitan district".

63 New section 7AA inserted

After section 7 of the **Metropolitan Fire Brigades Act 1958** insert—

"7AA Duty to assist in major emergency

(1) In addition to any other of its duties and functions under this Act, the Board must assist in the response to any major emergency occurring within Victoria.

(2) In this section—

emergency agency means—

- (a) the Board;
- (b) the Country Fire Authority established under the **Country Fire Authority Act 1958**;
- (c) the Secretary to the Department of Sustainability and Environment when performing functions or duties or exercising powers under section 62(2) of the **Forests Act 1958**;
- (d) the Victoria State Emergency Service Authority established under the **Victoria State Emergency Service Act 2005**;

major emergency means—

- (a) a large or complex emergency (however caused) which—
 - (i) has the potential to cause or is causing loss of life and extensive damage to property, infrastructure or the environment; or
 - (ii) has the potential to have or is having significant adverse consequences for the Victorian community or a part of the Victorian community; or
 - (iii) requires the involvement of 2 or more emergency agencies to respond to the emergency; or

(b) a major fire within the meaning of the **Fire Services Commissioner Act 2010**."

64 Amendment of section 11—Remuneration and allowances

In section 11(1) of the **Metropolitan Fire Brigades Act 1958** for "from time to time" substitute "as are".

65 New section 11A inserted

After section 11 of the **Metropolitan Fire Brigades Act 1958** insert—

"11A Rights of President in relation to the public service and superannuation

- (1) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a person appointed as President of the Board in respect of the office of President.
- (2) If a person appointed as President of the Board was, immediately before his or her appointment, an employee in the public service, he or she is eligible at the termination of his or her term of office under this Act to be employed in the public service with a classification and remuneration corresponding with or higher than that which he or she held or received immediately before his or her appointment as the President of the Board as if the whole period of his or her service under this Act had been a period of service in the public service.
- (3) If a person appointed as President of the Board was, immediately prior to that appointment, an officer within the meaning of the **State Superannuation Act 1988** or any corresponding previous enactment, he or she is, despite that appointment, taken to

continue subject to that Act to be an officer within the meaning of that Act."

66 Amendment of section 13—Vacancies

After section 13(1) of the **Metropolitan Fire Brigades Act 1958**, insert—

"(1A) A resignation under subsection (1) takes effect—

(a) on the date specified in the letter; or

(b) if no date is specified in the letter—on the day the letter is received by the Minister."

67 Amendment of section 14—Acting members

In section 14(1) of the **Metropolitan Fire Brigades Act 1958** after "period of" insert "the member's".

68 Amendment of section 24A—Power to acquire land

In section 24A(1) of the **Metropolitan Fire Brigades Act 1958** omit "which it is authorized to acquire under this Act or".

69 Amendment of section 24B—Power of delegation

In section 24B of the **Metropolitan Fire Brigades Act 1958** for "common seal" substitute "official seal".

70 Amendment of section 25A—General powers of Board

For section 25A(4) of the **Metropolitan Fire Brigades Act 1958** substitute—

"(4) Subsection (3)(a) does not apply to an agreement or arrangement for the provision of goods or services by the Board—

(a) to a unit or group of units or to a person acting on behalf of a unit or group of units; or

5

(b) where the provision of those goods or services falls within the general duties and functions of the Board."

71 Amendment of section 26—Formation of units

In section 26(1) of the **Metropolitan Fire Brigades Act 1958** omit "and from time to time".

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72 Amendment of section 31—Chief Officer

Section 31(2) of the **Metropolitan Fire Brigades Act 1958** is repealed.

73 Section 31A substituted

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For section 31A of the **Metropolitan Fire Brigades Act 1958** substitute—

"31A Delegation of powers by Chief Officer

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The Chief Officer may, by written instrument, delegate to any person by name or to the holder of an office or position approved by the Board, either generally or as otherwise provided by the instrument, any power or authority conferred on the Chief Officer under this Act or the regulations or under any other Act or any regulations under that Act, except this power of delegation."

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74 Amendment of section 32AA—Duty to warn the community

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In section 32AA of the **Metropolitan Fire Brigades Act 1958** for "metropolitan fire district" substitute "metropolitan district".

75 Amendment of section 32C—Destruction of building by Chief Officer

In the heading to section 32C of the **Metropolitan Fire Brigades Act 1958** omit "etc.".

76 Section 32D substituted

For section 32D of the **Metropolitan Fire Brigades Act 1958** substitute—

"32D False alarm of fire

- (1) This section applies if a unit in the metropolitan district responds to a false alarm of fire at a premises given by or originating from—
- (a) an automatic fire alarm system; or
 - (b) equipment designed to detect a fire or other emergency conditions and transmit a signal of that detection.
- (2) The Board may, by written notice, require the owner, occupier or owners corporation of the premises to provide details of the circumstances of the false alarm of fire to the Board.
- (3) A person who receives a notice under subsection (2) may provide the Board with an explanation of the circumstances of the false alarm of fire and any information supporting the explanation including maintenance and testing records.
- (4) The Board is not required to consider an explanation given by a person under subsection (3) unless it is—
- (a) in writing; and
 - (b) provided to the Board within 14 days after the person has received the notice under subsection (2).

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- (5) After the expiry of the period provided under subsection (4)(b) for the provision of an explanation, the Board must consider whether or not there was a reasonable excuse for the occurrence of the false alarm having regard to—
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- (a) subject to subsection (4), any explanation and information provided by the person under subsection (3); and
- (b) any report of the member of the operational staff who attended at the false alarm of fire at the premises; and
- 15
- (c) the history of any attendances at the premises; and
- (d) any other information that the Board considers is relevant.
- 20
- (6) If, after considering the matters referred to in subsection (5), the Board is not satisfied that there was a reasonable excuse for the occurrence of the false alarm of fire, the Board may by written notice require the person to whom the notice under subsection (2) was given to pay to the Board the fees and charges prescribed for the attendance of
- 25
- the unit in response to the false alarm.
- 30
- (7) A person who receives a notice under subsection (6) may apply to VCAT for review of the decision of the Board to issue the notice.
- (8) An application under subsection (7) for a review must be made within 28 days after the later of—

- 5
- (a) the day on which the applicant is notified of the decision; or
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision—the day on which—
- 10
- (i) the statement of reasons is given to the applicant; or
- (ii) the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given."

77 New section 33 inserted

15 After section 32D of the **Metropolitan Fire Brigades Act 1958** insert—

"33 False report of fire

- 20 (1) A person must not give or cause to be given a false report of a fire to a unit in the metropolitan district knowing the report to be false.

Penalty: 60 penalty units.

- 25 (2) In addition to any penalty imposed under subsection (1), the court may order a person convicted of an offence under subsection (1) to pay to the Board—
- (a) the fees and charges prescribed for the attendance of the unit in response to the false report; or
- 30 (b) a lesser amount as the court thinks fit."

78 Amendment of section 34—Power to make regulations

(1) In section 34(1)(j) of the **Metropolitan Fire Brigades Act 1958** for "brigades" (wherever occurring) **substitute** "units".

(2) In section 34(1)(k) of the **Metropolitan Fire Brigades Act 1958** **omit** "fire or emergency service".

(3) For section 34(1)(o), (oa) and (ob) of the **Metropolitan Fire Brigades Act 1958** **substitute—**

"(o) for prescribing, or authorising the Board to fix, the fees and charges to be paid to the Board for—

(i) the inspection by the Board of plans, premises and equipment for the prevention or suppression of fire;

(ii) any service the Board is empowered to provide under this or any other Act;

(iii) any other service rendered by the Board or by members or employees of the Board (whether within or outside Victoria);

(oa) for prescribing, for the purposes of this Act, the fees and charges of any unit in relation to attendance at any fire, answering any alarm or responding to any report of a fire;

(ob) for prescribing the information that an alarm monitoring service must provide to the Board for the purposes of section 78 and the period of time within which that information must be provided;"

79 Section 54 substituted

For section 54 of the **Metropolitan Fire Brigades Act 1958 substitute—**

"54 Damage to be covered by fire insurance

(1) This section applies if, in the exercise of any power or the performance of any duty conferred or imposed by or under this Act, damage to property is caused by—

(a) the Chief Officer; or

(b) an officer or member of—

(i) a unit; or

(ii) an interstate fire brigade; or

(iii) an international fire brigade; or

(c) a unit; or

(d) an interstate fire brigade; or

(e) an international fire brigade.

(2) The damage is taken to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged.

(3) Subsection (2) applies despite any clause or condition to the contrary contained in the policy of insurance."

80 Amendment of section 54A—Immunity from certain liabilities

In section 54A of the **Metropolitan Fire Brigades Act 1958** for "and any member of a unit" **substitute** ", any member of a unit and any officer or member of an interstate fire brigade or international fire brigade".

81 Amendment of section 55D—Board may provide emergency prevention and response service

In section 55D of the **Metropolitan Fire Brigades Act 1958** for "metropolitan fire district" substitute "metropolitan district".

82 Amendment of section 55E—Activities outside metropolitan district

(1) **Insert** the following heading to section 55E of the **Metropolitan Fire Brigades Act 1958**—

"**Activities outside metropolitan district**".

(2) In section 55E(1), (2) and (3) of the **Metropolitan Fire Brigades Act 1958** for "metropolitan fire district" substitute "metropolitan district".

(3) After section 55E(3) of the **Metropolitan Fire Brigades Act 1958** insert—

"(4) The powers and authorities conferred by this Act on the Chief Officer in respect of the metropolitan district may be exercised by the Chief Officer, or any member in charge of any unit or units present at a place in the country area of Victoria if—

(a) at that place—

(i) a fire is burning; or

(ii) there is a danger of a fire occurring; or

(iii) a fire has been recently extinguished; and

(b) an officer or member of the Country Fire Authority—

(i) is not present at that place; or

(ii) is unable to exercise those powers and authorities.

(5) In subsection (4)—

country area of Victoria has the same meaning as in section 3(1) of the **Country Fire Authority Act 1958**;

Country Fire Authority means the Country Fire Authority established under Part I of the **Country Fire Authority Act 1958**."

83 Amendment of section 60—Collection of contributions for units

Insert the following heading to section 60 of the **Metropolitan Fire Brigades Act 1958**—

"**Collection of contributions for units**".

84 Amendment of section 70—Owner to give information as to insurance

For section 70(3) of the **Metropolitan Fire Brigades Act 1958** substitute—

"(3) A person to whom a request for information in relation to the person's insurance has been made under this section must, without delay, comply with that request.

Penalty: 60 penalty units.

(4) A person to whom a request for information in relation to the person's insurance has been made under this section must not, in response to that request, give information that the person knows to be false or give particulars that the person knows to be incorrect.

Penalty: 60 penalty units."

85 Amendment of section 71—Place where fire occurs

In section 71(3) of the **Metropolitan Fire Brigades Act 1958** for "or Officer" (wherever occurring) substitute "or Chief Officer".

86 Amendment of section 72—Board or unit may carry out fire prevention work

(1) Insert the following heading to section 72 of the **Metropolitan Fire Brigades Act 1958**—

"Board or unit may carry out fire prevention work".

(2) In section 72(2) of the **Metropolitan Fire Brigades Act 1958** after "if not paid," insert "the outstanding payment".

87 New section 72A inserted

After section 72 of the **Metropolitan Fire Brigades Act 1958** insert—

"72A Interstate fire brigades and international fire brigades

(1) Subject to subsection (2), an officer or member of an interstate fire brigade or of an international fire brigade who is present in the metropolitan district for the purpose of endeavouring to prevent or suppress a fire (including the prevention of a fire outside the metropolitan district spreading to the metropolitan district) or to protect life or property must—

(a) place himself or herself and any equipment or gear in his or her charge (including a fire engine) at the disposal of; and

(b) obey any orders given to him or her
by—

the Chief Officer or the senior member of the
operational staff who is in charge of the fire
fighting operations and is present at the fire.

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- (2) If the Chief Officer or the senior member of
the operational staff in charge of the fire
fighting operations is not present at the fire,
then, until the arrival of the Chief Officer or
senior member of the operational staff, an
officer or member of the interstate fire
brigade or international fire brigade who is
present at the fire and in charge of that
interstate fire brigade or international fire
brigade has and may exercise all the powers,
authorities, duties and functions which by or
under this Act are conferred or imposed on
the Chief Officer.
- (3) Subsection (4) applies if, for the purpose of
endeavouring to prevent or suppress a fire
(including the prevention of a fire outside the
metropolitan district spreading to the
metropolitan district) or to protect life or
property, an interstate fire brigade or an
international fire brigade sends only
equipment or resources to the metropolitan
district.
- (4) If this subsection applies, then, while the
equipment or resources remain in the
metropolitan district, the equipment or
resources are subject to the control of the
Chief Officer or the senior member of the
operational staff who is in charge of the fire
fighting operations and is present at the
fire." .

88 Amendment of section 75—Documents signed by President or Deputy President to be evidence

(1) **Insert** the following heading to section 75 of the **Metropolitan Fire Brigades Act 1958**—

"Documents signed by President or Deputy President to be evidence".

(2) In section 75 of the **Metropolitan Fire Brigades Act 1958** for "the president" **substitute** "the President or the Deputy President".

89 New section 75A substituted

For section 75A of the **Metropolitan Fire Brigades Act 1958** **substitute**—

"75A Offences relating to impersonation

(1) A person must not use any name, title or description to imply an association with the Board, without the written authority of the Board.

Penalty: 60 penalty units.

(2) A person must not represent that the person is associated with the Board unless such an association exists.

Penalty: 60 penalty units.

(3) A person must not impersonate a member of a unit.

Penalty: 60 penalty units.

(4) A person must not use any insignia described or set out in the regulations in any manner contrary to the manner set out in the regulations without the written authority of the Board.

Penalty: 60 penalty units."

90 New sections 75B and 75C inserted

After section 75A of the **Metropolitan Fire Brigades Act 1958** insert—

"75B Damage or interference with fire indicator panel or other apparatus

- (1) A person must not, without reasonable excuse, damage or interfere with a fire indicator panel.

Penalty: 60 penalty units.

- (2) For the purposes of subsection (1), interference with a fire indicator panel includes any action that causes the transmission of the signal from the fire indicator panel to be isolated, disconnected or disabled.

- (3) Subsection (1) does not apply to a member of operational staff who is acting in the exercise of any power or in the performance of any duty conferred or imposed under this Act.

- (4) If a fire indicator panel detects a fire and sounds an alarm, a person must not, without the consent of the Board or reasonable excuse, reset the fire indicator panel.

Penalty: 60 penalty units.

- (5) In this section—

fire indicator panel includes any apparatus designed to detect a fire or other emergency conditions and transmit the signal of that detection to the Board either directly or via an approved monitoring provider.

75C Obstruction of officers and damage to apparatus

(1) A person must not, without reasonable excuse, obstruct, hinder or interfere with—

- (a) the Chief Officer; or
- (b) any other officer or employee of the Board; or
- (c) any member of operational staff; or
- (d) any officer or member of—
 - (i) an interstate fire brigade; or
 - (ii) an international fire brigade; or
- (e) any other person—

who is exercising a power or performing a duty conferred or imposed by or under this Act.

Penalty: 60 penalty units.

(2) A person must not, without reasonable excuse, damage or interfere with—

- (a) any apparatus or other property of any unit, interstate fire brigade or international fire brigade; or
- (b) a fire alarm, hydrant, water plug or other apparatus for the prevention or suppression of fire.

Penalty: 60 penalty units.

(3) A person must not, without reasonable excuse, drive a vehicle over a fire hose.

Penalty: 60 penalty units.

(4) A person must not, without reasonable excuse, drive a vehicle within such proximity to the place of a fire or to any apparatus in use at a fire as to interfere with—

(a) the operations of any unit, group of units, interstate fire brigade or international fire brigade; or

(b) the use of the apparatus.

Penalty: 60 penalty units."

91 Repeal of section 76

Section 76 of the **Metropolitan Fire Brigades Act 1958** is repealed.

92 Amendment of section 77—Recovery and application of penalties

(1) In section 77(1)(b) of the **Metropolitan Fire Brigades Act 1958** for "Officer or" substitute "Officer,".

(2) In section 77(2) of the **Metropolitan Fire Brigades Act 1958** for "by," substitute "by".

93 New section 78 inserted

After section 77A of the **Metropolitan Fire Brigades Act 1958** insert—

"78 Alarm monitoring service to provide prescribed information

(1) The Board may, by written notice, require a person who conducts an alarm monitoring service to provide to the Board the prescribed information within the prescribed period.

(2) A person must comply with a notice given by the Board under this section within the prescribed period.

Penalty: 60 penalty units.

(3) In this section—

alarm monitoring service means a business that—

- (a) receives signals from equipment located at a premises that is designed to detect fire or other emergency conditions at that premises; and
- (b) transmits those signals as appropriate."

94 Amendment of section 79F—Vacancies

After section 79F(1) of the **Metropolitan Fire Brigades Act 1958** insert—

"(1A) A resignation under subsection (1) takes effect—

- (a) on the date specified in the letter; or
- (b) if no date is specified in the letter—on the day the letter is received by the Minister."

95 Amendment of section 87—Fire prevention notices

For section 87(3)(d) of the **Metropolitan Fire Brigades Act 1958** substitute—

"(d) must contain any prescribed information."

96 Amendment of section 89—Objection to notices

- (1) In section 89(1) of the **Metropolitan Fire Brigades Act 1958** for "an objection" substitute "a written objection".

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(2) For section 89(2) of the **Metropolitan Fire Brigades Act 1958** substitute—

"(2) If—

- (a) a person lodges an objection in accordance with subsection (1); and
- (b) the fire prevention officer considers the grounds of objection to be reasonable—

the fire prevention officer must consult with the person and make a genuine attempt to resolve the matter that is the subject of the fire prevention notice."

97 Amendment of section 91—Compliance with notices

For the penalty at the foot of section 91 of the **Metropolitan Fire Brigades Act 1958** substitute—

"Penalty: 120 penalty units or imprisonment for 12 months."

98 Amendment of section 92—Fire prevention infringement notices

(1) In section 92(1) of the **Metropolitan Fire Brigades Act 1958**—

- (a) for "believes" substitute "has reason to believe";
- (b) omit ", requiring that person to pay a penalty of 2 penalty units".

(2) After section 92(2) of the **Metropolitan Fire Brigades Act 1958** insert—

"(3) The infringement penalty for an offence against section 91 is 10 penalty units."

**PART 4—AMENDMENT OF VICTORIA STATE
EMERGENCY SERVICE ACT 2005**

99 New section 6A inserted

After section 6 of the **Victoria State Emergency
Service Act 2005** insert—

"6A Duty to assist in major emergency

- (1) In addition to any other of its duties and functions under this Act, the Authority must assist in the response to any major emergency occurring within Victoria.

- (2) In this section—

emergency agency means—

- (a) the Authority;
- (b) the Country Fire Authority established under the **Country Fire Authority Act 1958**;
- (c) the Metropolitan Fire and Emergency Services Board established under the **Metropolitan Fire Brigades Act 1958**;
- (d) the Secretary to the Department of Sustainability and Environment when performing functions or duties or exercising powers under section 62(2) of the **Forests Act 1958**;

major emergency means—

- (a) a large or complex emergency (however caused) which—
 - (i) has the potential to cause or is causing loss of life and extensive damage to

See:
Act No.
51/2005.
Reprint No. 1
as at
23 October
2008
and
amending
Act Nos
9/2010 and
56/2011.
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property, infrastructure or
the environment; or

(ii) has the potential to have or is
having significant adverse
consequences for the
Victorian community or a
part of the Victorian
community; or

(iii) requires the involvement of
2 or more emergency
agencies to respond to the
emergency; or

(b) a major fire within the meaning of
the **Fire Services Commissioner
Act 2010**."

**100 Amendment of section 7—General powers of
Authority**

After section 7(2)(a) of the **Victoria State
Emergency Service Act 2005** insert—

"(ab) carry out fund raising and promotional
activities;"

101 Amendment of section 34—Registered units

In section 34 of the **Victoria State Emergency
Service Act 2005** for "Chief Officer, Operations"
(wherever occurring) **substitute** "Authority".

**102 Amendment of section 47—Compensation for injury
during emergency service**

(1) In section 47(5) and (6) of the **Victoria State
Emergency Service Act 2005** after "the Victorian
WorkCover Authority," **insert** "the ACCS, a
Medical Panel,".

(2) In section 47(8) of the **Victoria State Emergency Service Act 2005**—

(a) after "the Victorian WorkCover Authority,"
insert "the ACCS, a Medical Panel,";

(b) in paragraph (b), after "the Authority," **insert**
"the ACCS, a Medical Panel,".

(3) After section 47(11) of the **Victoria State Emergency Service Act 2005** **insert**—

"(12) In this section—

ACCS means the Accident Compensation
Conciliation Service established under
Division 1A of Part III of the **Accident
Compensation Act 1985**;

Medical Panel has the same meaning as in
section 5(1) of the **Accident
Compensation Act 1985**."

103 Amendment of section 55—Regulations

(1) For section 55(1)(a) of the **Victoria State Emergency Service Act 2005** **substitute**—

"(a) the registration, administration and
management of units;"

(2) After section 55(1)(l) of the **Victoria State Emergency Service Act 2005** **insert**—

"(la) prescribing penalties not exceeding
20 penalty units for contraventions of the
regulations;"

**PART 5—AMENDMENT OF EMERGENCY MANAGEMENT
ACT 1986**

104 New section 24A inserted

5 See:
Act No.
30/1986.
Reprint No. 4
as at
1 May 2008
and
amending
Act Nos
73/2009,
10 6/2010, 9/2010,
73/2010 and
56/2011.
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After section 24 of the **Emergency Management
Act 1986 insert—**

**"24A Offence of making false compensation
claim**

- (1) A person must not, in or in connection with
any claim for compensation under
section 24(5), make a statement to the
Minister or any other person that the person
knows is false or misleading in a material
particular.

Penalty: 60 penalty units.

- (2) A person must not, in or in connection with
any claim for compensation under
section 24(5), knowingly mislead, or attempt
to mislead, the Minister or any other person.

Penalty: 60 penalty units."

105 New section 33 inserted

After section 32 of the **Emergency Management
Act 1986 insert—**

**"33 Offence of making false compensation
claim**

- (1) A person must not, in or in connection with
any claim for compensation under this Part,
make a statement to the Minister or any other
person that the person knows is false or
misleading in a material particular.

Penalty: 60 penalty units.

- (2) A person must not, in or in connection with any claim for compensation under this Part, knowingly mislead, or attempt to mislead, the Minister or any other person.

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Penalty: 60 penalty units."

106 Amendment of section 36—Offence of obstructing etc. emergency worker

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- (1) In section 36(1) of the **Emergency Management Act 1986** after "must not" **insert** ", without reasonable excuse,".

- (2) For the penalty at the foot of section 36(1) of the **Emergency Management Act 1986 substitute**—"Penalty: 60 penalty units.".

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107 Amendment of section 36A—Declaration of emergency area

- (1) In section 36A(1) of the **Emergency Management Act 1986**—

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- (a) for "inspector" **substitute** "senior sergeant";
(b) **omit** "on the advice of the agency primarily responsible for responding to the emergency".

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- (2) In section 36A(3) of the **Emergency Management Act 1986** for "at points of access to the emergency area that are closed under the declaration" **substitute** "at the emergency area or as near as possible to that area".

- (3) In section 36A(5) and (6) of the **Emergency Management Act 1986** for "24 hours" **substitute** "48 hours".

108 Amendment of section 36B—Powers in respect of emergency area

(1) In section 36B(1) of the **Emergency Management Act 1986** for "An officer of the police on duty in or near the emergency area" **substitute** "If a declaration of an emergency area is made under section 36A, a member of the police force".

(2) In section 36B(5) of the **Emergency Management Act 1986** for "an officer of the police on duty in or near the emergency area" **substitute** "a member of the police force".

109 Amendment of section 36C—Offences

(1) **Insert** the following heading to section 36C of the **Emergency Management Act 1986**—
"Offences relating to declaration of emergency area".

(2) For section 36C(1) of the **Emergency Management Act 1986 substitute**—

"(1) A person must not, without reasonable excuse, fail to obey a prohibition or direction given under section 36B(1).

Penalty: 10 penalty units.

(1A) A person who is authorised under section 36B(1)(d) to enter or remain in an emergency area must not, without reasonable excuse, fail to comply with the conditions of the authorisation.

Penalty: 10 penalty units."

(3) For the penalty at the foot of section 36C(2) of the **Emergency Management Act 1986 substitute**—
"Penalty: 120 penalty units."

110 Section 38 repealed

Section 38 of the **Emergency Management Act 1986** is **repealed**.

PART 6—AMENDMENT OF EMERGENCY SERVICES TELECOMMUNICATIONS AUTHORITY ACT 2004

111 Amendment of section 2—Commencement

5 See:
Act No.
98/2004.
Reprint No. 1
as at
21 May 2009
and
amending
Act No.
98/2004.
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- (1) In section 2(1) and (2) of the **Emergency Services Telecommunications Authority Act 2004** omit "(other than section 45)".
- (2) Section 2(3) of the **Emergency Services Telecommunications Authority Act 2004** is **repealed**.

10 **112 Amendment of section 3—Definitions**

In section 3 of the **Emergency Services Telecommunications Authority Act 2004**—

- (a) in the definition of *emergency services and other related services organisation*—

15 (i) paragraph (b) is **repealed**;

(ii) for paragraph (d) **substitute**—

"(d) Ambulance Victoria;"

- (b) the definitions of *Metropolitan Ambulance Service* and *Rural Ambulance Victoria* are **repealed**;

- (c) **insert** the following definition—

20
25 "*Ambulance Victoria* has the same meaning as *Ambulance Service—Victoria* has in section 3(1) of the **Ambulance Services Act 1986**;"

113 Amendment of section 21—Advisory committee

In section 21(2) of the **Emergency Services
Telecommunications Authority Act 2004**—

5

(a) in paragraph (c) for "the Metropolitan
Ambulance Service" **substitute** "Ambulance
Victoria";

(b) paragraph (d) is **repealed**.

**114 Amendment of section 30—Commissioner to
determine standards**

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(1) In section 30(1) of the **Emergency Services
Telecommunications Authority Act 2004** omit
"to any such organisation".

(2) In section 30(2) of the **Emergency Services
Telecommunications Authority Act 2004** omit
"to each organisation".

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115 Repeal of sections 44 and 45

Sections 44 and 45 of the **Emergency Services
Telecommunications Authority Act 2004** are
repealed.

PART 7—AMENDMENT OF FORESTS ACT 1958

116 New section 72 inserted

See:
Act No.
6254.
Reprint No. 10
as at
5 8 July 2010
and
amending
Act Nos
40/2009,
54/2010,
62/2010,
73/2010 and
29/2011.
10 LawToday:
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After section 71 of the **Forests Act 1958** insert—

"72 Immunity provision

- (1) This section applies to—
- (a) an authorised officer;
 - (b) a person employed under section 18 or 19 of the **Parks Victoria Act 1998**;
 - (c) a person employed in the Department under Part 3 of the **Public Administration Act 2004** by the Department Head of the Department within the meaning of that Act;
 - (d) a person engaged by the Secretary under section 62C.
- (2) A person to whom this section applies is not personally liable for any thing done or omitted to be done in good faith—
- (a) in the exercise of a power or the discharge of a duty under this Act relating to fire management activities; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act relating to fire management activities.
- (3) Any liability resulting from an act or omission that would but for subsection (2) attach to a person to whom this section applies attaches to the Secretary.

(4) For the purposes of this section—

fire management activity means any activity performed for the purposes of the prevention and suppression of fire, including planned burning, and includes any activity performed pursuant to—

- (a) section 20(b), so far as that provision relates to the prevention and suppression of fires within fire protected areas; or
- (b) section 62(2); or
- (c) section 62AA."

**PART 8—AMENDMENT OF SUMMARY OFFENCES
ACT 1966**

117 Repeal of section 12

Section 12 of the **Summary Offences Act 1966** is
repealed.

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See:
Act No.
7405.
Reprint No. 10
as at
1 January
2009
and
amending
Act Nos
46/2008,
1/2009, 7/2009,
68/2009,
92/2009,
13/2010,
18/2010,
29/2010,
63/2010,
12/2011,
27/2011,
29/2011,
43/2011 and
58/2011.
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PART 9—REPEAL OF AMENDING ACT

118 Repeal of amending Act

This Act is **repealed** on 1 December 2013.

Note

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

5

ENDNOTES

By Authority. Government Printer for the State of Victoria.
